H.B. NO. 3176

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE PENALTIES FOR DAMAGE TO STONY CORAL AND LIVE ROCK.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 187A-12.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]§**187A-12.5**[~~]~~] **General administrative penalties.** (a) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 5 of title 12 or any rule adopted thereunder.

(b) For violations involving threatened or endangered species, the administrative fines shall be as follows:

(1) For a first violation, a fine of not more than $5,000;

(2) For a second violation within five years of a previous violation, a fine of not more than $10,000; and

(3) For a third or subsequent violation within five years of the last violation, a fine of not more than $15,000.

(c) For all other violations the administrative fines shall be as follows:

(1) For a first violation, a fine of not more than $1,000;

(2) For a second violation within five years of a previous violation, a fine of not more than $2,000; and

(3) For a third or subsequent violation within five years of the last violation, a fine of not more than $3,000.

(d) In addition to subsection (b), a fine of up to $5,000 may be levied for each specimen of threatened or endangered aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.

(e) In addition to subsection (c), a fine of up to $5,000 per square meter of area damaged may be levied for damaging or breaking stony coral or live rock.

[~~(e)~~] (f) In addition to subsection (c), a fine of up to $1,000 may be levied for each specimen of all other aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.

[~~(f)~~] (g) Any criminal penalty for any violation of subtitle 5 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from recovering additional administrative fines, fees, and costs, including attorney's fees and costs.

(h) For the purposes of this section:

"Breaking" means hitting or applying sufficient force to reduce to smaller pieces or to crack without actually separating into pieces.

"Damaging" means causing extensive injury resulting in irreparable harm or death.

"Live rock" means any rock or coral to which marine life is visibly attached.

"Stony coral" means any of a variety of invertebrate species belonging to the order *Scleractinia* characterized by having a hard, calcareous skeleton that are native to the Hawaiian Islands."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

1 SECTION 3. This Act shall take effect upon its approval.

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3 INTRODUCED BY: Calvin K Y Say

4 BY REQUEST

JAN 22 2008

H.B. NO. 3176

Report Title:
Administrative penalties; Stony coral and live rock damage.

Description:
Imposes administrative fines for damage to stony coral and live rock based on the amount of area damaged.

HB 3176

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO ADMINISTRATIVE PENALTIES FOR DAMAGE TO STONY CORAL AND LIVE ROCK.

PURPOSE: To allow the Board of Land and Natural Resources (Board) to impose administrative penalties for damage to stony coral and live rock on a per square meter basis.

MEANS: Amend section 187A-12.5, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The living substrate (coral, live rock, and calcareous algae) constitutes the framework of the State's coral reefs and provide the food and shelter for the myriad of native and endemic reef organisms that populate the State's coastal waters. These reef substrates also serve as the backbone to a large part of the State's vibrant marine tourism industry, create many of our world-famous wave breaks, provide subsistence, recreational, and commercial fishing for residents, and maintain a marine species endemism rate that ranks amongst the highest in the World.

As presently written, section 187A-12.5, HRS, allows the Board to impose administrative fines for the taking, killing, or injuring of aquatic life on a "per specimen" basis. This method, while appropriate for situations involving fish or other quantifiable aquatic life, does not translate well to damage or breakage to living coral colonies and live rock; especially in circumstances involving vessel groundings and other large scale incidents.

This bill would allow the Board to assess administrative penalties for damage to stony

HB 3176

coral and live rock on a per square meter basis.

Impact on the public: Would provide effective and substantial financial redress for damage to the State's coral reef ecosystems.

Impact on the department and other agencies: Would allow the Department to vigorously protect its coral reef resources and deter potentially harmful future impacts.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LNR 401.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.