

HOUSE BILL NO. 615

INTRODUCED BY HOLLIDAY, QUILICI,
MARKS, ASAY, GALT

IN THE HOUSE

February 2, 1983	Introduced and referred to Committee on Natural Resources.
February 8, 1983	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 9, 1983	Bill printed and placed on members' desks.
February 10, 1983	Second reading, do pass.
February 11, 1983	Considered correctly engrossed.
February 12, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 12, 1983	Introduced and referred to Committee on Natural Resources.
March 5, 1983	Committee recommend bill be concurrent in as amended. Report adopted.
March 8, 1983	Second reading, concurred in.
March 10, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 10, 1983

Returned to House with
amendments.

March 31, 1983

Second reading, amendments
concurred in.

April 1, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 615
 2 INTRODUCED BY Theresa Sullivan Mark Gray
 3 Bolt
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 5 DEPARTMENT OF STATE LANDS TO WAIVE CIVIL PENALTIES FOR MINOR
 6 VIOLATIONS OF THE MONTANA STRIP AND UNDERGROUND MINE SITING
 7 ACT AND REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT
 8 RULES TO IMPLEMENT WAIVER OF PENALTIES; AMENDING SECTION
 9 82-4-254, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 82-4-254, MCA, is amended to read:
 13 "82-4-254. Violation -- penalty -- waiver. (1) A
 14 Except as provided in subsection (2), a person or operator
 15 who violates any of the provisions of this part, rules or
 16 orders adopted under this part, or term or condition of a
 17 permit and any director, officer, or agent of a corporation
 18 who willfully authorizes, orders, or carries out a violation
 19 shall pay a civil penalty of not less than \$100 or more than
 20 \$5,000 for the violation and an additional civil penalty of
 21 not less than \$100 or more than \$5,000 for each day during
 22 which a violation continues and may be enjoined from
 23 continuing such violations as hereinafter provided in this
 24 section. Any person or operator who fails to correct a
 25 violation within the period permitted by law, rule of the

1 board or department, or order of the commissioner shall be
 2 assessed a penalty of not less than \$750 for each day during
 3 which such failure or violation continues. The period
 4 permitted for correction of a violation shall not, in the
 5 case of any review proceeding under 82-4-251(6), end until
 6 entry of a final order suspending the abatement requirements
 7 or until entry of an order of court ordering suspension of
 8 the abatement requirements.

9 (2) The department may waive the civil penalty for a
 10 minor violation of this part, a rule or order adopted under
 11 this part, or a term or condition of a permit if the
 12 department determines such violation is not of potential
 13 harm to public health, public safety, or the environment or
 14 impairs the administration of this part. The board of land
 15 commissioners shall adopt rules to implement and administer
 16 a procedure for waiver of a penalty under this subsection.

17 (2)(2) The department shall notify the person or
 18 operator of the violation. The person or operator shall by
 19 filing a written request within 20 days of receipt of the
 20 notice of violation be entitled to a hearing on the issues
 21 of whether the alleged violation has occurred and whether
 22 the penalty proposed to be assessed is proper. The
 23 department shall issue a statement of proposed penalty no
 24 more than 10 days after notice of violation. After the
 25 hearing or after the time for requesting a hearing has

1 expired, the board shall make findings of fact and shall
 2 issue a written decision as to the occurrence of the
 3 violation and the amount of penalty warranted and shall
 4 order the payment of a penalty in that amount. The person or
 5 operator shall remit the amount of the penalty within 30
 6 days of the order. If the person or operator wishes to
 7 obtain judicial review of the assessment, he shall submit
 8 with the penalty a statement that the penalty is being paid
 9 under protest and the department shall hold the payment in
 10 escrow until judicial review is complete. Any person or
 11 operator who fails to request and submit testimony at the
 12 hearing provided for in this subsection or who fails to pay
 13 the assessed penalty under protest within 30 days of the
 14 order assessing the penalty forfeits his right to seek
 15 judicial review of the violation or penalty determinations.
 16 These penalties are recoverable in any action brought in the
 17 name of the state of Montana by the attorney general in the
 18 district court of the first judicial district of this state,
 19 in and for the county of Lewis and Clark, or the district
 20 having jurisdiction over the defendant.

