

SAFE DRINKING WATER ACT AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: John P. Holmgren

AN ACT RELATING TO THE ENVIRONMENTAL QUALITY CODE; PROVIDING FOR THE ASSESSMENT OF A CIVIL PENALTY BY NOTICE OF AGENCY ACTION RATHER THAN THROUGH A CIVIL PROCEEDING; MAKING THE WILLFUL VIOLATION OF THE ACT A CLASS B MISDEMEANOR; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

19-4-109, as renumbered and amended by Chapter 112, Laws of Utah 1991

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-4-109** is amended to read:

19-4-109. Violations -- Penalties -- Reimbursement for expenses.

(1) Any person that violates any rule or order made or issued pursuant to this chapter is subject~~[, in a civil proceeding,]~~ to a civil penalty of not more than \$1,000 per day for each day of violation. The board may assess and make a demand for payment of a penalty under this section by directing the executive secretary to issue a notice of agency action under Title 63, Chapter 46b, Administrative Procedures Act.

(2) (a) Any person that willfully violates any rule or order made or issued pursuant to this chapter, or that willfully fails to take any corrective action required by such an order, is guilty of ~~[an infraction]~~ a class B misdemeanor and subject to a fine of not more than \$5,000 per day for each day of violation.

(b) In addition, the person is subject, in a civil proceeding, to a penalty of not more than \$5,000 per day for each day of violation.

(3) (a) Except as provided in Subsection (b), all penalties assessed and collected under the authority of this section shall be deposited in the General Fund.

(b) The department may reimburse itself and local governments from monies collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

- (c) The department shall regulate reimbursements by making rules that:
 - (i) define qualifying environmental enforcement activities; and
 - (ii) define qualifying extraordinary expenses.