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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 legislature further finds that increasing potential  
9 fines for water code violations will also:

- 10           (1) Help to preserve water resources by ensuring the  
11                 sustainable management and conservation of limited  
12                 water resources for future generations, particularly  
13                 in areas facing over-extraction or misuse;
- 14           (2) Protect the ecosystems by safeguarding wetlands,  
15                 rivers, and aquifers that depend on healthy water  
16                 systems to maintain biodiversity and environmental  
17                 balance;



- 1 (3) Promote public health and safety by preventing  
2 contamination of drinking water supplies and reducing  
3 health risks associated with waterborne diseases and  
4 pollutants;
- 5 (4) Promote climate change resilience by regulating water  
6 usage and protecting vulnerable water sources to  
7 address challenges posed by prolonged droughts,  
8 erratic rainfall, and rising sea levels;
- 9 (5) Promote economic stability by helping to avoid  
10 economic losses in agriculture, tourism, and other  
11 industries that rely heavily on consistent and clean  
12 water supplies;
- 13 (6) Promote enforcement of equity and justice to ensure  
14 fair access to water resources for all, including  
15 marginalized communities that may be  
16 disproportionately affected by water scarcity or poor  
17 water management;
- 18 (7) Increase accountability for violations to deter  
19 illegal activities such as unauthorized diversions,  
20 pollution, or overuse of water resources by imposing  
21 stricter penalties and fines; and



1 (8) Increase compliance with federal and state mandates to  
 2 meet legal obligations under federal or state  
 3 environmental protection laws, ensuring alignment with  
 4 broader water management and conservation goals.

5 The purpose of this Act is to:

6 (1) Ensure that all violators of the state water code are  
 7 held accountable for their violations by adding a  
 8 minimum penalty and amending the maximum penalty, with  
 9 scheduled incremental increases, per violation of the  
 10 state water code and clarifying what constitutes a  
 11 separate offense; and

12 (2) Require the commission on water resource management to  
 13 consider certain factors when imposing penalties.

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

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

19 (b) Any person who [~~violates any~~]:

20 (1) Violates any provision of this chapter [~~, or any~~];



1        (2) Violates any rule adopted pursuant to this chapter[7  
2                    may];

3        (3) Violates any order of the commission;

4        (4) Fails to obtain a permit when a permit is required  
5                    under this chapter;

6        (5) Fails to comply with permit conditions; or

7        (6) Fails to comply with standardized water audit  
8                    requirements pursuant to Act 169, Session Laws of  
9                    Hawaii 2016,

10      shall be subject to a fine imposed by the commission. [Such  
11      fine] The fine shall be no less than \$50 and shall not exceed  
12      [\$5,000. For a continuing offense, each day during which the  
13      offense is committed is a separate violation.] \$ \_\_\_\_\_ per  
14      violation. Each day that a violation exists or continues to  
15      exist shall constitute a separate offense. Penalties for  
16      continuing violations shall be assessed from the earliest known  
17      date of the violation. The earliest known date of a violation  
18      shall be determined by the commission by a preponderance of the  
19      evidence; provided that if the earliest known date cannot be  
20      determined by a preponderance of the evidence, penalties for



1 continuing violations shall be assessed from the earliest date  
2 the commission is made aware of the violation.

3 (c) When imposing a penalty, the commission shall consider  
4 the following factors, including but not limited to:

5 (1) The nature, circumstances, extent, gravity, and  
6 history of the violation and of any prior violations;

7 (2) The economic benefit to the violator, or anticipated  
8 by the violator, resulting from the violation;

9 (3) The opportunity, difficulty, and history of corrective  
10 action;

11 (4) Good faith efforts to comply;

12 (5) Degree of culpability; and

13 (6) Such other matters as justice may require.

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

17 ~~[(d)]~~ (e) Except as otherwise provided by law, the  
18 commission or its authorized representative by proper delegation  
19 may set, charge, and collect administrative fines ~~[or]~~; may  
20 bring legal action to recover administrative fees and costs as  
21 documented by receipts or affidavit, including ~~[attorneys']~~



1 attorney's fees and costs; ~~[or]~~ and may bring legal action to  
2 recover administrative fines, fees, and costs, including  
3 ~~[attorneys']~~ attorney's fees and costs, or payment for damages  
4 resulting from a violation of this chapter or any rule adopted  
5 pursuant to this chapter.

6 (f) The maximum fine per violation pursuant to subsection

7 (b) shall increase to:

8 (1) \$ \_\_\_\_\_ beginning January 1, 2030;

9 (2) \$ \_\_\_\_\_ beginning January 1, 2035;

10 (3) \$ \_\_\_\_\_ beginning January 1, 2040; and

11 (4) \$ \_\_\_\_\_ beginning January 1, 2045."

12 SECTION 3. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

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



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

State Water Code; Commission on Water Resource Management;  
Penalties

**Description:**

Adds a minimum penalty and maximum penalty per violation of the State Water Code and makes each day that a violation exists or continues to exist a separate offense. Establishes factors the Commission on Water Resource Management must consider when determining the amount of the penalty. Increases maximum fines in five-year increments from 2030 to 2045. Effective 7/1/3000. (HD1)

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