21 ~~§37(4)~~ The attorney general shall, upon request of the
 22 commissioner, sue for the recovery of the penalties provided
 23 for in this section and bring an action for a restraining
 24 order or temporary or permanent injunction against an
 25 operator or other person who:

1 (a) violates, threatens to violate, or fails or
 2 refuses to comply with any order or decision issued under
 3 this part;

4 (b) interferes with, hinders, or delays the department
 5 in carrying out the provisions of the part;

6 (c) refuses to admit an authorized representative of
 7 the department to the permit area;

8 (d) refuses to permit inspection of the permit area by
 9 an authorized representative of the department;

10 (e) refuses to furnish any information or report
 11 requested by the department in furtherance of the provisions
 12 of this part;

13 (f) refuses to permit access to and copying of such
 14 records as the department determines to be necessary in
 15 carrying out the provisions of this part.

16 ~~§47(5)~~ Any relief granted by a court under subsection
 17 ~~§37(4)~~(a) continues in effect until the completion or final
 18 termination of all proceedings for review of such under this
 19 part unless, prior thereto, the district court granting the
 20 relief sets it aside or modifies it.

21 ~~§57(6)~~ A person who violates any of the provisions of
 22 this part or any determination or order adopted under this
 23 part, or who willfully violates any permit condition issued
 24 under this part is guilty of a misdemeanor and shall be
 25 fined not less than \$500 and not more than \$10,000 or

1 imprisoned for not more than 1 year, or both. Each day on
2 which the violation occurs constitutes a separate offense.

3 ~~(6)(7)~~ Any person who knowingly makes any false
4 statement, representation, or certification or knowingly
5 fails to make any statement, representation, or
6 certification in any application, record, report, plan, or
7 other document filed or required to be maintained pursuant
8 to this part shall, upon conviction, be punished by a fine
9 of not more than \$10,000 or by imprisonment for not more
10 than 1 year, or both.

11 ~~(7)(8)~~ Any person who except as permitted by law
12 willfully resists, prevents, impedes, or interferes with the
13 department or its agents in the performance of duties
14 pursuant to this part shall be punished by a fine of not
15 more than \$5,000 or by imprisonment for not more than 1
16 year, or both.

17 ~~(8)(9)~~ No employee of the department performing any
18 function or duty under this part shall have a direct or
19 indirect financial interest in any strip- or
20 underground-coal-mining operation. Whoever knowingly
21 violates the provisions of this subsection shall, upon
22 conviction, be punished by a fine of not more than \$2,500 or
23 by imprisonment of not more than 1 year, or both."

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 615

3 House Natural Resources Committee
4

5 A statement of intent is required for this bill because
6 it grants rulemaking authority to the Board of Land
7 Commissioners for the issuance of waivers of civil penalties
8 for minor violations of the Strip and Underground Mine
9 Siting Act.

10 Section 1 of the bill allows the Board to adopt rules
11 concerning the issuance of waivers for civil penalties if
12 the underlying violation does not pose potential harm to
13 public health, public safety, or the environment or impair
14 administration of the Act. It is the legislature's intent
15 that the Board's rules prescribe specific criteria that will
16 be used by the Department of State Lands in determining
17 whether or not a violation poses potential harm to the
18 public health, public safety, or the environment or
19 threatens to impair the administration of the Siting Act.
20 The rules must also establish a procedure for the issuance
21 of waivers which must include a requirement that the
22 Department of State Lands give notice of the violation and
23 waiver to the permittee and place such notice in the
24 permittee's file kept by the department.

