

LEGISLATIVE BILL 216

Approved by the Governor May 28, 1981

Introduced by Agriculture and Environment Committee,
Schmit, 23, Chpn.; Burrows, 30; Remmers, 1;
Wagner, 41; Nichol, 48

AN ACT to amend sections 75-359, 81-1502, 81-1505, and 81-1508, Revised Statutes Supplement, 1980, relating to environmental protection; to provide for hazardous waste management as prescribed; to change provisions relating to solid waste disposal; to provide for permits as prescribed; to provide penalties; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 75-359, Revised Statutes Supplement, 1980, be amended to read as follows:

75-359. It shall be unlawful to transport on the highways of this state by any combination of motor vehicles any hazardous waste or materials as defined by the Materials Transportation Bureau, United States Department of Transportation, Title 49, Code of Federal Regulations, Parts 171 to 179 in effect as of January 1, 1977 1981, unless there is in effect with respect to such combination of motor vehicles minimum liability insurance, self-insurance, or a surety bond, exclusive of interest and costs, of one hundred thousand dollars because of bodily injury to or death of one person in any one accident, three hundred thousand dollars because of bodily injury or death of two or more persons in any one accident subject to the limitation for one person, and one hundred thousand dollars because of injury to or damage of property of others in any one accident.

Sec. 2. That section 81-1502, Revised Statutes Supplement, 1980, be amended to read as follows:

81-1502. As used in sections 81-1501 to 81-1533 and 81-1521.01 to 81-1521.07, unless the context otherwise requires:

(1) Air contaminant or air contamination shall mean the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere;

(2) Air pollution shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, or property, or the conduct of business;

(3) Chairperson shall mean the chairperson of the Environmental Control Council, and council shall mean the Environmental Control Council;

(4) Complaint shall mean any charge, however informal, to or by the council, that any person or agency, private or public, is polluting the air, land, or water or is violating the provisions of sections 81-1501 to 81-1533 or any rule or regulation of the council department in respect thereof;

(5) Control and controlling shall include prohibition and prohibiting as related to air, land, or water pollution;

(6) Department shall mean the Department of Environmental Control, which department is hereby created;

(7) Director shall mean the Director of Environmental Control, which position is hereby established;

(8) Disposal system shall mean a system for disposing of wastes, either by surface or underground methods, and includes sewerage systems and treatment works, disposal wells and fields, and other systems;

(9) Emissions shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof;

(10) Person shall mean any individual, partnership, association, public or private corporation, trustee, receiver, assignee, agent, municipality, or other governmental subdivision, public agency, officer or governing or managing body of any municipality, governmental subdivision, or public agency, or any other legal entity except the Department of Environmental Control;

(11) Rule or regulation shall mean any rule or regulation of the department;

(12) Sewerage system shall mean pipelines, conduits, pumping stations, and force mains, and all

other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(13) Treatment works shall mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes;

(14) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state;

(15) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(16) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(17) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(18) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(19) Land pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations thereof, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a) create a nuisance; (b) be harmful, detrimental, or injurious to public health, safety, or welfare; (c) be injurious to plant and animal life and property; or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(20) Water pollution shall mean the manmade or man-induced alteration of the chemical, physical,

biological, and radiological integrity of water;

(21) Waters of the state shall mean all waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state;

(22) Point source shall mean any discernible confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged;

(23) Effluent limitation shall mean any restriction established by the council on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state, including schedules of compliance;

(24) Schedule of compliance shall mean a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

(25) Hazardous waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(26) Solid waste shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations, and from community activities, but does not include ~~solid--or dissolved--material--in--domestic--sewage;--or~~ solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Clean Water Act,

as amended, 33 U.S.C. 1251 et seq., or naturally occurring or accelerated produced radioactive material as defined in the Nebraska radiological health regulations or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923; and

(27) Storage, when used in connection with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste, except by those generators who store their own waste on site for less than ninety days for subsequent disposal, recovery, or reuse;

(28) Manifest shall mean the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage; and

(29) Processing shall mean to treat, detoxify, neutralize, incinerate, biodegrade, or otherwise process a hazardous waste to remove such waste's harmful properties or characteristics for disposal in accordance with regulations established by the council.

