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# A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCE VIOLATIONS.

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

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

3 " ~~[+]~~§187A-12.5 ~~[+]~~ **General administrative penalties.** (a)  
4 Except as otherwise provided by law, the board ~~[is authorized to~~  
5 ~~set,~~ may:

6 (1) Set, charge, and collect administrative fines ~~[and to~~  
7 ~~recover]~~;

8 (2) Require the performance of natural resource-related  
9 community services;

10 (3) Recover administrative fees and costs, including  
11 attorney's fees and costs ~~[, or bring]~~; and

12 (4) Bring legal action to recover administrative fines,  
13 fees, and costs, including attorney's fees and costs,  
14 or payment for damages or for the cost to correct  
15 damages ~~[resulting from]~~ for a violation of ~~[subtitle~~  
16 ~~5 of title 12]~~ chapters 187A through 190, or any rule  
17 adopted thereunder.



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

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

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

6 (3) For a third or subsequent violation within five years  
7 of the last violation, a fine of not more than  
8 \$15,000.

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

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

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

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

16 (d) In addition to subsection (b), a fine of up to \$5,000  
17 may be levied for each specimen of threatened or endangered  
18 aquatic life taken, killed, or injured in violation of [sub  
19 ~~5 of title 12~~] chapters 187A through 190, or any rule adopted  
20 thereunder.

21 (e) In addition to subsection (c), a fine of up to \$1,000  
22 may be levied for each specimen of all other aquatic life taken,



1 killed, or injured in violation of [~~subtitle 5 of title 12~~]  
2 chapters 187A through 190, or any rule adopted thereunder.

3 (f) In addition to, or in lieu of, the administrative  
4 finest listed in subsections (b) through (e), for any violation  
5 of chapters 187A through 190, or any rule adopted thereunder,  
6 the board may require the performance of natural resource-  
7 related community service under the supervision of a  
8 governmental agency, benevolent or charitable organization, or  
9 other community service group; provided that the person who  
10 performs the services shall not be deemed to be an employee of  
11 the governmental agency or assigned work site for any purpose.  
12 The maximum number of hours of community service that the board  
13 may impose shall be:

- 14 (1) For a first violation, not more than one hundred  
15 hours;  
16 (2) For a second violation within five years of a previous  
17 violation, not more than two hundred hours; and  
18 (3) For a third or subsequent violation within five years  
19 of a previous violation, not more than three hundred  
20 hours.



1       Any community service imposed under this subsection shall  
2 be performed during a time that does not directly interfere with  
3 the performing person's school attendance or employment.

4       (g) In addition to any other fines and penalties provided  
5 by this section, upon certification by the board of  
6 noncompliance with this section, the driver's license of a  
7 person who violates chapters 187A through 190 shall be suspended  
8 and any application for renewal, reinstatement, or reapplication  
9 shall be denied by the examiner of drivers. Upon a finding by  
10 the board that a person has failed to pay any administrative  
11 finances, fees, costs, or damages or to complete performance of any  
12 natural resource related community service imposed by the board  
13 and that the individual is the holder of or an applicant for a  
14 driver's license issued by a licensing authority in the State,  
15 the board shall issue notice to the person of the board's intent  
16 to certify the person as noncompliant with administrative  
17 penalties imposed by the board. As provided in subsection (h),  
18 the department shall direct the examiner of drivers to deny or  
19 suspend any driver's license or deny any application for  
20 renewal, reinstatement, or reactivation of any driver's license  
21 issued to the person. The notice required by this section  
22 shall:



- 1        (1) Be sent by regular mail to both the last known address  
2        of record of the person as shown in the records of the  
3        licensing authority, if such a record exists, and the  
4        last known address of record of the person as shown in  
5        the records of the department;
- 6        (2) Identify the licenses subject to suspension,  
7        nonrenewal, nonreinstatement, nonreactivation, or  
8        denial;
- 9        (3) Include a copy of the board's determination or  
10       determinations setting or charging any administrative  
11       finances, fees, costs, or natural resource-related  
12       community service to be paid or performed by the  
13       person;
- 14       (4) Specify the amount of fines, fees, or costs or number  
15       of hours of natural resource-related community service  
16       left unpaid or unperformed by the person pursuant to  
17       the board's determination or determinations in  
18       paragraph (3);
- 19       (5) Include a statement that if the person pays the  
20       outstanding amount of fines, fees, or costs or  
21       performs the community service indicated in paragraph  
22       (4) within thirty days of the mailing date of the



1           notice of intent, the board shall not pursue the  
2           certification action;

3           (6) Include a statement that the person may contest the  
4           suspension, nonrenewal, nonreinstatement,  
5           nonreactivation, or denial of a license by requesting  
6           a hearing in writing within thirty days of the mailing  
7           date of the notice of intent to suspend or not renew,  
8           reinstate, or reactivate, or otherwise deny the  
9           license; and

10          (7) Include a statement that if the person makes a timely  
11          request for a hearing as specified in paragraph (6),  
12          the board shall stay the certification action until a  
13          decision on that request is made.

14          For the purposes of this subsection and subsection (h), the  
15          date of issuance of a notification shall be two days following  
16          the date of mailing of the notice of intent to certify. Board  
17          action under this subsection shall not preclude the board from  
18          pursuing other legal action to collect outstanding fines or fees  
19          as authorized by law.

