
A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that in 1987, the state
2 water code was adopted to protect the precious water resources
3 of the State. To better enable the department of land and
4 natural resources and commission on water resource management to
5 carry out that mission, the legislature further finds that the
6 water code's penalties and fines must be amended and increased
7 to serve as an effective deterrence to violators.

8 The purpose of this Act is to ensure that all violators of
9 the state water code are held accountable for their violations
10 by creating a minimum penalty of \$50 for every violation and
11 raising the maximum penalty to \$25,000 for every violation.

12 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§174C-15 Penalties and common law remedies. (a) The
15 commission may enforce its rules and orders adopted pursuant to
16 this chapter by suit for injunction or for damages or both."



1 (b) Any person who violates any provision of this chapter,
2 [~~or~~] violates any rule adopted pursuant to this chapter, [may]
3 violates any order of the commission, fails to obtain a permit
4 when a permit is required under this chapter, or fails to comply
5 with permit conditions, shall be subject to a fine imposed by
6 the commission. [Such] The fine shall be not less than \$50 and
7 shall not exceed [\$5,000. For a continuing offense, each day
8 during which the offense is committed is a separate violation.]
9 \$25,000 per violation. Each day that a violation exists or
10 continues to exist shall constitute a separate offense.
11 Penalties for continuing violations shall be assessed from the
12 earliest known date of the violation. The earliest known date
13 of a violation shall be determined by the commission by a
14 preponderance of the evidence; provided that if the earliest
15 known date cannot be determined by a preponderance of the
16 evidence, penalties for continuing violations shall be assessed
17 from the earliest date the commission is made aware of the
18 violation.

19 (c) The commission shall determine the penalty amount for
20 each violation upon review of the circumstances of the
21 violation, taking into account the nature, extent, and gravity



1 of the violation and considering the history of such violations,
2 degree of culpability, and other matters as justice may require.

3 ~~[(e)]~~ (d) No provision of this chapter shall bar the right
4 of any injured person to seek other legal or equitable relief
5 against a violator of this chapter.

6 ~~[(d)]~~ (e) Except as otherwise provided by law, the
7 commission or its authorized representative by proper delegation
8 ~~[may]~~ shall set, charge, and collect administrative fines; ~~[or]~~
9 may bring legal action to recover administrative fees and costs
10 as documented by receipts or affidavit, including attorneys'
11 fees and costs; ~~[or]~~ and may bring legal action to recover
12 administrative fines, fees, and costs, including attorneys' fees
13 and costs, or payment for damages resulting from a violation of
14 this chapter or any rule adopted pursuant to this chapter."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

State Water Code; Commission on Water Resource Management;
Penalties

Description:

Adds a minimum penalty of \$50 per violation of the State Water Code and makes each day that a violation exists or continues a separate offense. Raises the maximum penalty to \$25,000 per violation. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation. Effective 7/1/2050. (SD1)

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