Sec. 3. That section 81-1505, Revised Statutes Supplement, 1980, be amended to read as follows:

81-1505. (1) In order to carry out the purposes of sections 81-1501 to 81-1533 and 81-1521.01 to 81-1521.06, the council shall adopt rules and regulations which shall set standards of air, water, and land quality to be applicable to the air, waters, and land of this state or portions thereof. Such standards of quality shall be such as to protect the public health and welfare. The council shall classify air, water, and land contaminant sources according to levels and types of discharges, emissions, and other characteristics which relate to air, water, and land pollution, and may require reporting for any such class or classes. Such classifications and standards made pursuant to this section may be made for application to the state as a whole or to any designated area of the state, and shall be made with special reference to effects on health, economic, and social factors, and physical effects on property. Such standards and classifications may be amended as determined necessary by the council.

(2) In adopting the classifications of waters and water quality standards, the primary purpose for such standards shall be to protect the public health and

welfare, and the council shall give consideration to: (a) The size, depth, surface, or underground area covered, the volume, direction, and rate of flow, stream gradient, and temperature of the water; (b) the character of the area affected by such classification or standards, its peculiar suitability for particular purposes, conserving the value of the area, and encouraging the most appropriate use of lands within such area for domestic, agricultural, industrial, or recreational, and aquatic life purposes; (c) the uses which have been made, are being made, or are likely to be made, of such waters for agricultural, transportation, domestic, and industrial consumption, for fishing and aquatic culture, for the disposal of sewage, industrial waste, and other wastes, or other uses within this state and, at the discretion of the council, any such uses in another state on interstate waters flowing through or originating in this state; and (d) the extent of present pollution or contamination of such waters which has already occurred or resulted from past discharges therein.

(3) In adopting effluent limitations or prohibitions the council shall give consideration to the type, class, or category of discharges, the quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable or other waters of the state, including schedules of compliance, best practicable control technology, and best available control technology.

(4) In adopting standards of performance the council shall give consideration to the discharge of pollutants which reflect the greatest degree of effluent reduction which the council determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

(5) In adopting toxic pollutant standards and limitations the council shall give consideration to the combinations of pollutants, the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

(6) In adopting pretreatment standards the council shall give consideration to the prohibitions or limitations to noncompatible pollutants, prohibitions against the passage through a publicly-owned treatment

works of pollutants which would cause interference with or obstruction to the operation of publicly-owned treatment works, damage to such works, and the prevention of the discharge of pollutants therefrom which are inadequately treated.

(7) In adopting treatment standards the council shall give consideration to providing for processes to which wastewater shall be subjected in a publicly-owned wastewater treatment works in order to make such wastewater suitable for subsequent use.

(8) In adopting regulations pertaining to the disposal of domestic and industrial liquid wastes the council shall give consideration to the minimum amount of biochemical oxygen demand, suspended solids, or equivalent in the case of industrial wastewaters, which must be removed from the wastewaters, the degree of disinfection necessary to meet water quality standards, the requirements of section 81-1506 (2) (c) and (3) with respect to installation, change, alterations in or additions to any wastewater treatment works, and requirements necessary for proper maintenance thereof.

(9) In adopting regulations to control the erection, modification, commencement, alteration, or operation of disposal wells to protect ground water and other subsurface resources of the state, the council shall give consideration to the effects on water quality of ground water, general conditions such as location, geologic formations, topography, industry, agriculture, population densities, wildlife, fish and other aquatic life, mineral and water resources, an evaluation of generalized geologic and hydrologic conditions, design specifications of the proposed well, the disposal system, an evaluation of the injection zone, specifications for surface equipment design and conditions under which abandonment of such a well will be allowed.

(10) In adopting livestock waste control regulations the council shall consider the discharge of livestock wastes into the waters of the state or onto land not owned by the livestock operator, conditions under which permits for such operations may be issued, including design, location, and proper management of such facilities, protection of ground water from such operations, and revocation, modification, or suspension of such permits for cause.

(11) In adopting regulations for the issuance of permits under the National Pollutant Discharge Elimination System created by the federal Clean Water Act, 33 U.S.C. 1251 et seq., the council shall consider

when such permits shall be required and exemptions, application and filing requirements, terms and conditions affecting such permits, notice and public participation, duration and review of such permits, and monitoring, recording, and reporting under the system.

(12) In adopting air pollution control regulations the council shall consider classification of air quality control regions, reporting of emissions, when permits shall be required for new and complex sources, limitations on emissions from existing process operations and existing fuel-burning equipment, incinerator emissions, and such other emissions restrictions as are necessary to protect the public health and welfare, when exceptions will be allowed, establishment of time schedules for compliance, measurement of emissions, and provisions for emergency air episodes. The council shall also provide, to the extent it determines necessary and practicable, for area-wide, selective, and periodic inspection and testing of motor vehicles to insure compliance with applicable emission standards for a fee not to exceed five dollars to offset the increased cost of inspection, and the council may, when it is not feasible to prescribe or enforce an emission standard for control of air pollutants, adopt a design, equipment, work practice, or operational standard, or any combination thereof, which is adequate to protect the public health from such pollutant or pollutants with an ample margin of safety. As part of such standard the council shall adopt such requirements as will assure the proper operation and maintenance of any element of design or equipment.

