

LFC Requester:	Jonas Armstrong
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment _____
Correction Substitute _____

Date January 20, 2015

Bill No: HB 114-305

Sponsor: Rep. Brian Egolf, Jr.
Short No False Statements to
Title: Environment Department

Agency Code: Attorney General's Office
Person Writing Joshua R. Granata, AAG
Phone: 827-6088 Email jgranata@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

BILL SUMMARY

Synopsis:

House Bill 114 is an act which prohibits and penalizes persons regulated by the Environment Department from making false statements to the department regarding material facts that are relevant to determinations of compliance with the department's statutes or rules. Among other conduct, the act prohibits the regulated person from making of a false statement, representation, certification or omission of a material fact in an application, record, report, plan or other document filed with or submitted to the department. A person who violates this act, or causes another to violate this act, may be penalized up to \$10,000 and may be ordered to remediate the consequences of the person's violation.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

The act, as drafted, does not define the terms "false statements representation, certification or omission of a material fact" and imposes a strict liability standard on the regulated person subject to the department's interpretation of the undefined terms. The act does not indicate whether a regulated person would have had any knowledge that the statement, representation, certification, or omission, was false. Thus, a person who believes a statement to be true, and in good faith submits the statement to the department, may be subject to a significant monetary fine if the statement is later determined, by the department, to be false.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

As mentioned above, the term “false statements” or “false representation” is not defined in the act.

OTHER SUBSTANTIVE ISSUES

See above.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

The bill should be amended to include definitions of “false statement” and “false representation.” Further, the bill should indicate whether there is a knowledge requirement for the person regulated, or whether this prohibition is held to the strict liability standard.