

Initiative 2023-24 #271  
Private Action to Enforce Oil and Gas Statutes  
and Regulations

Received by Legislative Council Staff  
3/21/24 at 4:48 pm

*Be it Enacted by the People of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** section 34-60-140 as follows:

**34-60-140. Private action to enforce oil and gas statutes and regulations.** (1) THE PEOPLE OF COLORADO FIND AND DECLARE THAT EVERY PERSON HAS A SUBSTANTIAL INTEREST IN CLEAN AIR, PURE WATER AND PROTECTING ECOSYSTEMS AND NATURAL RESOURCES IN THE STATE, AND THEREFORE IT IS IN THE PUBLIC INTEREST TO ENABLE ACCESS TO THE COURT TO REMEDY POLLUTION, IMPAIRMENT, AND DESTRUCTION OF SUCH RESOURCES.

(2) FOR PURPOSES OF THIS SECTION, “PERSON” HAS THE SAME MEANING AS SET FORTH IN SECTION 34-60-103(8).

(3) ANY PERSON RESIDING WITHIN COLORADO, THE ATTORNEY GENERAL, AND ANY COUNTY, CITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE AGGRIEVED BY THE VIOLATION OF ANY STATUTE IN TITLE 34, OR ANY RULE, REGULATION, OR PERMIT PROMULGATED OR ISSUED BY THE ENERGY AND CARBON MANAGEMENT COMMISSION IN ARTICLE 60 OF TITLE 34, IN ORDER TO PROTECT THE PUBLIC HEALTH, AIR, WATER, LAND, WILDLIFE, OR OTHER NATURAL RESOURCES IN THE STATE FROM POLLUTION, IMPAIRMENT, OR DESTRUCTION, MAY COMMENCE A CIVIL ACTION IN THE APPROPRIATE DISTRICT COURT TO ENFORCE SUCH STATUTE, RULE, REGULATION, OR PERMIT, OR TO RECOVER DAMAGES IN THE NAME OF THE STATE OF COLORADO, OR FOR BOTH ENFORCEMENT AND DAMAGES, AGAINST THE PERSON CAUSING THE ALLEGED POLLUTION, IMPAIRMENT, OR DESTRUCTION.

(4) ANY PARTY WHO COMMENCES A CIVIL ACTION UNDER PARAGRAPH (3) SHALL, WITHIN FOURTEEN DAYS, PROVIDE NOTICE OF SUCH CIVIL ACTION TO THE STATE OR POLITICAL SUBDIVISION RESPONSIBLE FOR ENFORCING THE STATUTE, RULE, REGULATION, POLICY, OR PERMIT AT ISSUE. ANY SUCH STATE OR POLITICAL SUBDIVISION SHALL HAVE AN UNCONDITIONAL RIGHT TO INTERVENE AS A PLAINTIFF IN THE CIVIL ACTION WITHIN NINETY DAYS OF RECEIVING THE REQUIRED NOTICE.

(5) IN ISSUING A FINAL JUDGMENT, RULING, OR ORDER IN A LAWSUIT DESCRIBED IN SUBSECTION (3), THE DISTRICT COURT SHALL AWARD THE COMPLAINING PARTY ANY COSTS THAT THE COMPLAINING PARTY INCURS IN LITIGATING THE LAWSUIT, INCLUDING REASONABLE ATTORNEY FEES, EXPERT WITNESS FEES, AND OTHER RELATED COSTS IF THE COURT DETERMINES THAT THE AWARD IS APPROPRIATE. AN AWARD IS APPROPRIATE IF, AS DETERMINED BY THE DISTRICT COURT:

- (a) THE COMPLAINING PARTY PREVAILS ON ONE OR MORE OF ITS CLAIMS;
- (b) THE LAWSUIT IS SUBSTANTIALLY RESPONSIBLE FOR STOPPING A VIOLATION OR BRINGING AN ALLEGED VIOLATOR INTO COMPLIANCE; OR
- (c) THE LAWSUIT HAS SERVED THE PUBLIC INTEREST.

(6) NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO IMPAIR, DEROGATE, OR DIMINISH ANY PROCEDURE OR REMEDY AUTHORIZED UNDER THE LAWS OF THIS STATE. THE CAUSE OF ACTION HEREIN AUTHORIZED SHALL BE IN ADDITION TO ANY OTHER RIGHT OR REMEDY.

**SECTION 2. Effective date.** This Act takes effect upon official declaration of the governor and is self-executing.