

HB 519 -- Environmental Audit Privilege

Co-Sponsors: Bivins, Icet, Emery

This bill creates an audit privilege for owners of facilities regulated by environmental law. Owners may conduct a voluntary internal audit designed to determine compliance with environmental laws. Information obtained in the audit is privileged and not admissible as evidence in any legal action or subject to disclosure during regulatory inspections. A court or administrative body may require disclosure if the privilege is asserted for fraudulent purposes or if the audit indicated noncompliance with environmental law and the owner did not reasonably pursue compliance. The privilege does not apply to data collected as required by law or to data collected by a regulatory agency or independent source. Public employees who divulge information subject to the privilege are guilty of a class A misdemeanor.

The bill also prohibits the Department of Natural Resources from seeking any administrative or civil penalties, or any criminal penalties for negligent acts, from anyone who voluntarily discloses an environmental violation discovered in an environmental audit. To qualify, the owner must make the disclosure promptly and correct the violation within two years. The prohibition against penalties does not extend to those who have committed serious, repeated violations within the last three years.