(13) (a) In adopting regulations for ~~solid--waste disposal--and--for~~ hazardous waste management, the council shall consider give consideration to generation of hazardous wastes, labeling practices, containers used, treatment, storage, collection, transportation including a manifest system, processing, resource recovery, and disposal of hazardous ~~and--solid~~ wastes. It shall consider the permitting, licensing, and development and operational plans for hazardous ~~and--solid~~ waste disposal areas treatment, storage, and disposal facilities, and conditions for licensing or permitting of hazardous ~~and solid~~ waste treatment, storage, and disposal areas. It shall consider modification, suspension, or revocation of such licenses and permits, regulations--of--operations thereof, including requirements for waste analysis, site improvements, fire prevention, safety, security, and restricted access, spreading,--compacting, and covering of solid-wastes and handling of hazardous liquids and hazardous materials. ~~insect--and--rodent--control; salvage-operations;--and--the--methods--of--disposing--of~~

accumulations of junk outside of solid waste disposal areas which Licenses and permits for hazardous waste, treatment, storage, and disposal facilities shall not be issued until certification by the State Fire Marshal as to fire prevention and fire safety has been received by the department. The council shall further consider the need at treatment, storage, or disposal facilities for required equipment, communications and alarms, personnel training, and contingency plans for any emergencies that might arise and for a coordinator during such emergencies.

In addition the council shall give consideration to (i) ground water monitoring, (ii) use and management of containers and tanks, (iii) surface impoundments, (iv) waste piles, (v) land treatment, (vi) incinerators, (vii) chemical or biological treatment, (viii) landfills including the surveying thereof, and (ix) special requirements for ignitable, reactive, or incompatible wastes.

In considering closure and postclosure of hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would result in the owner or operator closing his or her facility so as to minimize the need for future maintenance, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, postclosure escape of hazardous waste, hazardous waste constituents, and leachate to the ground water or surface waters, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, waste decomposition to the atmosphere.

Such regulations adopted pursuant to this subsection shall in all respects comply with this act and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.;

(b) In adopting regulations for hazardous waste management, the council shall consider, in addition to criteria in subdivision (a) of this subsection, establishing criteria for (i) identifying hazardous waste including extraction procedures, toxicity, persistence, and degradability in nature, potential for accumulation in tissue, flammability or ignitability, corrosiveness, reactivity, and generation of pressure through decomposition, heat, or other means, and other hazardous characteristics, and for (ii) the location of processing facilities and disposal areas for such wastes; and (iii) listing all materials it deems hazardous and which should be subject to regulation, and (iii) locating treatment,

storage, or disposal facilities for such wastes if any such facility is constructed subsequent to six months after the effective date of this act. In adopting criteria for flammability and ignitability of wastes pursuant to subdivision (b) (i) of this subsection, no regulation shall be adopted without the approval of the State Fire Marshal;

(c) In adopting regulations for hazardous waste management, the council shall consider establishing a schedule of fees to be paid to the director by licensees or permittees operating hazardous waste processing facilities or disposal areas on the basis of a monetary value per cubic feet of the hazardous wastes, sufficient but not exceeding the amount necessary to reimburse the department for the costs of monitoring such facilities or areas during and after operation of such facilities or areas. The licensees may assess a cost against persons using the facilities or areas. The director shall remit any money collected from fees paid to him or her to the State Treasurer. Upon receipt of any such remittance, the State Treasurer shall deposit the entire amount thereof in the state General Fund; and

(d) In adopting regulations for solid waste disposal, the council shall consider storage, collection, transportation, processing, resource recovery, and disposal of solid waste, developmental and operational plans for solid waste disposal areas, conditions for licensing of solid waste disposal areas, modification, suspension, or revocation of such licenses, regulations of operations of disposal areas, including site improvements, fire prevention, ground water protection, safety and restricted access, handling of liquid and hazardous materials, insect and rodent control, salvage operations, and the methods of disposing of accumulations of junk outside of solid waste disposal areas. Such regulations shall in all respects comply with sections 81-1501 to 81-1532 and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(14) In adopting regulations governing discharges or emissions of oil and other hazardous materials into the waters, in the air, or upon the land of the state, the council shall consider methods for prevention of such discharges or emissions and the responsibility of the discharger or emitter for clean-up, toxicity, degradability, and dispersal characteristics of the substance.