SECOND READING

Approved by Committee
on Natural Resources

HOUSE BILL NO. 615

INTRODUCED BY HOLLIDAY, QUILICI,

MARKS, ASAY, GALT

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
DEPARTMENT OF STATE LANDS TO WAIVE CIVIL PENALTIES FOR MINOR
VIOLATIONS OF THE MONTANA STRIP AND UNDERGROUND MINE SITING
ACT AND REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT
RULES TO IMPLEMENT WAIVER OF PENALTIES; AMENDING SECTION
82-4-254, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 82-4-254, MCA, is amended to read:

"82-4-254. Violation -- penalty -- ~~waiver~~. (1) *
Except as provided in subsection (2), a person or operator
who violates any of the provisions of this part, rules or
orders adopted under this part, or term or condition of a
permit and any director, officer, or agent of a corporation
who willfully authorizes, orders, or carries out a violation
shall pay a civil penalty of not less than \$100 or more than
\$5,000 for the violation and an additional civil penalty of
not less than \$100 or more than \$5,000 for each day during
which a violation continues and may be enjoined from
continuing such violations as hereinafter provided in this
section. Any person or operator who fails to correct a

violation within the period permitted by law, rule of the
board or department, or order of the commissioner shall be
assessed a penalty of not less than \$750 for each day during
which such failure or violation continues. The period
permitted for correction of a violation shall not, in the
case of any review proceeding under 82-4-251(6), end until
entry of a final order suspending the abatement requirements
or until entry of an order of court ordering suspension of
the abatement requirements.

~~(2) The department may waive the civil penalty for a
minor violation of this part, a rule or order adopted under
this part, or a term or condition of a permit if the
department determines such violation is not of potential
harm to public health, public safety, or the environment or
impairs the administration of this part. The board of land
commissioners shall adopt rules to implement and administer
a procedure for waiver of a penalty under this subsection.~~

~~(2)(3)~~ The department shall notify the person or
operator of the violation. The person or operator shall by
filing a written request within 20 days of receipt of the
notice of violation be entitled to a hearing on the issues
of whether the alleged violation has occurred and whether
the penalty proposed to be assessed is proper. The
department shall issue a statement of proposed penalty no
more than 10 days after notice of violation. After the

1 hearing or after the time for requesting a hearing has
 2 expired, the board shall make findings of fact and shall
 3 issue a written decision as to the occurrence of the
 4 violation and the amount of penalty warranted and shall
 5 order the payment of a penalty in that amount. The person or
 6 operator shall remit the amount of the penalty within 30
 7 days of the order. If the person or operator wishes to
 8 obtain judicial review of the assessment, he shall submit
 9 with the penalty a statement that the penalty is being paid
 10 under protest and the department shall hold the payment in
 11 escrow until judicial review is complete. Any person or
 12 operator who fails to request and submit testimony at the
 13 hearing provided for in this subsection or who fails to pay
 14 the assessed penalty under protest within 30 days of the
 15 order assessing the penalty forfeits his right to seek
 16 judicial review of the violation or penalty determinations.
 17 These penalties are recoverable in any action brought in the
 18 name of the state of Montana by the attorney general in the
 19 district court of the first judicial district of this state,
 20 in and for the county of Lewis and Clark, or the district
 21 having jurisdiction over the defendant.

22 ~~†3†141~~ The attorney general shall, upon request of the
 23 commissioner, sue for the recovery of the penalties provided
 24 for in this section and bring an action for a restraining
 25 order or temporary or permanent injunction against an

1 operator or other person who:

2 (a) violates, threatens to violate, or fails or
 3 refuses to comply with any order or decision issued under
 4 this part;

5 (b) interferes with, hinders, or delays the department
 6 in carrying out the provisions of the part;

7 (c) refuses to admit an authorized representative of
 8 the department to the permit area;

9 (d) refuses to permit inspection of the permit area by
 10 an authorized representative of the department;

11 (e) refuses to furnish any information or report
 12 requested by the department in furtherance of the provisions
 13 of this part;

14 (f) refuses to permit access to and copying of such
 15 records as the department determines to be necessary in
 16 carrying out the provisions of this part.

