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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, charge, and collect administrative fines, to require the  
6 performance of natural resource related community service, and  
7 to recover administrative fees and costs, including attorney's  
8 fees and costs, or bring legal action to recover administrative  
9 fines, fees, and costs, including attorney's fees and costs, or  
10 payment for damages or for the cost to correct damages resulting  
11 from a violation of ~~[subtitle 5 of title 12]~~ chapters 187A  
12 through 190, or any rule adopted thereunder.

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

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

16       (2) For a second violation within five years of a previous  
17 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]~~ chapters 187A through 190, or any rule adopted thereunder.

(e) 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]~~ chapters 187A through 190, or any rule adopted thereunder.

(f) In addition to, or in lieu of, the administrative fines listed in subsections (b) to (e), for any violation of chapters 187A through 190, or any rule adopted thereunder, the



board may further require the performance of natural resource related community service under the supervision of a governmental agency, benevolent or charitable organization, or other community service group; provided that the person who performs the community service shall not be deemed to be an employee of the governmental agency or assigned work site for any purpose. The maximum number of hours of service that the board may impose shall be as follows:

(1) For a first violation, up to one hundred hours;

(2) For a second violation within five years of a previous violation, up to two hundred hours; and

(3) For a third or subsequent violation within five years of a previous violation, up to three hundred hours.

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

(g) Upon a finding by the board that a person has failed to pay any administrative fines, fees, costs, or damages or to complete performance of any natural resource related community service imposed by the board, and that the individual is the holder of or an applicant for a driver's license issued by a licensing authority in the State, the board may issue notice to



1 the person of the board's intent to certify the person as  
2 noncompliant with administrative penalties imposed by the board  
3 and the board's intent to direct the examiner of drivers to deny  
4 or suspend any driver's license, or deny any application for  
5 renewal, reinstatement, or reactivation of any driver's license  
6 issued to the person, pursuant to subsection (h). The notice  
7 shall:

8       (1) Be sent by regular mail to both the last known address  
9           of record of the person as shown in the records of the  
10          licensing authority, if the record exists, and the  
11          last known address of record of the person as shown in  
12          the records of the department;

13       (2) Contain the identification of any licenses subject to  
14          suspension, nonrenewal, nonreinstatement, or denial;

15       (3) Contain a copy of the board's determination or  
16          determinations resulting from setting or charging any  
17          administrative fines, fees, costs, or natural resource  
18          related community service to be paid or performed by  
19          the person;

20       (4) Specify the amount of money or number of hours of  
21          natural resource related community service left to be  
22          paid or performed by the person pursuant to the



1 board's determination or determinations in paragraph  
2 (3);

3 (5) Contain a statement that if the person satisfies the  
4 outstanding payment or services indicated in paragraph  
5 (4) within thirty days of the mailing date of the  
6 notice of intent, the board shall not pursue the  
7 certification action;

8 (6) Contain a statement that the person may contest the  
9 suspension, nonrenewal, nonreactivation, or denial of  
10 a license by requesting a hearing in writing within  
11 thirty days of the date of issuance of the notice of  
12 intent to suspend, not reactivate, or otherwise deny  
13 the license; and

14 (7) Contain a statement that if the person makes a timely  
15 request as specified in paragraph (6), the board shall  
16 stay the certification action until a decision is  
17 made.

18 For the purposes of this subsection and subsection (h), the  
19 date of issuance shall be two days following the date of mailing  
20 of the notice of intent to certify. Board action under this  
21 subsection shall not preclude the board from pursuing other



1 legal action to collect outstanding fines or fees as authorized  
2 by law.

3 (h) The board shall certify in writing to the examiner of  
4 drivers that a person notified pursuant to subsection (g) has  
5 failed to pay or perform any administrative fine, fee, natural  
6 resource related community service, or costs imposed by the  
7 board and shall direct the immediate suspension, nonrenewal,  
8 nonreactivation, or denial of any driver's license held or  
9 applied for by the person if the person:

10 (1) Fails to satisfy the outstanding administrative fines,  
11 fees, costs, or natural resource related community  
12 service within thirty days of the date of mailing of  
13 the notice of intent to certify;

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

17 (3) Fails to successfully contest the notice after being  
18 provided with a hearing.

