

LEGISLATIVE BILL 207

Approved by the Governor March 18, 2015

Introduced by Schilz, 47.

A BILL FOR AN ACT relating to the Nebraska Chemigation Act; to amend sections 46-1139, 46-1140, 46-1141, 46-1142, and 46-1143, Reissue Revised Statutes of Nebraska; to change provisions relating to civil penalties; to provide for recovery of costs in certain actions as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 46-1139, Reissue Revised Statutes of Nebraska, is amended to read:

46-1139 Any person who engages in chemigation without first obtaining a chemigation permit shall be (1) subject to a civil penalty of not more than one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class II misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Sec. 2. Section 46-1140, Reissue Revised Statutes of Nebraska, is amended to read:

46-1140 Any person who engages in chemigation with a suspended or revoked chemigation permit shall be (1) subject to a civil penalty of not more than one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class II misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Sec. 3. Section 46-1141, Reissue Revised Statutes of Nebraska, is amended to read:

46-1141 Any person who willfully tampers with or otherwise willfully damages in any way equipment meeting the requirements specified in section 46-1127 shall be (1) subject to a civil penalty of not more than one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class I misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Sec. 4. Section 46-1142, Reissue Revised Statutes of Nebraska, is amended to read:

46-1142 Any permitholder who fails to notify the district and the department of any actual or suspected accident resulting from the use of chemigation shall be (1) subject to a civil penalty of one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation ~~not more than five hundred dollars~~ or (2) guilty of a Class III misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Sec. 5. Section 46-1143, Reissue Revised Statutes of Nebraska, is amended to read:

46-1143 Any person who violates any of the provisions of the Nebraska Chemigation Act for which a specific penalty is not provided shall be (1) subject to a civil penalty of one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation ~~not more than five hundred~~

dollars or (2) guilty of a Class IV misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Sec. 6. Original sections 46-1139, 46-1140, 46-1141, 46-1142, and 46-1143, Reissue Revised Statutes of Nebraska, are repealed.