

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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February 16, 1999 LB 784, 789

SENATOR CROSBY PRESIDING

SENATOR CROSBY: Record, please.

CLERK: 29 ayes, 0 nays, Madam President, on the advancement of LB 784.

SENATOR CROSBY: (LB) 784 advances. (LB) 789.

CLERK: (LB) 789 by Senator Schrock. (Read title.) The bill was introduced on January 20, referred to Natural Resources, advanced to General File. I have no amendments to the bill at this time, Madam President.

SENATOR CROSBY: Thank you, Mr. Clerk. Senator Schrock, to open on LB 789.

SENATOR SCHROCK: Madam President, members of the Legislature, LB 789 clarifies that the Director of the Department of Environmental Quality may bring a civil or criminal action under the Environmental Protection Act without first issuing an administrative order. Section 2 requires the court to consider factors already in law when assessing fines. These factors are the degree and extent of the violation, the size of the operation, and any economic benefits derived from noncompliance. This bill was introduced on behalf of the Department of Environmental Quality because of a July, 1998 court case. In this case, the court determined that the failure of the Legislature to enact a provision explicitly providing for such discretion or authority to commence civil action further evidences legislative intent that the director not have this same power to commence a civil action rather than an administrative action for the imposition of a civil penalty. This just means the director does not have to go through an administrative action. They can go directly to the court.

SENATOR CROSBY: Thank you, Senator Schrock. Discussion on LB 789. Seeing none, Senator Schrock, you may close on 789. Senator Schrock, he waives closing. The question is the advancement of LB 789 to E & R Initial. All in favor vote aye, opposed no. Record, please.