

STAND. COM. REP. NO. 1211

Honolulu, Hawaii

MAR 21 2025

RE: H.B. No. 306
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred H.B. No. 306, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO STATE WATER CODE PENALTIES,"
begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Add a minimum penalty and maximum penalty per violation of the State Water Code and make each day that a violation exists or continues to exist a separate offense;
- (2) Establish factors the Commission on Water Resource Management must consider when determining the amount of the penalty; and
- (3) Increase maximum fines every five years from 2030 to 2045.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, Office of Hawaiian Affairs, Honolulu Board of Water Supply, Ulupono Initiative, Sierra Club of Hawai'i, Lāhainā Strong, Hawai'i Alliance for Progressive Action, and two individuals.



Your Committee received testimony in opposition to this measure from Earthjustice and Land Use Research Foundation.

Your Committee finds that the State Water Code was adopted to protect the State's precious water resources. Your Committee further finds that the current penalties in the State Water Code could be made more stringent to better deter exploitation and misuse of the State's water resources. Accordingly, this measure strengthens the State Water Code by establishing minimum and maximum penalties for violations of the State Water Code to ensure that present and future generations have access to clean water.

Your Committee notes the concern that this measure may give the Commission on Water Resources Management expanded authority to subjectively and unilaterally assess violations of the State Water Code.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that any person who violates any order of the Commission on Water Resource Management (Commission) regarding the enforcement or application of existing law or rules adopted by the Commission shall be subject to a fine imposed by the Commission;
- (2) Authorizing the Commission to consider each day that a violation exists or continues to exist a separate offense;
- (3) Establishing two tiers of violations with different maximum fines based on whether the violation has caused harm to other water users, the environment, or water source, and whether the violator has been assessed a fine by the Commission within the five years preceding the violation;
- (4) Clarifying that the Commission shall consider the violator's good faith efforts to comply with the State Water Code and culpability when assessing a fine;
- (5) Requiring the Commission to consider the quantity of water affected by a violation when assessing a fine;



- (6) Requiring the Commission to consider the potential or actual harm caused by the violation to other water users, the environment, or water source when assessing the fine;
- (7) Inserting the amounts to which the maximum fines increase every five years, from 2030 to 2045;
- (8) Inserting an effective date of July 1, 2040, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 306, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 306, H.D. 2, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUE, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* HB 304 HD2	Committee Referral: WTL, JDC/WAM	Date: 03/14/25		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
INOUE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.				✓
DECORTE, Samantha	✓			
TOTAL	4	0	0	1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: 				
<div style="display: flex; justify-content: space-between; font-size: small;"> <div style="text-align: center;"> Distribution: Original File with Committee Report </div> <div style="text-align: center;"> Yellow Clerk's Office </div> <div style="text-align: center;"> Pink Drafting Agency </div> <div style="text-align: center;"> Goldenrod Committee File Copy </div> </div>				

*Only one measure per Record of Votes