20          (h) If a person notified pursuant to subsection (g):

21          (1) Fails to pay the outstanding administrative fines,  
22          fees, or costs, or fails to perform the natural



1           resource-related community service within thirty days  
2           of the date of mailing of the notice of intent to  
3           certify;

4           (2) Fails to contact the agency in writing within thirty  
5           days of the date of mailing of the notice requesting a  
6           hearing to contest the certification; or

7           (3) Fails appear at the hearing or fails to successfully  
8           contest the notice at the hearing,

9           the board shall issue written certification to the examiner of  
10          drivers that the person has failed to pay an outstanding  
11          administrative fine, fee, or costs or perform natural resource-  
12          related community service imposed by the board and shall direct  
13          the immediate suspension, nonrenewal, nonreinstatement,  
14          nonreactivation, or denial of any driver's license held or  
15          applied for by the person. The board shall provide a copy of  
16          the certification to the person by regular mail to the address  
17          or addresses described in paragraph (g)(1). Notwithstanding any  
18          other provision of law affecting the status of a person's  
19          driver's license, upon receipt of the certification, the  
20          examiner of drivers shall suspend any driver's license that the  
21          person holds or deny any driver's license for which the person  
22          applies, without further review or hearing concerning the



1 suspension, nonrenewal, nonreinstatement, nonreactivation, or  
2 denial. Notwithstanding any other law setting terms of  
3 suspension, revocation, denial, termination, renewal,  
4 reinstatement, or reactivation of a driver's license, a  
5 certification issued by the board suspending, not renewing, not  
6 reinstating, not reactivating, or denying a driver's license  
7 shall be implemented by the examiner of drivers and shall  
8 continue in effect until the examiner of drivers receives a  
9 written release from the board.

10 (i) Upon the complete payment or performance by a person  
11 subject to certification under subsection (h) of all  
12 administrative penalties imposed by the board and approval of  
13 the board, the department shall provide the person with written  
14 confirmation of payment or performance and shall issue a written  
15 release canceling the certification in writing to the examiner  
16 of drivers.

17 (j) If a driver's license is suspended or denied under  
18 this section, the examiner of drivers may charge a fee for  
19 reinstating the driver's license, and any funds paid by the  
20 individual to the examiner of drivers shall not be refunded.  
21 The examiner of drivers may also charge the individual a





1 reasonable fee to cover the administrative costs incurred in  
2 complying with this section.

3 (k) The board may delegate to a hearings officer or  
4 officers its authority to take any action or render any decision  
5 under this section, including its final decision-making power in  
6 any contested case proceeding requested pursuant to chapter 91.

7 (l) The board may adopt rules pursuant to chapter 91 to  
8 implement this section. The examiner of drivers may adopt rules  
9 pursuant to chapter 91 to implement and administer this section.

10 ~~[-f-]~~ (m) Any criminal penalty for any violation of  
11 ~~[subtitle 5 of title 12]~~ chapters 187A through 190, or any rule  
12 adopted thereunder shall not be deemed to preclude the State  
13 from recovering additional administrative fines, fees, and  
14 costs, including attorney's fees and costs[-]; or imposing  
15 natural resource-related community service."

16 SECTION 2. Section 286-102, Hawaii Revised Statutes, is  
17 amended by amending subsection (e) to read as follows:

18 "(e) In addition to other qualifications and conditions by  
19 or pursuant to this part, the right of an individual to hold a  
20 motor vehicle operator's license or permit issued by the county  
21 is subject to the requirements of section 576D-13[-], and  
22 compliance with the terms of administrative penalties imposed by



1 the board of land and natural resources pursuant to section  
2 187A-12.5.

3       Upon receipt of certification from the child support  
4 enforcement agency pursuant to section 576D-13 that an obligor  
5 or individual who owns or operates a motor vehicle is not in  
6 compliance with an order of support as defined in section 576D-1  
7 or has failed to comply with a subpoena or warrant relating to a  
8 paternity or child support proceeding, the examiner of drivers  
9 shall suspend the license and right to operate motor vehicles  
10 and confiscate the license of the obligor. The examiner of  
11 drivers shall not reinstate an obligor's or individual's license  
12 until the child support enforcement agency, the office of child  
13 support hearings, or the family court issues an authorization  
14 that states the obligor or individual is in compliance with an  
15 order of support or has complied with a subpoena or warrant  
16 relating to a paternity or child support hearing.

17       Upon receipt of certification from the board of land and  
18 natural resources pursuant to section 187A-12.5 that a person  
19 has failed to comply with administrative penalties imposed by  
20 the board of land and natural resources, the examiner of drivers  
21 shall deny or suspend any license to operate motor vehicles and  
22 confiscate any license issued to the person. The examiner of



1 drivers shall not reinstate a person's license until the board  
2 of land and natural resources issues a release canceling the  
3 certification pursuant to section 187A-12.5.

4       The licensing authority may adopt rules pursuant to chapter  
5 91 to implement and enforce the requirements of this section."

6       SECTION 3. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun, before its effective date.

9       SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11       SECTION 5. This Act shall take effect on January 7, 2059.



**Report Title:**

Aquatic Resource Violations

**Description:**

Provides for natural resource-related community service administrative penalty alternatives and an enhanced collection mechanism for outstanding fines and penalties resulting from aquatic resource violations. Effective January 7, 2059.  
(HB2590 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