17 ~~†4†151~~ Any relief granted by a court under subsection
 18 ~~†3†141(a)~~ continues in effect until the completion or final
 19 termination of all proceedings for review of such under this
 20 part unless, prior thereto, the district court granting the
 21 relief sets it aside or modifies it.

22 ~~†5†161~~ A person who violates any of the provisions of
 23 this part or any determination or order adopted under this
 24 part, or who willfully violates any permit condition issued
 25 under this part is guilty of a misdemeanor and shall be

1 fined not less than \$500 and not more than \$10,000 or
 2 imprisoned for not more than 1 year, or both. Each day on
 3 which the violation occurs constitutes a separate offense.

4 ~~(6)(1)~~ Any person who knowingly makes any false
 5 statement, representation, or certification or knowingly
 6 fails to make any statement, representation, or
 7 certification in any application, record, report, plan, or
 8 other document filed or required to be maintained pursuant
 9 to this part shall, upon conviction, be punished by a fine
 10 of not more than \$10,000 or by imprisonment for not more
 11 than 1 year, or both.

12 ~~(7)(B)~~ Any person who except as permitted by law
 13 willfully resists, prevents, impedes, or interferes with the
 14 department or its agents in the performance of duties
 15 pursuant to this part shall be punished by a fine of not
 16 more than \$5,000 or by imprisonment for not more than 1
 17 year, or both.

18 ~~(8)(2)~~ No employee of the department performing any
 19 function or duty under this part shall have a direct or
 20 indirect financial interest in any strip- or
 21 underground-coal-mining operation. Whoever knowingly
 22 violates the provisions of this subsection shall, upon
 23 conviction, be punished by a fine of not more than \$2,500 or
 24 by imprisonment of not more than 1 year, or both."

25 SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE JULY

1 1-1983.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 615

3 House Natural Resources Committee
4

5 A statement of intent is required for this bill because
6 it grants rulemaking authority to the Board of Land
7 Commissioners for the issuance of waivers of civil penalties
8 for minor violations of the Strip and Underground Mine
9 Siting Act.

10 Section 1 of the bill allows the Board to adopt rules
11 concerning the issuance of waivers for civil penalties if
12 the underlying violation does not pose potential harm to
13 public health, public safety, or the environment or impair
14 administration of the Act. It is the legislature's intent
15 that the Board's rules prescribe specific criteria that will
16 be used by the Department of State Lands in determining
17 whether or not a violation poses potential harm to the
18 public health, public safety, or the environment or
19 threatens to impair the administration of the Siting Act.
20 The rules must also establish a procedure for the issuance
21 of waivers which must include a requirement that the
22 Department of State Lands give notice of the violation and
23 waiver to the permittee and place such notice in the
24 permittee's file kept by the department.

THIRD READING

HR 615

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MARKS, ASAY, GALT

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ACT AND REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT
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82-4-254, MCA; ~~AND PROVIDING AN EFFECTIVE DATE.~~"

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

Section 1. Section 82-4-254, MCA, is amended to read:

"82-4-254. Violation -- penalty ~~==~~ waiver. (1) *
~~Except as provided in subsection (2),~~ a person or operator
who violates any of the provisions of this part, rules or
orders adopted under this part, or term or condition of a
permit and any director, officer, or agent of a corporation
who willfully authorizes, orders, or carries out a violation
shall pay a civil penalty of not less than \$100 or more than
\$5,000 for the violation and an additional civil penalty of
not less than \$100 or more than \$5,000 for each day during
which a violation continues and may be enjoined from
continuing such violations as hereinafter provided in this
section. Any person or operator who fails to correct a

violation within the period permitted by law, rule of the
board or department, or order of the commissioner shall be
assessed a penalty of not less than \$750 for each day during
which such failure or violation continues. The period
permitted for correction of a violation shall not, in the
case of any review proceeding under 82-4-251(6), end until
entry of a final order suspending the abatement requirements
or until entry of an order of court ordering suspension of
the abatement requirements.

