

H.B. NO. 1429

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF TRANSPORTATION.

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

1 SECTION 1. All users and tenants of state harbor and
2 harbor facilities are required to comply with all applicable
3 federal, state, or county laws, ordinances, rules and
4 regulation. Any violation resulting from the acts or omissions
5 by any harbor tenant or user that results in a fine against the
6 state for actions that are under the control or responsibility
7 of a harbor user or tenant will be paid by the violator.

8 SECTION 2. Section 266-25, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§ 266-25 Violation of rules; penalty. Any person who
11 violates any rule made, adopted, and published by the department
12 of transportation as herein provided, or who violates any lawful
13 command of any harbor master, harbor agent, or harbor district
14 manager, while in the discharge of the person's duties, or who
15 violates this chapter, shall be fined not more than [~~\$10,000~~
16 \$27,500 for each offense [~~, and any~~]. Any vessel, [~~the~~
17 agent~~s~~], owner, or crew of which [~~violate~~] violates any rule of

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1 the department of transportation as herein provided, or who
 2 violates any lawful command of any harbor master, harbor agent,
 3 or harbor district manager, pertaining to federal, state or
 4 county rule or who violates the rules of [the department or]
 5 this chapter, shall be fined not more than [~~\$10,000~~] \$27,500 for
 6 each violation; provided that in addition to or as a condition
 7 to the suspension of the fines and penalties, the court may
 8 deprive the offender of the privilege of operating or mooring
 9 any vessel in state waters for a period of not more than two
 10 years."

11 SECTION 3. Statutory material to be deleted is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.

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 15 INTRODUCED BY: Calvin K. Ay
 16 BY REQUEST

17 JAN 22 2007

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JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: RELATING TO THE DEPARTMENT OF TRANSPORTATION.

PURPOSE: To increase fines imposed on users and tenants who violate chapter 266, the department's administrative rules, or any lawful command of any harbor master, agent, or district manager. This bill will allow for a full recovery of fines imposed on the department for violations of federal and state air and water pollution laws committed by harbor users and tenants.

MEANS: Amend section 266-25, Hawaii Revised Statutes.

JUSTIFICATION: Presently, section 266-25, HRS, limits the amount that the department can impose on violations of its rules and regulations to \$10,000 per violation per day. This is well below the amount, currently established at \$27,500, that federal environmental laws may impose for violations by landowners for violations of state and federal air and water pollution regulations. These federal and state fines would be imposed on the department as the landowner for any tenant or user violations. While the department can pursue the violator for recovery of the fine, current law limits the amount that can be recovered at \$10,000. This bill will allow the department to recover the actual amount of a fine from its tenants and users who violate federal rules and regulations.

Impact to the public: The bill would authorize the department to pursue recovery for the full amount of fines imposed upon the department as landowner.

Impact to the department and other agencies: None.

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GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES:

EFFECTIVE DATE: Upon approval.