

JAN 19 2018

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# A BILL FOR AN ACT

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RELATING TO PESTICIDES.

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

1       SECTION 1.   Section 149A-41, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§149A-41   Violations, warning notice, and penalties.**   (a)  
4 Warning notice.   Any person who violates this chapter or any  
5 rule issued under this chapter may upon the first violation be  
6 issued a written warning notice citing the specific violation  
7 and necessary corrective action~~[-]~~, unless the violation results  
8 in bodily injury, in which case penalties under subsection (c)  
9 shall apply.

10       (b)   Administrative penalties.

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

16       (2)   Any private applicator or other person not included in  
17           paragraph (1) who violates any provision of this



1 chapter relating to the use of pesticides while on  
2 property owned or rented by that person or the  
3 person's employer, subsequent to receiving a written  
4 warning from the department or following a citation  
5 for a prior violation, may be assessed an  
6 administrative penalty by the board of not more than  
7 \$1,000 for each offense. Any private applicator or  
8 other person not included in paragraph (1) who  
9 violates any provision of this chapter relating to  
10 licensing, transport, sale, distribution, or  
11 application of a pesticide for commercial purposes may  
12 be assessed an administrative penalty as provided in  
13 paragraph (1);

- 14 (3) No administrative penalty shall be assessed unless the  
15 person charged shall have been given notice and an  
16 opportunity for a hearing on the specific charge in  
17 the county of the residence of the person charged.  
18 The administrative penalty and any proposed action  
19 contained in the notice of finding of violation shall  
20 become a final order unless, within twenty days of  
21 receipt of the notice, the person or persons charged



1 make a written request for a hearing. In determining  
2 the amount of penalty, the board shall consider the  
3 appropriateness of the penalty to the size of the  
4 business of the person charged, the effect on the  
5 person's ability to continue business, and the gravity  
6 of the violation; and

7 (4) In case of inability to collect the administrative  
8 penalty or failure of any person to pay all or such  
9 portion of the administrative penalty as the board may  
10 determine, the board shall refer the matter to the  
11 attorney general, who shall recover the amount by  
12 action in the appropriate court. For any judicial  
13 proceeding to recover the administrative penalty  
14 imposed, the attorney general need only show that  
15 notice was given, a hearing was held or the time  
16 granted for requesting a hearing has expired without  
17 such a request, the administrative penalty was  
18 imposed, and that the penalty remains unpaid.

19 (c) Criminal penalties.

20 (1) [~~In general, any~~] Any registrant, commercial  
21 applicator, wholesaler, dealer, retailer, or other



1 distributor who knowingly violates any provision of  
2 this chapter shall be guilty of a misdemeanor and  
3 shall on conviction be fined not more than \$25,000, or  
4 imprisoned for not more than one year, or both[-];  
5 provided that if the violation results in bodily  
6 injury, the registrant, commercial applicator,  
7 wholesaler, dealer, retailer, or other distributor  
8 shall be guilty of a class C felony and shall on  
9 conviction be fined not more than \$100,000, or  
10 imprisoned for not more than five years, or both.

- 11 (2) Any private applicator or other person not included in  
12 paragraph (1) who knowingly violates any provision of  
13 this chapter shall be guilty of a misdemeanor and  
14 shall on conviction be fined not more than \$1,000, or  
15 imprisoned for not more than one year, or both[-];  
16 provided that if the violation results in bodily  
17 injury, the private applicator or other person shall  
18 be guilty of a class C felony and shall on conviction  
19 be fined not more than \$25,000, or imprisoned for not  
20 more than five years, or both.



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

(d) Liabilities. When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

(e) Definitions. For purposes of this section, "bodily injury" has the same meaning as in section 707-700."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

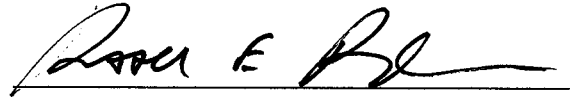
SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.



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

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INTRODUCED BY:



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9.11.18

~~DC~~ 

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# S.B. NO. 2463

**Report Title:**

Pesticides; Bodily Injury; Penalty

**Description:**

Increases penalties and eliminates warnings for Hawaii  
Pesticides Law violations that result in bodily injury.

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