~~(2) The department may waive the civil penalty for a
minor violation of this part, a rule or order adopted under
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department determines such violation is not of potential
harm to public health, public safety, or the environment or
impairs the administration of this part. The board of land
commissioners shall adopt rules to implement and administer
a procedure for waiver of a penalty under this subsection.~~

~~(2)(3)~~ (3) The department shall notify the person or
operator of the violation. The person or operator shall by
filing a written request within 20 days of receipt of the
notice of violation be entitled to a hearing on the issues
of whether the alleged violation has occurred and whether
the penalty proposed to be assessed is proper. The
department shall issue a statement of proposed penalty no
more than 10 days after notice of violation. After the

1 hearing or after the time for requesting a hearing has
 2 expired, the board shall make findings of fact and shall
 3 issue a written decision as to the occurrence of the
 4 violation and the amount of penalty warranted and shall
 5 order the payment of a penalty in that amount. The person or
 6 operator shall remit the amount of the penalty within 30
 7 days of the order. If the person or operator wishes to
 8 obtain judicial review of the assessment, he shall submit
 9 with the penalty a statement that the penalty is being paid
 10 under protest and the department shall hold the payment in
 11 escrow until judicial review is complete. Any person or
 12 operator who fails to request and submit testimony at the
 13 hearing provided for in this subsection or who fails to pay
 14 the assessed penalty under protest within 30 days of the
 15 order assessing the penalty forfeits his right to seek
 16 judicial review of the violation or penalty determinations.
 17 These penalties are recoverable in any action brought in the
 18 name of the state of Montana by the attorney general in the
 19 district court of the first judicial district of this state,
 20 in and for the county of Lewis and Clark, or the district
 21 having jurisdiction over the defendant.

22 ~~†3†(4)~~ The attorney general shall, upon request of the
 23 commissioner, sue for the recovery of the penalties provided
 24 for in this section and bring an action for a restraining
 25 order or temporary or permanent injunction against an

1 operator or other person who:

2 (a) violates, threatens to violate, or fails or
 3 refuses to comply with any order or decision issued under
 4 this part;

5 (b) interferes with, hinders, or delays the department
 6 in carrying out the provisions of the part;

7 (c) refuses to admit an authorized representative of
 8 the department to the permit area;

9 (d) refuses to permit inspection of the permit area by
 10 an authorized representative of the department;

11 (e) refuses to furnish any information or report
 12 requested by the department in furtherance of the provisions
 13 of this part;

14 (f) refuses to permit access to and copying of such
 15 records as the department determines to be necessary in
 16 carrying out the provisions of this part.

17 ~~†4†(5)~~ Any relief granted by a court under subsection
 18 ~~†3†(4)(a)~~ continues in effect until the completion or final
 19 termination of all proceedings for review of such under this
 20 part unless, prior thereto, the district court granting the
 21 relief sets it aside or modifies it.

22 ~~†5†(6)~~ A person who violates any of the provisions of
 23 this part or any determination or order adopted under this
 24 part, or who willfully violates any permit condition issued
 25 under this part is guilty of a misdemeanor and shall be

1 fined not less than \$500 and not more than \$10,000 or
2 imprisoned for not more than 1 year, or both. Each day on
3 which the violation occurs constitutes a separate offense.

4 ~~(6)(11)~~ Any person who knowingly makes any false
5 statement, representation, or certification or knowingly
6 fails to make any statement, representation, or
7 certification in any application, record, report, plan, or
8 other document filed or required to be maintained pursuant
9 to this part shall, upon conviction, be punished by a fine
10 of not more than \$10,000 or by imprisonment for not more
11 than 1 year, or both.

12 ~~(7)(8)~~ Any person who except as permitted by law
13 willfully resists, prevents, impedes, or interferes with the
14 department or its agents in the performance of duties
15 pursuant to this part shall be punished by a fine of not
16 more than \$5,000 or by imprisonment for not more than 1
17 year, or both.

