

1 SENATE BILL 391

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Larry R. Scott and James G. Townsend and David M. Gallegos
5 and Candy Spence Ezzell
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10 AN ACT

11 RELATING TO THE ENVIRONMENT; AMENDING CIVIL PENALTIES FOR
12 VIOLATIONS OF THE AIR QUALITY CONTROL ACT.
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 74-2-12.1 NMSA 1978 (being Laws 1992,
16 Chapter 20, Section 15, as amended) is amended to read:

17 "74-2-12.1. CIVIL PENALTY--REPRESENTATION OF DEPARTMENT
18 OR LOCAL AUTHORITY--LIMITATION OF ACTIONS.--

19 A. A person who violates a provision of the Air
20 Quality Control Act or a regulation, permit condition or
21 emergency order adopted or issued pursuant to that act may be
22 assessed a civil penalty not to exceed fifteen thousand dollars
23 (\$15,000) for each day during any portion of which a violation
24 occurs.

25 B. A person who fails to comply with an

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1 administrative order issued pursuant to Section 74-2-12 NMSA
2 1978 may be assessed, pursuant to a court order, a civil
3 penalty of not more than twenty-five thousand dollars (\$25,000)
4 for each day of noncompliance with the order.

5 C. The amount of a civil penalty shall not be
6 assessed based upon the permittee's ability to pay. There
7 shall be no civil penalty if:

8 (1) the violation is self-reported and the
9 permittee is taking the appropriate action to eliminate,
10 remediate or otherwise mitigate the environmental damage
11 resulting from the permittee's operations; or

12 (2) the violation is the result of a mishap or
13 mechanical malfunction as long as the permittee is operating
14 the equipment within its rated capacity and can demonstrate a
15 history of maintaining it according to the manufacturer's
16 recommendations and the permittee is taking the appropriate
17 action to eliminate, remediate or otherwise mitigate the
18 environmental damage resulting from the mishap.

19 ~~[C.]~~ D. In an action to enforce the provisions of
20 the Air Quality Control Act or an ordinance, regulation, permit
21 condition or order, adopted, imposed or issued pursuant to that
22 act:

23 (1) the department shall be represented by the
24 attorney general;

25 (2) a local authority that is a municipality

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1 shall be represented by the attorney of the municipality; and

2 (3) a local authority that is a county shall
3 be represented by the district attorney within whose judicial
4 district the county lies.

5 ~~[D-]~~ E. No action for civil penalty shall be
6 commenced more than five years from the date the violation was
7 known by the department or the local agency."

8 SECTION 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2025.