(15) In adopting regulations governing composting and composting sites, the council shall give consideration to:

(a) Approval of a proposed site by the local governing body, including the zoning authority, if any, prior to issuance of a permit by the department;

(b) Issuance of permits by the department for such composting operations, with conditions if necessary;

(c) Submission of construction and operational plans by the applicant for a permit to the department, with approval of such plans before issuance of such permit;

(d) A term of five years for such permits, which shall not be transferable;

(e) Renewal of permits if the operation has been in substantial compliance with composting regulations adopted pursuant to this subsection, permit conditions, and operational plans;

(f) Review by the department of materials to be composted, including chemical analysis when found by the department to be necessary;

(g) Inspections of such compost sites at least semiannually followed by ratings, with a copy of such ratings to be given to the site management. Operations out of compliance with composting regulations, permit conditions, or operational plans shall be given a reasonable time for voluntary compliance and failure to do so within the specified time shall result in a hearing after notice is given, at which time the owner or operator shall appear and show cause why his or her permit should not be revoked;

(h) Special permits of the department for demonstration projects not to exceed six months; and

(i) Exemptions from permits of the department.

{15} (16) Any person operating or responsible for the operation of air, water, or land contaminant sources of any class for which the rules and regulations of the council require reporting shall make reports containing information as may be required by the department concerning quality and quantity of discharges and emissions, location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air, water, or land pollution and is available.

{16} (17) Prior to adopting, amending, or repealing standards and classifications of air, water, and land quality, the council shall, after due notice, conduct public hearings thereon. Notice of public hearings shall specify the waters or the area of the state for which standards of air, water, or land are sought to be adopted, amended, or repealed and the time, date, and place of such hearing. Such hearing shall be held in the general area to be affected by such standards. Copies of such notice shall be:

(a) Published at least twice in a newspaper regularly published or circulated in a county or counties bordering or through which flow the waters or the atmosphere of which is affected, or the particular portion of land which is affected, for which standards are sought to be adopted. The first date of publication shall not be more than thirty days nor less than twenty days before the date fixed for such hearing; and

(b) Mailed at least twenty days before such hearing to such persons and political subdivisions as the council has reason to believe may be affected by the proposed standards.

{17} (18) Standards of quality of the air, waters water, or land of the state or any amendment or repeal thereof shall become effective upon adoption by the council and filing in the office of the Secretary of State. In adopting standards of air, water, and land quality or making any amendment thereof, the council shall specify a reasonable time for persons discharging wastes into the air, waters water, or land of the state to comply with such standards and upon the expiration of any such period of time may revoke or modify any permit previously issued which authorizes the discharge of wastes into the air, waters water, or land of this state which result in reducing the quality of such air, waters water, or land below the standards established therefor by the council.

{18} (19) All standards of quality of air, waters water, or land and all rules and regulations adopted pursuant to law by the council prior to ~~April--13--1974~~ the effective date of this act, and applicable to specified air, waters water, or land are hereby approved and adopted as standards of quality of and rules and regulations for such air, waters water, or land.

{19} (20) In addition to such standards as are heretofore authorized, the council shall adopt and promulgate rules and regulations to set standards of performance, effluent standards, pretreatment standards,

treatment standards, toxic pollutant standards and limitations, effluent limitations, effluent prohibitions, and quantitative limitations or concentrations which shall in all respects conform with and meet the requirements of the National Pollutant Discharge Elimination System in the federal Clean Water Act, 33 U.S.C. 1251 et seq.

Sec. 4. That section 81-1508, Revised Statutes Supplement, 1980, be amended to read as follows:

81-1508. (1) Any person who shall violate any of the provisions of sections 81-1501 to 81-1532, or who fails to perform any duty imposed by the provisions of sections 81-1501 to 81-1532 shall:

(a) For any violation except of (i) a permit or permit condition or limitation pursuant to the National Pollutant Discharge Elimination System, created by the Clean Water Act, 33 U.S.C. 1251 et seq., or (ii) air pollution standards and regulations, or (iii) hazardous waste standards and regulations, be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than one hundred dollars nor more than five hundred dollars and a further fine of ten dollars per day together with costs, for each day he or she violates the provisions of or fails to perform any of the duties imposed by sections 81-1501 to 81-1532, and in default of the payment of such fine and costs the person, and if such person is a corporation, then the officers of such corporation may be imprisoned in the county jail for a period of not more than sixty days, and in addition thereto may be enjoined from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation;