18 ~~(8)(2)~~ No employee of the department performing any
19 function or duty under this part shall have a direct or
20 indirect financial interest in any strip- or
21 underground-coal-mining operation. Whoever knowingly
22 violates the provisions of this subsection shall, upon
23 conviction, be punished by a fine of not more than \$2,500 or
24 by imprisonment of not more than 1 year, or both."

25 SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE JULY

1 12-1283a

-End-

March 4, 1983

SENATE STANDING COMMITTEE REPORT
(Natural Resources)

That House Bill No. 615 be amended as follows:

Title, line 7.

Following: "MINE"

Strike: "SITING"

Insert: "RECLAMATION"

1 STATEMENT OF INTENT

2 HOUSE BILL 615

3 House Natural Resources Committee

4

5 A statement of intent is required for this bill because
6 it grants rulemaking authority to the Board of Land
7 Commissioners for the issuance of waivers of civil penalties
8 for minor violations of the Strip and Underground Mine
9 ~~Strip~~ RECLAMATION Act.

10 Section 1 of the bill allows the Board to adopt rules
11 concerning the issuance of waivers for civil penalties if
12 the underlying violation does not pose potential harm to
13 public health, public safety, or the environment or impair
14 administration of the Act. It is the legislature's intent
15 that the Board's rules prescribe specific criteria that will
16 be used by the Department of State Lands in determining
17 whether or not a violation poses potential harm to the
18 public health, public safety, or the environment or
19 threatens to impair the administration of the ~~Strip~~ SIRIP
20 AND UNDERGROUND MINE RECLAMATION Act. The rules must also
21 establish a procedure for the issuance of waivers which must
22 include a requirement that the Department of State Lands
23 give notice of the violation and waiver to the permittee and
24 place such notice in the permittee's file kept by the
25 department.

REFERENCE BILL

HR 615

HOUSE BILL NO. 615

INTRODUCED BY HOLLIDAY, QUILICI,

MARKS, ASAY, GALT

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF STATE LANDS TO WAIVE CIVIL PENALTIES FOR MINOR VIOLATIONS OF THE MONTANA STRIP AND UNDERGROUND MINE SETTING RECLAMATION ACT AND REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT RULES TO IMPLEMENT WAIVER OF PENALTIES; AMENDING SECTION 82-4-254, MCA; ~~AND PROVIDING AN EFFECTIVE DATE.~~"

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

Section 1. Section 82-4-254, MCA, is amended to read:

"82-4-254. Violation -- penalty -- ~~waiver.~~ (1) ~~Except as provided in subsection (2),~~ a person or operator who violates any of the provisions of this part, rules or orders adopted under this part, or term or condition of a permit and any director, officer, or agent of a corporation who willfully authorizes, orders, or carries out a violation shall pay a civil penalty of not less than \$100 or more than \$5,000 for the violation and an additional civil penalty of not less than \$100 or more than \$5,000 for each day during which a violation continues and may be enjoined from continuing such violations as hereinafter provided in this

section. Any person or operator who fails to correct a violation within the period permitted by law, rule of the board or department, or order of the commissioner shall be assessed a penalty of not less than \$750 for each day during which such failure or violation continues. The period permitted for correction of a violation shall not, in the case of any review proceeding under 82-4-251(6), end until entry of a final order suspending the abatement requirements or until entry of an order of court ordering suspension of the abatement requirements.

