



Ohio Revised Code

Section 1513.15 Requesting attorney general to institute civil action.

Effective: June 14, 2000

Legislation: House Bill 601 - 123rd General Assembly

(A) In addition to any other remedy under this chapter, the chief of the division of mineral resources management may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the court of common pleas of the county wherein a violation of this chapter is occurring or has occurred whenever a person:

- (1) Violates or fails or refuses to comply with any order or decision issued by the chief under this chapter;
- (2) Interferes with, hinders, or delays the chief or authorized representatives of the chief in carrying out this chapter;
- (3) Refuses to admit an authorized representative to the mine;
- (4) Refuses to permit inspection of the mine by an authorized representative;
- (5) Refuses to furnish any information or report requested by the chief in furtherance of this chapter;
- (6) Refuses to permit access to, and copying of, such records as the chief determines necessary in carrying out this chapter.

The court shall issue an injunction upon demonstration that a violation of this chapter is occurring or has occurred.

(B) Except as provided in division (D) of this section, any person having an interest that is or may be adversely affected may commence a civil action on the person's own behalf to compel compliance with this chapter against any of the following:



(1) The division of mineral resources management where the division is alleged to be in violation of this chapter or of any rule, order, or permit adopted or issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, order, or permit adopted or issued pursuant to this chapter;

(2) The chief where there is alleged a failure of the chief to perform any act or duty under this chapter that is not discretionary with the chief.

(C) No action may be commenced under division (B)(1) of this section in either of the following situations:

(1) Prior to sixty days after the plaintiff has given notice in writing of the violation to the chief and any alleged violator;

(2) If the chief has commenced and is diligently prosecuting a civil action in the appropriate court to require compliance with this chapter or of any rule, order, or permit adopted or issued pursuant thereto, but in any such action any person may intervene as a matter of right.

(D) No action may be commenced under division (B)(2) of this section prior to sixty days after the plaintiff has given notice in writing of such action to the chief in such manner as the chief shall, by rule, prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(E) Any action respecting a violation of this chapter or rules adopted thereunder may be brought only in the court of common pleas of the county in which the coal mining operation complained of is located.

(F) The court, in issuing any final order in any action brought pursuant to division (B) of this section, may award to any party costs of litigation, including attorney's and expert witness fees that the court determines to have been necessary and reasonably incurred, in accordance with division (E)(2) of section 1513.13 of the Revised Code, and whenever the court determines such an award is appropriate.



(G) Nothing in this section shall restrict any right that any person or class of persons may have under law to seek enforcement of any of the provisions of this chapter and the rules adopted thereunder, or to seek any other relief, including relief against the chief.

(H) Any person who is injured in person or property through the violation by any operator of any rule, requirement, order, or permit adopted or issued pursuant to this chapter may bring an action for damages, including reasonable attorney's and expert witness fees, in the court of common pleas of Franklin county or in the court of common pleas of the county in which the coal mining operation complained of is located. Nothing in this division shall affect the rights established by or limits imposed under worker's compensation laws.

In any action under division (B), (C), (D), (E), (F), (G), or (H) of this section, the secretary of the United States department of the interior or the chief, if not a party, may intervene as a matter of right.

(I) An owner of real property who obtains all or part of a supply of water for domestic, industrial, agricultural, or other legitimate use from an underground source other than a subterranean stream having a permanent, distinct, and known channel, may maintain an action against an operator to recover damages for contamination, diminution, or interruption of such water supply, proximately resulting from coal mining.

A servient tract of land is not bound to receive surface water contaminated by coal mining on a dominant tract of land, and the owner of the servient tract may maintain an action against an operator to recover damages proximately resulting from the natural drainage from the dominant tract of surface waters contaminated by coal mining on the dominant tract.

This division shall not be construed as creating, modifying, or affecting any right, liability, or remedy other than as expressly provided herein, nor shall such division be construed as creating, modifying, or affecting any right, liability, or remedy of surface riparian owners.

(J) In addition to any municipal or county prosecuting authority, the attorney general upon the request of the chief, may prosecute any person who violates, or who fails to perform any duty imposed by this chapter, or who violates any order or rule, or condition of a permit or license issued



by the chief.

(K) The civil penalties owed under section 1513.02 of the Revised Code may be recovered in a civil action brought by the attorney general upon the request of the chief.