

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.5531 Violations as misdemeanors; violations as felonies; fines; defenses; definitions.

Sec. 5531. (1) A person who knowingly violates any requirement or prohibition of an applicable requirement of this part or a rule promulgated under this part or who fails to obtain or comply with a permit or comply with a final order or order of determination issued under this part is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00 per day, for each violation.

(2) A person who knowingly makes a false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file any notice, application, record, report, plan, or other document required to be submitted pursuant to this part or a rule promulgated under this part, or who knowingly fails to notify or report information required to be submitted under this part or a rule promulgated under this part, or who knowingly falsifies, tampers with, renders inaccurate, or knowingly fails to install any monitoring device or method required under this part or a rule promulgated under this part, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year and a fine of not more than \$10,000.00 per day, for each violation.

(3) A person who knowingly fails to pay any air quality fee owed under this part is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(4) A person who knowingly releases into the ambient air any specific chemical or any hazardous air pollutant listed in 40 C.F.R. part 68, section 68.130 (January 19, 1993) pursuant to the authority of section 112(r) of part A of title I of the clean air act, 84 Stat. 1685, 42 U.S.C. 7412, or both, contrary to applicable federal, state, or local requirements, or contrary to a permit issued under this part, and because of the quantities or concentrations of the substance released knows or should have known at the time that the release places another person in imminent danger of death or serious bodily injury is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$10,000.00, or both.

(5) A person who knowingly releases or causes the release into the ambient air any specific chemical or any hazardous air pollutant listed in 40 C.F.R. part 68, section 68.130 (January 19, 1993) pursuant to the authority of section 112(r) of part A of title I of the clean air act, 84 Stat. 1685, 42 U.S.C. 7412, or both, contrary to applicable federal, state, or local requirements, or contrary to a permit issued under this part, and who knows or should have known at the time that the release places another person in imminent danger of death or serious bodily injury, and the release results in death or serious bodily injury to any person is guilty of a felony punishable by imprisonment for not more than 6 years or a fine of not more than \$25,000.00, or both.

(6) A person who knowingly releases into the ambient air any specific chemical or any hazardous air pollutant listed in 40 C.F.R. part 68, section 68.130 (January 19, 1993) pursuant to the authority of section 112(r) of part A of title I of the clean air act, 84 Stat. 1685, 42 U.S.C. 7412, or both, contrary to applicable federal, state, or local requirements, or contrary to a permit issued under this part, and who intended at that time to place another person in imminent danger of death or serious bodily injury, and whose actions do result in death or cause serious bodily injury to any person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$250,000.00, or both.

(7) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury as required under subsections (4), (5), and (6), the defendant is responsible only for actual awareness or actual belief possessed, and knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant. However, in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

(8) Fines imposed under this section shall be assessed for each instance of violation and, if the violation is continuous, shall be assessable up to the maximum amount for each day of violation.

(9) A defendant may establish an affirmative defense to a prosecution under this section by showing by a preponderance of the evidence that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of any of the following:

(a) An occupation, a business, or a profession.

(b) Medical treatment or medical or scientific experimentation conducted by professionally approved methods if the person had been made aware of the risks involved prior to giving consent.

(10) All general defenses, affirmative defenses, and bars to prosecution that may otherwise apply with respect to state criminal offenses may apply under this section and shall be determined by the courts of this state having jurisdiction according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed

by the courts in the light of reason and experience.

(11) Fines shall not be imposed pursuant to this section for a violation that was caused by an act of God, war, strike, riot, catastrophe, or other condition to which negligence or willful misconduct on the part of the person was not the proximate cause.

(12) As used in this section:

(a) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(b) "Specific chemical" means a hazardous air pollutant listed in section 112(b)(1) of Part A of title I of the clean air act, 84 Stat. 1685, 42 U.S.C. 7412, except for the following compounds:

- (i) Antimony compounds.
- (ii) Arsenic compounds (inorganic including arsine).
- (iii) Beryllium compounds.
- (iv) Cadmium compounds.
- (v) Chromium compounds.
- (vi) Cobalt compounds.
- (vii) Coke oven emissions.
- (viii) Cyanide compounds.
- (ix) Glycol ethers.
- (x) Lead compounds.
- (xi) Manganese compounds.
- (xii) Mercury compounds.
- (xiii) Fine mineral fibers.
- (xiv) Nickel compounds.
- (xv) Polycyclic organic matter.
- (xvi) Radionuclides (including radon).
- (xvii) Selenium compounds.

History: 1994, Act 451, Eff. Mar. 30, 1995.

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