~~(2) The department may waive the civil penalty for a minor violation of this part, a rule or order adopted under this part, or a term or condition of a permit if the department determines such violation is not of potential harm to public health, public safety, or the environment or impairs the administration of this part. The board of land commissioners shall adopt rules to implement and administer a procedure for waiver of a penalty under this subsection.~~

~~(2)(3)~~ The department shall notify the person or operator of the violation. The person or operator shall by filing a written request within 20 days of receipt of the notice of violation be entitled to a hearing on the issues of whether the alleged violation has occurred and whether the penalty proposed to be assessed is proper. The department shall issue a statement of proposed penalty no

1 more than 10 days after notice of violation. After the
 2 hearing or after the time for requesting a hearing has
 3 expired, the board shall make findings of fact and shall
 4 issue a written decision as to the occurrence of the
 5 violation and the amount of penalty warranted and shall
 6 order the payment of a penalty in that amount. The person or
 7 operator shall remit the amount of the penalty within 30
 8 days of the order. If the person or operator wishes to
 9 obtain judicial review of the assessment, he shall submit
 10 with the penalty a statement that the penalty is being paid
 11 under protest and the department shall hold the payment in
 12 escrow until judicial review is complete. Any person or
 13 operator who fails to request and submit testimony at the
 14 hearing provided for in this subsection or who fails to pay
 15 the assessed penalty under protest within 30 days of the
 16 order assessing the penalty forfeits his right to seek
 17 judicial review of the violation or penalty determinations.
 18 These penalties are recoverable in any action brought in the
 19 name of the state of Montana by the attorney general in the
 20 district court of the first judicial district of this state,
 21 in and for the county of Lewis and Clark, or the district
 22 having jurisdiction over the defendant.

23 ~~(3)(4)~~ The attorney general shall, upon request of the
 24 commissioner, sue for the recovery of the penalties provided
 25 for in this section and bring an action for a restraining

1 order or temporary or permanent injunction against an
 2 operator or other person who:

3 (a) violates, threatens to violate, or fails or
 4 refuses to comply with any order or decision issued under
 5 this part;

6 (b) interferes with, hinders, or delays the department
 7 in carrying out the provisions of the part;

8 (c) refuses to admit an authorized representative of
 9 the department to the permit area;

10 (d) refuses to permit inspection of the permit area by
 11 an authorized representative of the department;

12 (e) refuses to furnish any information or report
 13 requested by the department in furtherance of the provisions
 14 of this part;

15 (f) refuses to permit access to and copying of such
 16 records as the department determines to be necessary in
 17 carrying out the provisions of this part.

18 ~~(4)(5)~~ Any relief granted by a court under subsection
 19 ~~(3)(4)~~(a) continues in effect until the completion or final
 20 termination of all proceedings for review of such under this
 21 part unless, prior thereto, the district court granting the
 22 relief sets it aside or modifies it.

23 ~~(5)(6)~~ A person who violates any of the provisions of
 24 this part or any determination or order adopted under this
 25 part, or who willfully violates any permit condition issued

1 under this part is guilty of a misdemeanor and shall be
 2 fined not less than \$500 and not more than \$10,000 or
 3 imprisoned for not more than 1 year, or both. Each day on
 4 which the violation occurs constitutes a separate offense.

5 (6)(17) Any person who knowingly makes any false
 6 statement, representation, or certification or knowingly
 7 fails to make any statement, representation, or
 8 certification in any application, record, report, plan, or
 9 other document filed or required to be maintained pursuant
 10 to this part shall, upon conviction, be punished by a fine
 11 of not more than \$10,000 or by imprisonment for not more
 12 than 1 year, or both.

13 (7)(18) Any person who except as permitted by law
 14 willfully resists, prevents, impedes, or interferes with the
 15 department or its agents in the performance of duties
 16 pursuant to this part shall be punished by a fine of not
 17 more than \$5,000 or by imprisonment for not more than 1
 18 year, or both.

19 (8)(19) No employee of the department performing any
 20 function or duty under this part shall have a direct or
 21 indirect financial interest in any strip- or
 22 underground-coal-mining operation. Whoever knowingly
 23 violates the provisions of this subsection shall, upon
 24 conviction, be punished by a fine of not more than \$2,500 or
 25 by imprisonment of not more than 1 year, or both."

1 SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE JULY
 2 1, 1983.

-End-