
A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that in 1987, the State
2 Water Code was adopted to protect the precious water resources
3 of the State. To better enable the department of land and
4 natural resources and commission on water resource management to
5 carry out that mission, the legislature further finds that the
6 water code's penalties and fines must be amended and increased
7 to serve as an effective deterrence to violators.

8 The purpose of this Act is to ensure that all violators of
9 the State Water Code are held accountable for their violations
10 by:

- 11 (1) Creating a minimum penalty of \$50 for every violation
12 of the State Water Code;
- 13 (2) Raising the maximum penalty to \$60,000 for every
14 violation of the State Water Code;
- 15 (3) Clarifying that each day that a violation exists or
16 continues to exist is a separate offense;



- 1 (4) Requiring the commission on water resource management
- 2 to determine the amount of the penalty based on the
- 3 circumstances of the violation; and
- 4 (5) Appropriating funds to the department of land and
- 5 natural resources for two full-time equivalent (2.0
- 6 FTE) general professional positions within the
- 7 commission on water resource management to ensure
- 8 compliance and enforce the State Water Code.

9 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 **"§174C-15 Penalties and common law remedies.** (a) The
 12 commission may enforce its rules and orders adopted pursuant to
 13 this chapter by suit for injunction or for damages or both.

14 (b) Any person who violates any provision of this chapter,
 15 ~~[or]~~ violates any rule adopted pursuant to this chapter, [may]
 16 violates any order of the commission, fails to obtain a permit
 17 when a permit is required under this chapter, or fails to comply
 18 with permit conditions, shall be subject to a fine imposed by
 19 the commission. [Such] The fine [shall not exceed \$5,000. For
 20 a continuing offense, each day during which the offense is
 21 committed is a separate violation.] shall be no less than \$50



1 but no more than \$60,000 per violation. Each day that a
2 violation exists or continues to exist shall constitute a
3 separate offense. Penalties for continuing violations shall be
4 assessed from the earliest known date of the violation. The
5 earliest known date of a violation shall be determined by the
6 commission by a preponderance of the evidence; provided that if
7 the earliest known date cannot be determined by a preponderance
8 of the evidence, penalties for continuing violations shall be
9 assessed from the earliest date the commission is made aware of
10 the violation.

11 (c) The commission shall determine the penalty amount for
12 each violation after reviewing the circumstances of the
13 violation; taking into account the nature, extent, and gravity
14 of the violation; and considering the history of such
15 violations, degree of culpability, and other matters as justice
16 may require.

17 ~~(e)~~ (d) No provision of this chapter shall bar the right
18 of any injured person to seek other legal or equitable relief
19 against a violator of this chapter.



1 ~~[(d)]~~ (e) Except as otherwise provided by law, the
2 commission or its authorized representative by proper delegation
3 ~~[may]~~ :

4 (1) Shall set, charge, and collect administrative fines;
5 ~~[or]~~ and

6 (2) May bring legal action to recover ~~[administrative]~~ :

7 (A) Administrative fees and costs as documented by
8 receipts or affidavit, including ~~[attorneys']~~
9 attorney's fees and costs; ~~[or bring legal action~~
10 ~~to recover administrative]~~ and

11 (B) Administrative fines, fees, and costs, including
12 attorneys' fees and costs, or payment for damages
13 resulting from a violation of this chapter or any
14 rule adopted pursuant to this chapter."

15 SECTION 3. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2023-2024 for
18 the establishment of two full-time equivalent (2.0 FTE) general
19 professional positions within the commission on water resource
20 management to enforce compliance with the State Water Code.



1 The sum appropriated shall be expended by the department of
2 land and natural resources for the purposes of this Act.

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

5 SECTION 5. This Act shall take effect on June 30, 3000.



Report Title:

State Water Code; Commission on Water Resource Management;
Penalties; Positions; Appropriation

Description:

Creates a minimum penalty and raises the maximum penalty for every violation of the State Water Code. Clarifies that each day a violation exists or continues is a separate offense. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation. Appropriates funds for positions in the Commission on Water Resource Management. Effective 6/30/3000. (HD2)

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