

4 On page 1, after line 15, insert the following:

5 "NEW SECTION **Sec. 3.** CITIZEN SUITS. (1) Except as provided in  
6 subsection (3) of this section, any citizen may commence a civil action  
7 on his or her own behalf against any person who is alleged to have  
8 violated or to be in violation of either:

9 (a) a wastewater discharge permit issued under this chapter; or

10 (b) an order issued by the department with respect to such a  
11 permit; where the violation has occurred for more than one day or more  
12 than a single instance of a violation.

13 (2) Such civil action may be brought in the Superior Court for the  
14 county in which the alleged violation occurred or occurs. The Superior  
15 Court shall have jurisdiction to issue appropriate relief, including  
16 providing injunctive relief, assessing civil penalties, and awarding  
17 costs of litigation, including reasonable attorney's fees.

18 (3) No action may be commenced under subsection (1) of this  
19 section:

20 (a) prior to 60 days after the plaintiff has given notice by  
21 certified mail of the violation to the following parties: (i) the  
22 alleged violator of the permit; (ii) the Attorney General of  
23 Washington; and (iii) the director of the department of ecology. Such  
24 notice must be specific enough to allow the alleged violator to  
25 identify the actions, conduct or circumstances that will be the subject  
26 of the action. Such notice will be considered served on the postmark  
27 date. An action under subsection (1) of this section may be brought  
28 immediately upon giving notice only if the violations present a  
29 substantial risk of immediate and irreparable endangerment to human  
30 health or the environment; and

31 (b) if the department has commenced and is diligently prosecuting  
32 an administrative or judicial action to enforce a permit, provided that  
33 such action: (i) has resulted or will result in a cessation of all  
34 alleged violations; (ii) has resulted or will result in assessment of  
35 a monetary penalty in an amount not less than the violator's economic

1 benefit from the violations; and (iii) was commenced prior to the  
2 commencement of an action under subsection (a) of this section.

3 (4) Whenever an action is brought under subsection (1) of this  
4 section, the plaintiff shall serve, by first class mail, copies of the  
5 complaint on the Attorney General of Washington and the director of the  
6 department of ecology.

7 (5) The court, upon finding violation of a wastewater discharge  
8 permit, may assess a civil penalty against the violator as provided in  
9 RCW 90.48.144.

10 (6) The court, in issuing any final order in any action brought  
11 pursuant to this section, shall award costs of litigation, including  
12 reasonable attorney's and expert witness' fees, to a prevailing or  
13 substantially prevailing plaintiff. The court may award such costs of  
14 litigation to a prevailing defendant whenever the court determines such  
15 award serves justice.

16 (7) Nothing in this section shall restrict any right which any  
17 person (or class of persons) may have under any statute or common law  
18 to seek enforcement of any standard or requirement or to seek any other  
19 relief.

20 (8) As used in this section,

21 (a) the term "citizen" means a person or persons having an  
22 interest which is or may be adversely affected by an alleged violation  
23 of a wastewater discharge permit issued under this chapter; and

24 (b) the term "person" means an individual, corporation,  
25 partnership, association, State, county, municipality, commission, or  
26 other government entity."

27 Renumber sections consecutively and correct any internal references  
28 accordingly.

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