(b) For willful or negligent violation of water quality standards, effluent standards and limitations, for failure to obtain a permit or meet the filing requirements therefor, discharging without a permit or for violation of a permit or any permit condition or limitation under the National Pollutant Discharge Elimination System, created by the Clean Water Act, 33 U.S.C. 1251 et seq., be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars for each day of such violation or by imprisonment for not more than six months in the county jail, and in assessing the amount of the fine the court shall consider the size of the operation and the degree and extent of the pollution;

(c) For refusing the right of entry and inspection to any authorized departmental representative,

violation of any effluent standards and limitations, filing requirements, monitoring requirements, or water quality standards, or for failure to obtain a permit, or for violation of a permit or any permit condition or limitation or any rules, regulations, or orders of the director under the National Pollutant Discharge Elimination System, created by the Clean Water Act, 33 U.S.C. 1251 et seq., be subject to a civil penalty of not more than five thousand dollars per day, the amount of such penalty to be based on the size of the operation and the degree and extent of the pollution;

(d) For knowingly making any false statement, representation, or certification in any application, record, report, plan, or other document filed pursuant to the National Pollutant Discharge Elimination System, 33 U.S.C., section 1342, or for falsifying, tampering with, or knowingly rendering inaccurate any monitoring device or method required under such system, be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars for each day that such violation occurs; and

(e) For (i) failure to report emission data, (ii) failure to obtain a permit or pay any required fee for obtaining such permit, (iii) violation of an air pollution permit or any permit condition or limitation, (iv) violation of emission standards or limitations, except on motor vehicles, (v) failure to meet incremental dates in compliance schedules, or (vi) violation of any order issued under section 81-1507, be subject to a civil penalty of not more than five hundred dollars a day, the amount of such penalty to be based on the size of the operation and the degree and extent of the pollution; -

(f) For violation of any air pollution control law or regulation, be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars per day and each day the violation occurs shall be considered a separate offense. The court shall consider the extent of the pollution and the size of the operation; and

(g) For violation of any hazardous waste law or regulation (i) be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars per day and each day the violation occurs shall be considered a separate offense. If such person is a corporation and violates any hazardous waste law or regulation, the officers of such corporation may be imprisoned in the county jail for a period of not more than sixty days and in addition may be enjoined from continuing such violation and (ii) be

subject to a civil penalty of not more than five thousand dollars per day. Whether the punishment for violation of any hazardous waste law or regulation is criminal or civil, the amount of the penalty shall be based on the size of the operation, the degree and extent of the pollution, and any injuries to humans, animals, or the environment.

Except in cases when a clear criminal intent is shown, all prosecutions of owners or operators made after April 18, 1979 shall be civil in nature.

(2) Any person who violates any of the provisions of sections 81-1501 to 81-1532 or fails to perform any duty imposed by sections 81-1501 to 81-1532 or any regulation issued under sections 81-1501 to 81-1532 or who violates any order or determination of the director promulgated pursuant to sections 81-1501 to 81-1532, and causes the death of fish or other wildlife shall, in addition to the penalties provided in subsection (1) of this section, be liable to pay to the state an additional amount equal to the sum of money reasonably necessary to restock waters with fish or replenish such wildlife as determined by the director after consultation with the Game and Parks Commission. Such amount may be recovered by the director on behalf of the state in a civil action brought in the district court of the county wherein such violation or failure to perform any duty imposed by sections 81-1501 to 81-1532 occurred.

(3) Except as provided for in subsection (4) of this section for the handling, storage, treatment, transportation, or disposal of solid or hazardous waste, in addition to the penalties provided by this section, the director, whenever he or she has reason to believe that any person, firm, or corporation is violating any provision of sections 81-1501 to 81-1532, any regulation promulgated thereunder, or any order of the director, may petition the district court for an injunction. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with the provisions of Chapter 81, article 15.

(4) Upon receipt of evidence that the handling, storage, treatment, transportation, or disposal of any solid waste or hazardous waste is presenting an imminent and substantial endangerment to the health of humans or animals, or to the environment, the director may petition the district court for an injunction to immediately restrain any person from contributing to the alleged acts, to stop such handling storage, treatment,

transportation, or disposal, and to take such other action as may be necessary. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with the provisions of Chapter 81, article 15.

Sec. 5. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 6. That original sections 75-359, 81-1502, 81-1505, and 81-1508, Revised Statutes Supplement, 1980, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.