

JAN 19 2024

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# 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 creating a minimum penalty of \$50 and a maximum penalty of  
11 \$60,000 for every violation.

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

14           "**§174C-15 Penalties and common law remedies.** (a) The  
15 commission may enforce its rules and orders adopted pursuant to  
16 this chapter by suit for injunction or for damages or both.



1 (b) Any person who violates any provision of this chapter,  
2 [~~or~~] violates any rule adopted pursuant to this chapter, [may]  
3 violates any order of the commission, fails to obtain a permit  
4 when a permit is required under this chapter, or fails to comply  
5 with permit conditions, shall be subject to a fine imposed by  
6 the commission. [~~Such~~] The fine shall be not less than \$50 and  
7 shall not exceed [~~\$5,000. For a continuing offense, each day~~  
8 ~~during which the offense is committed is a separate violation.~~  
9 \$60,000 per violation. Each day that a violation exists or  
10 continues to exist shall constitute a separate offense.  
11 Penalties for continuing violations shall be assessed from the  
12 earliest known date of the violation. The earliest known date  
13 of a violation shall be determined by the commission by a  
14 preponderance of the evidence; provided that if the earliest  
15 known date cannot be determined by a preponderance of the  
16 evidence, penalties for continuing violations shall be assessed  
17 from the earliest date the commission is made aware of the  
18 violation.

19 (c) The commission shall determine the penalty amount for  
20 each violation upon review of the circumstances of the  
21 violation, taking into account the nature, extent, and gravity



1 of the violation and considering the history of the violations,  
2 degree of culpability, and other matters as justice may require.

3 ~~[(e)]~~ (d) No provision of this chapter shall bar the right  
4 of any injured person to seek other legal or equitable relief  
5 against a violator of this chapter.

6 ~~[(d)]~~ (e) Except as otherwise provided by law, the  
7 commission or its authorized representative by proper delegation  
8 ~~[may]~~ shall set, charge, and collect administrative fines; ~~[or]~~  
9 may bring legal action to recover administrative fees and costs  
10 as documented by receipts or affidavit, including ~~[attorneys']~~  
11 attorney's fees and costs; ~~[or]~~ and may bring legal action to  
12 recover administrative fines, fees, and costs, including  
13 ~~[attorneys']~~ attorney's fees and costs, or payment for damages  
14 resulting from a violation of this chapter or any rule adopted  
15 pursuant to this chapter."

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



1 SECTION 5. This Act shall take effect on July 1, 2024.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'JDL', is written over a horizontal line.

# S.B. NO. 2658

**Report Title:**

State Water Code; Commission on Water Resource Management;  
Penalties

**Description:**

Adds a minimum penalty of \$50 and a maximum penalty of \$60,000 per violation of the State Water Code and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation.

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

