

HOUSE BILL NO. 352

INTRODUCED BY REAM

BY REQUEST OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Natural Resources.
January 31, 1983	Committee recommend bill do pass. Report adopted.
February 1, 1983	Bill printed and placed on members' desks.
February 2, 1983	Second reading, do pass.
February 3, 1982	Considered correctly engrossed.
February 4, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 5, 1983	Introduced and referred to Committee on Natural Resources.
March 10, 1983	Committee recommend bill be concurred in. Report adopted.
March 12, 1983	Second reading, concurred in.
March 15, 1983	Third reading, concurred in. Ayes, 46; Noes, 0.

IN THE HOUSE

March 15, 1983	Returned to House.
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March 16, 1983

Sent to enrolling.

Reported correctly
enrolled.

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 7 OF HEALTH AND ENVIRONMENTAL SCIENCES TO TAKE ENFORCEMENT
 8 ACTION BASED UPON VIOLATION OF AN AIR QUALITY PERMIT;
 9 AMENDING SECTIONS 75-2-401, 75-2-403, 75-2-412, AND
 10 75-2-413, MCA."

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 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 75-2-401, MCA, is amended to read:

14 "75-2-401. Enforcement. (1) When the department
 15 believes that a violation of this chapter, or a rule made
 16 under ~~it this chapter, or a condition or limitation imposed~~
 17 ~~by a permit issued pursuant to this chapter~~ has occurred, it
 18 may cause written notice to be served personally or by
 19 registered or certified mail on the alleged violator or his
 20 agent. The notice shall specify the provision of this
 21 chapter, ~~or the rule, or permit condition or limitation~~
 22 alleged to be violated and the facts alleged to constitute a
 23 violation and may include an order to take necessary
 24 corrective action within a reasonable period of time stated
 25 in the order. The order becomes final unless, within 30 days

1 after the notice is received, the person named requests in
 2 writing a hearing before the board. On receipt of the
 3 request, the board shall schedule a hearing.

4 (2) If, after a hearing held under subsection (1) of
 5 this section, the board finds that violations have occurred,
 6 it shall either affirm or modify an order previously issued
 7 or issue an appropriate order for the prevention, abatement,
 8 or control of the emissions involved or for the taking of
 9 other corrective action it considers appropriate. An order
 10 issued as part of a notice or after a hearing may prescribe
 11 the date by which the violation shall cease and may
 12 prescribe time limits for particular action in preventing,
 13 abating, or controlling the emissions. If, after hearing on
 14 an order contained in a notice, the board finds that no
 15 violation is occurring, it shall rescind the order.

16 (3) Instead of issuing the order provided for in
 17 subsection (1), the department may either:

18 (a) require that the alleged violators appear before
 19 the board for a hearing at a time and place specified in the
 20 notice and answer the charges complained of; or

21 (b) initiate action under 75-2-412 or 75-2-413.

22 (4) This chapter does not prevent the board or
 23 department from making efforts to obtain voluntary
 24 compliance through warning, conference, or any other
 25 appropriate means.

INTRODUCED BILL

(5) In connection with a hearing held under this section, the board may and on application by a party shall compel the attendance of witnesses and the production of evidence on behalf of the parties."

Section 2. Section 75-2-403, MCA, is amended to read:

"75-2-403. Inspections. (1) The department, for the purpose of ascertaining the state of compliance with this chapter and or rules and permits in force under it, may enter and inspect, at any reasonable time, any property, premises, or place, except a private residence, on or at which an air contaminant source is located or is being constructed or installed.

(2) A person may not refuse entry or access to an authorized representative of the department who presents appropriate credentials when the department requests entry for purposes of inspection. A person may not obstruct, hamper, or interfere with an inspection.

(3) At his request, the owner or operator of the premises shall receive a report stating all facts found which relate to compliance status."

Section 3. Section 75-2-412, MCA, is amended to read:

"75-2-412. Criminal penalties — injunction preserved.

(1) A person who violates this chapter or a rule, or order, or permit made or issued under it, other than 75-2-105, is guilty of an offense and subject to a fine not to exceed

\$1,000. Each day of violation constitutes a separate offense.

(2) A person who willfully violates 75-2-105 is guilty of an offense and subject to a fine not to exceed \$1,000.

(3) Fines collected shall be deposited to the state general fund.

(4) Action under this section is not a bar to enforcement of this chapter or of ~~rules or orders~~ a rule, order, or permit made or issued under it by injunction or other appropriate remedy. The department may institute and maintain in the name of the state any enforcement proceedings."

Section 4. Section 75-2-413, MCA, is amended to read:

"75-2-413. Civil penalties — out-of-state litigants — effect of action. (1) Any person who violates any provision of this chapter or any rule enforced thereunder or any order or permit made or issued pursuant thereto and after notice thereof has been given by the department shall be subject to a civil penalty not to exceed \$10,000. Each day of violation shall constitute a separate violation. The department may institute and maintain in the name of the state any enforcement proceedings hereunder. Upon request of the department, the attorney general or the county attorney of the county of violation shall petition the district court to impose, assess, and recover the civil

1 penalty. The civil penalty is in lieu of the criminal
2 penalty provided for in 75-2-412.

3 (2) (a) Action under subsection (1) of this section is
4 not a bar to enforcement of this chapter or of ~~rules or~~
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8 chapter or ~~the rules or orders a rule, order, or permit~~ made
9 ~~or issued~~ under it may be brought in the district court of
10 any county where a violation occurs or is threatened if the
11 defendant cannot be located in Montana.

12 (3) Moneys collected hereunder shall be deposited in
13 the state general fund."

-End-

Approved by Committee
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1 after the notice is received, the person named requests in
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3 request, the board shall schedule a hearing.

4 (2) If, after a hearing held under subsection (1) of
5 this section, the board finds that violations have occurred,
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"75-2-413. Civil penalties — out-of-state litigants — effect of action. (1) Any person who violates any provision of this chapter or any rule enforced thereunder or any order or permit made or issued pursuant thereto and after notice thereof has been given by the department shall be subject to a civil penalty not to exceed \$10,000. Each day of violation shall constitute a separate violation. The department may institute and maintain in the name of the state any enforcement proceedings hereunder. Upon request of the department, the attorney general or the county attorney of the county of violation shall petition the district court to impose, assess, and recover the civil

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