



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

Sub. H.B. 352

128th General Assembly
(As Passed by the House)

Reps. Bolon, Fende, Luckie, B. Williams, Yuko, Belcher, Chandler, Domenick, Driehaus, Foley, Garland, Harris, Harwood, Heard, Lehner, Letson, Mallory, Pillich, Walter, Weddington, Winburn

BILL SUMMARY

- Requires certain public water systems to submit a technical, managerial, and financial capability plan if the system (1) has demonstrated a lack of those capabilities through noncompliance with the Ohio Safe Drinking Water Law and rules, or (2) has been documented as operating in a manner that creates an unacceptable public health risk or an unacceptable risk of contamination of a public water supply.
- Requires such a public water system to implement a capability assurance plan.
- Adds criminal prohibitions and penalties to the Ohio Safe Drinking Water Law for all public water systems.

CONTENT AND OPERATION

Capability requirements of certain public water systems

(R.C. 6109.24 and 6109.04, not in the bill)

Continuing law requires a public water system¹ that is a community water system,² or that is not a community water system and serves a nontransient population,

¹ "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system has at least 15 service connections or regularly serves at least 25 individuals, including any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system, any collection or pretreatment storage facilities not under such control that are used primarily in

and that proposes to begin providing water to the public after October 1, 1999, to demonstrate the technical, managerial, and financial capability of the system to comply with the Ohio Safe Drinking Water Law and rules adopted under it by the Director of Environmental Protection. Documentation of the demonstration must be submitted along with the submission of construction or installation plans. The Director can deny approval of project plans if the public water system that submitted the plans fails to demonstrate technical, managerial, and financial capability to comply with that Law and rules adopted under it.

The bill provides that the Director also may adopt rules that require any public water system that is a community water system, or that is not a community water system and serves a nontransient population, not just those that existed before October 1, 1999, to submit a technical, managerial, and financial capability plan for the system, if either of the following applies:

(1) The system has demonstrated a lack of technical, managerial, or financial capability through substantial, repeated, and documented noncompliance with the Ohio Safe Drinking Water Law and the rules adopted under it; or

(2) The system has been documented as operating in a manner that creates an unacceptable risk to public health or that creates an unacceptable risk of contamination of a public water supply.

The rules must require such a public water system to submit and implement a capability assurance plan that has been approved by the Director.

Prohibitions and penalties under the Ohio Safe Drinking Water Law

(R.C. 6109.31, 6109.32, and 6109.99; R.C. 6109.33, not in the bill)

Civil penalties

Continuing law prohibits any person from violating the Ohio Safe Drinking Water Law, a rule adopted under it, or any order or term or condition of a public water system operation or maintenance license, license renewal, variance, or exemption granted by the Director of Environmental Protection under that Law. The bill adds the following prohibitions:

connection with the system, and any water supply system serving an agricultural labor camp (R.C. 6109.01, not in the bill).

² "Community water system" means a public water system that has at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents (R.C. 6109.01, not in the bill).

- Prohibits any person from making any false material statement or representation in an application, license, record, report, or other document that is required to be submitted to the Director or the Attorney General under the Ohio Safe Drinking Water Law, rules adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the Director under that Law.
- Prohibits any person from altering, changing, falsifying, concealing or purposefully omitting any sample that is collected according to any reporting requirement established under the Ohio Safe Drinking Water Law or a rule adopted under it.
- Prohibits any person from tampering with, altering, or interfering with the operation of a public water system without authorization of the owner or operator of the water system or the Director.

As continuing law establishes, any person who violates these prohibitions must pay a civil penalty of not more than \$25,000 for each violation, to be paid into the state treasury to the credit of the Drinking Water Protection Fund. The Director can request the Attorney General to bring an action for such a penalty against any violator. An action instituted by the Attorney General is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. Under continuing law, the Attorney General, upon written request by the Director, must bring an action for injunction or other appropriate civil action against any person who is violating or threatening to violate these prohibitions. Also, the Director can investigate or make inquiries into any suspected violation.

Criminal penalties

The bill adds criminal penalties for violations of the prohibitions described immediately above, as follows:

- Whoever recklessly violates any of the prohibitions is guilty of a misdemeanor and must be fined not more than \$10,000 or imprisoned not more than one year, or both.
- Whoever knowingly violates the three new prohibitions added by the bill is guilty of a felony and must be fined not more than \$25,000, or imprisoned for not more than four years, or both.
- Whoever recklessly or knowingly violates the Ohio Safe Drinking Water Law, rules adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the Director, and the

violation poses a significant threat to or causes significant harm to public health, is guilty of a felony and must be fined not more than \$25,000 or imprisoned for not more than four years, or both.

For all of these criminal penalties, each day of violation constitutes a separate offense.

The bill further requires the Attorney General, upon written request by the Director, to bring a criminal prosecution against any person who is violating or threatening to violate the Ohio Safe Drinking Water Law, a rule adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the Director.

HISTORY

ACTION	DATE
Introduced	11-04-09
Reported, H. Local Gov't & Public Administration	05-26-10
Passed House (87-11)	06-03-10

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