

SENATE BILL NO. 2178

Introduced by

Natural Resources Committee

(At the request of the Department of Health)

1 A BILL for an Act to amend and reenact sections 23-25-10 and 61-28-08 of the North Dakota
2 Century Code, relating to air and water pollution penalties; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 23-25-10 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-25-10. Enforcement - Penalties - Injunctions.**

- 7 1. ~~If, after the completion of the administrative hearing process, the department~~
8 ~~determines that a violation of this chapter, or any rule, regulation, or order of the~~
9 ~~department issued under this chapter, has occurred, it shall make all of its~~
10 ~~evidence and findings available to the attorney general for use in any remedial~~
11 ~~action his office determines to be appropriate, including an action for injunctive~~
12 ~~relief.~~
- 13 2. Any person who willfully violates this chapter, or any permit condition ~~or, rule,~~
14 order, limitation, or other applicable requirement implementing this chapter ~~must~~
15 ~~be punished by, is subject to a fine of not more than twenty-five ten thousand~~
16 ~~dollars per day of per violation, or by imprisonment in the county jail for not more~~
17 ~~than one year, or by both such fine and imprisonment.~~ If the conviction is for a
18 violation committed after a first conviction of such person under this subsection,
19 punishment must be by a fine of not more than ~~fifty twenty~~ twenty thousand dollars per
20 day ~~of per violation, or by imprisonment in the county jail for not more than two~~
21 ~~years, or by both such fine and imprisonment.~~
- 22 2. Any person who violates this chapter, or any permit condition, rule, order,
23 limitation, or other applicable requirement implementing this chapter, with criminal
24 negligence as defined by section 12.1-02-02, is subject to a fine of not more than

1 ten thousand dollars per day per violation, or by imprisonment for not more than six
2 months, or both.

3 3. Any person who knowingly makes any false statement, representation, or
4 certification in any application, record, report, plan, or other document filed or
5 required to be maintained under this chapter or any permit condition, rule, order,
6 limitation, or other applicable requirement implementing this chapter, or who
7 falsifies, tampers with, or knowingly renders inaccurate any monitoring device or
8 method required to be maintained under this chapter, ~~must~~ or any permit condition,
9 rule, order, limitation, or other applicable requirement implementing this chapter,
10 ~~upon conviction, be punished by~~ is subject to a fine of not more than ten thousand
11 dollars ~~per day per violation,~~ or by imprisonment ~~in the county jail~~ for not more than
12 six months, or ~~by both such fine and imprisonment.~~

13 4. Any person who violates this chapter, or any permit condition ~~or,~~ rule, order,
14 limitation, or other applicable requirement implementing this chapter, ~~and any~~
15 ~~person who violates any order issued by the department,~~ is subject to a civil
16 penalty not to exceed ten thousand dollars per day ~~of such~~ per violation.

17 ~~Nothing in this chapter may be construed to deny use of the remedy of injunctive relief where it~~
18 ~~is deemed appropriate.~~

19 5. Without prior revocation of any pertinent permits, the department, in accordance
20 with the laws of this state governing injunction or other process, may maintain an
21 action in the name of the state against any person to enjoin any threatened or
22 continuing violation of any provision of this chapter or any permit condition, rule,
23 order, limitation, or other applicable requirement implementing this chapter.

24 **SECTION 2. AMENDMENT.** Section 61-28-08 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **61-28-08. Penalties - Injunctions.**

27 1. Any person who willfully violates this chapter, ~~or any permit condition or,~~ rule,
28 order, limitation, or other applicable requirement implementing this chapter ~~shall be~~
29 ~~punished by,~~ is subject to a fine of not more than ~~twenty-five~~ ten thousand dollars
30 per day ~~of per violation,~~ or by imprisonment ~~in the county jail~~ for not more than one
31 year, or both. If the conviction is for a violation committed after a first conviction of

1 such person under this ~~paragraph~~ subsection, punishment shall be by a fine of not
2 more than ~~fifty~~ twenty thousand dollars per day ~~of~~ per violation, or by imprisonment
3 ~~in the county jail~~ for not more than two years, or ~~by~~ both.

4 2. Any person who violates this chapter or any permit condition, rule, order, limitation,
5 or other applicable requirement implementing this chapter, with criminal negligence
6 as defined by section 12.1-02-02, is subject to a fine of not more than ten thousand
7 dollars per day per violation, or by imprisonment for not more than six months, or
8 both.

9 3. Any person who knowingly makes any false statement, representation, or
10 certification in any application, record, report, plan, or other document filed or
11 required to be maintained under this chapter or any permit condition, rule, order,
12 limitation, or other applicable requirement implementing this chapter, or who
13 falsifies, tampers with, or knowingly renders inaccurate any monitoring device or
14 method required to be maintained under this chapter or any permit condition, rule,
15 order, limitation, or other applicable requirement implementing this chapter, shall
16 upon conviction, be punished by is subject to a fine of not more than ten five
17 thousand dollars per day per violation or by imprisonment in the county jail for not
18 more than six months, or by both.

19 3. 4. Any person who violates this chapter, or any permit condition ~~of,~~ rule, order,
20 limitation, or other applicable requirement implementing the this chapter, and any
21 person who violates any order issued by the department shall be is subject to a
22 civil penalty not to exceed ~~ten~~ five thousand dollars per day ~~of such~~ per violation.

23 4. 5. ~~The~~ Without prior revocation of any pertinent permits, the department may, in
24 accordance with the laws of this state governing injunctions or other process,
25 maintain an action in the name of the state against any person ~~violating~~ to enjoin
26 any threatened or continuing violation of any provision of this chapter or any permit
27 condition, rule, regulation, or order issued thereunder, limitation, or other
28 applicable requirement implementing this chapter.