

JAN 23 2015

A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

1 SECTION 1. Chapter 149A, Hawaii Revised Statutes, is
2 amended by amending the title of part IV to read as follows:

3 **"PART IV. VIOLATIONS [~~, WARNING NOTICE,~~] AND PENALTIES"**

4 SECTION 2. Section 149A-21, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) If it appears that a pesticide or device fails to
7 comply with this chapter, the department may refer the facts
8 with a copy of the results of the analysis or the examination of
9 the pesticide product or device to the appropriate governmental
10 agency for prosecution. [~~A warning notice shall be issued~~
11 ~~before prosecution proceedings are initiated.~~]"

12 SECTION 3. Section 149A-41, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§149A-41 Violations [~~, warning notice,~~] and penalties.**

15 [~~(a) Warning notice. Any person who violates this chapter or~~
16 ~~any rule issued under this chapter may upon the first violation~~



1 ~~be issued a written warning notice citing the specific violation~~
2 ~~and necessary corrective action.~~

3 ~~(b)]~~ (a) Administrative penalties.

4 (1) In general, any registrant, commercial applicator,
5 wholesaler, dealer, retailer, or other distributor who
6 violates any provision of this chapter may be assessed
7 an administrative penalty by the board of not more
8 than \$5,000 for each offense;

9 (2) Any private applicator or other person not included in
10 paragraph (1) who violates any provision of this
11 chapter relating to the use of pesticides while on
12 property owned or rented by that person or the
13 person's employer, subsequent to receiving a written
14 warning from the department or following a citation
15 for a prior violation, may be assessed an
16 administrative penalty by the board of not more than
17 \$1,000 for each offense. Any private applicator or
18 other person not included in paragraph (1) who
19 violates any provision of this chapter relating to
20 licensing, transport, sale, distribution, or
21 application of a pesticide for commercial purposes may



1 be assessed an administrative penalty as provided in
2 paragraph (1);

3 (3) No administrative penalty shall be assessed unless the
4 person charged shall have been given notice and an
5 opportunity for a hearing on the specific charge in
6 the county of the residence of the person charged.

7 The administrative penalty and any proposed action
8 contained in the notice of finding of violation shall
9 become a final order unless, within twenty days of
10 receipt of the notice, the person or persons charged
11 make a written request for a hearing. In determining
12 the amount of penalty, the board shall consider the
13 appropriateness of the penalty to the size of the
14 business of the person charged, the effect on the
15 person's ability to continue business, and the gravity
16 of the violation; and

17 (4) In case of inability to collect the administrative
18 penalty or failure of any person to pay all or such
19 portion of the administrative penalty as the board may
20 determine, the board shall refer the matter to the
21 attorney general, who shall recover the amount by



1 action in the appropriate court. For any judicial
2 proceeding to recover the administrative penalty
3 imposed, the attorney general need only show that
4 notice was given, a hearing was held or the time
5 granted for requesting a hearing has expired without
6 such a request, the administrative penalty was
7 imposed, and that the penalty remains unpaid.

8 [~~(e)~~] (b) Criminal penalties.

9 (1) In general, any registrant, commercial applicator,
10 wholesaler, dealer, retailer, or other distributor who
11 knowingly violates any provision of this chapter shall
12 be guilty of a misdemeanor and shall on conviction be
13 fined not more than \$25,000, or imprisoned for not
14 more than one year, or both.

15 (2) Any private applicator or other person not included in
16 paragraph (1) who knowingly violates any provision of
17 this chapter shall be guilty of a misdemeanor and
18 shall on conviction be fined not more than \$1,000, or
19 imprisoned for not more than one year, or both.

20 (3) Any person who causes physical harm to another person
21 through the negligent application of a pesticide shall



1 be guilty of a class C felony and shall on conviction
2 be fined not more than \$10,000, or imprisoned for not
3 more than five years, or both.

4 ~~[(3)]~~ (4) Any person, who, with intent to defraud, uses or
5 reveals information relative to formulas of products
6 acquired under the authority of section 3, Federal
7 Insecticide, Fungicide, and Rodenticide Act (FIFRA),
8 as amended, shall be fined not more than \$10,000, or
9 imprisoned for not more than three years, or both.

10 ~~[(d)]~~ (c) Liabilities. When construing and enforcing the
11 provisions of this chapter, the act, omission, or failure of any
12 officer, agent, or other person acting for or employed by any
13 person shall in every case be also deemed to be the act,
14 omission, or failure of such person as well as that of the
15 person employed."

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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Report Title:

Pesticides; Pesticide Use; Violations; Penalties

Description:

Removes the warning notice for first violations of chapter 149A, Hawaii Revised Statutes, the Hawaii pesticides law. Makes it a class C felony for any person who causes physical harm to another person through the negligent application of a pesticide.

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