19 The board shall provide the examiner of drivers the  
20 driver's license number and other identifying information of the  
21 person notified pursuant to subsection (g). The board shall  
22 provide a copy of the certification to the person by regular



1 mail to the address or addresses described in subsection (g)(1).  
2 Notwithstanding any other provision affecting the status of a  
3 person's driver's license to the contrary, upon receipt of the  
4 certification and pursuant to paragraphs (1), (2), and (3), the  
5 examiner of drivers shall suspend any driver's license that the  
6 person holds or deny any driver's license for which the person  
7 applies without further review or hearing concerning the  
8 suspension, nonrenewal, nonreactivation, or denial.

9 Notwithstanding the provisions of any other law setting terms of  
10 suspension, revocation, denial, termination, renewal,  
11 reinstatement, or reactivation of a driver's license to the  
12 contrary, a certification issued by the board suspending, not  
13 renewing, not reinstating, not reactivating, or denying a  
14 driver's license shall be implemented by the examiner of drivers  
15 and continue in effect until the examiner of drivers receives a  
16 written release from the board.

17 (i) Upon the complete payment or performance of all  
18 administrative penalties imposed by the board by a person  
19 subject to certification under subsection (h), upon approval by  
20 the board, the department shall provide the person with written  
21 confirmation of the payment or performance and issue a written



1 release canceling the certification in writing to the examiner  
2 of drivers.

3 (j) If a driver's license is suspended or denied under  
4 this section, the examiner of drivers may charge a fee for  
5 reinstating the driver's license, and any funds paid by the  
6 individual to the examiner of drivers shall not be refunded.  
7 The examiner of drivers may also charge the individual a  
8 reasonable fee to cover the administrative costs incurred in  
9 complying with this section.

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

14 (l) The board may adopt rules pursuant to chapter 91  
15 necessary for the implementation of this section. The examiner  
16 of drivers may adopt rules pursuant to chapter 91 for the  
17 implementation and administration of this section.

18 ~~[+f)]~~ (m) Any criminal penalty for any violation of  
19 ~~[subtitle 5 of title 12]~~ chapters 187A through 190, or any rule  
20 adopted thereunder shall not be deemed to preclude the State  
21 from recovering additional administrative fines, fees, and





1 costs, including attorney's fees and costs[-]; or from imposing  
2 natural resource related community service."

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

5 "(e) In addition to other qualifications and conditions by  
6 or pursuant to this part, the right of an individual to hold a  
7 motor vehicle operator's license or permit issued by the county  
8 is subject to the requirements of section 576D-13[-] and  
9 compliance with the terms of any administrative penalties  
10 imposed by the board of land and natural resources pursuant to  
11 section 187A-12.5.

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



1 that states the obligor or individual is in compliance with an  
2 order of support or has complied with a subpoena or warrant  
3 relating to a paternity or child support hearing.

4 Upon receipt of certification from the board of land and  
5 natural resources pursuant to section 187A-12.5 that a person  
6 has failed to comply with administrative penalties imposed by  
7 the board of land and natural resources, the examiner of drivers  
8 shall deny or suspend any license to operate motor vehicles and  
9 confiscate any license issued to the person. The examiner of  
10 drivers shall not reinstate a person's license until the board  
11 of land and natural resources issues a release canceling the  
12 certification pursuant to section 187A-12.5.

13 The licensing authority may adopt rules pursuant to chapter  
14 91 to implement and enforce the requirements of this section."

15 SECTION 3. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun, before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Aquatic Resource Violations

**Description:**

Provides for transformative administrative penalty alternatives and an enhanced collection mechanism for outstanding fines and penalties resulting from aquatic resource violations. (SD2)

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

