



STATE OF HAWAII
DEPARTMENT OF HEALTH
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In reply, please refer to:
File:

**Testimony in SUPPORT of HB1079 SD1
RELATING TO WATER POLLUTION CONTROL**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

SENATOR DONOVAN DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 04/04/23

Room Number: 211

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health (Department) strongly supports this
3 measure as it will strengthen and clarify State water pollution control requirements.

4 The proposed measure will ensure consistency with federal definitions. The inclusion of
5 “wetlands” into the definition of “State waters” is consistent with the revised definition of
6 “Waters of the United States” published on Wednesday, January 18, 2023, in the Federal
7 Register (Vol. 88, No. 11). The proposed “water quality certification” definition is consistent
8 with Section 401 of the Federal Clean Water Act.

9 The proposed amendments to water quality certification statutes will clarify the Director
10 of Health’s authority to act as a certifying agency. It will also provide clarity for the public and
11 regulated entities, and improve ease of reference.

12 The Department recommends restoring the civil penalty amounts proposed in HB1079
13 HD1, \$59,973 for Section 342D-30(a), Hawaii Revised Statutes (HRS) (page 11, line 14) and
14 \$25,000 for Section 342D-30(b), HRS (page 12, line 12). Updating the maximum statutory civil
15 penalty in Section 342D-30(a), HRS, which was last updated in 1997, to match the federal
16 inflation adjusted penalty amount will deter and compensate the State when persons violate State
17 water pollution control laws. Increasing the penalty maximum in Section 342D-30(b), HRS for
18 water pollution with the penalty maximum in Section 342B-47(d), HRS for air pollution will

1 ensure that the Department will have the same penalty for water and air pollution control for
2 those who obstruct, deny, or hamper authorized inspectors from entering authorized areas for
3 inspection.

4 Thank you for the opportunity to testify.

5 **Offered Amendments:** The Department respectfully suggests the following revisions to
6 the proposed HRS amendments. Additions appear as underlined and deletions appear as
7 bracketed strikeouts.

8 In SECTION 2, page 2, line 16 and page 3, line 2, respectively:

9 "... 307 of the ~~[Act]~~act."

10 "... purposes of the ~~[Act]~~act."

11 In SECTION 6, page 11, line 14 and page 12, line 12, respectively:

12 "... shall be fined not more than ~~[\$25,000]~~ \$59,973 for each separate offense."

13 "... shall be fined not more than ~~[\$10,000]~~ \$25,000 for each day of denial, obstruction, or
14 hampering."

15 In SECTION 8, page 13, line 13:

16 "... required pursuant to section 401 of the ~~[Act]~~act for any applicant ..."