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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 state water code's penalties and fines must be amended and  
7 increased to serve as an effective deterrent.

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) Adding a minimum penalty and amending the maximum  
12           penalty per violation of the state water code and  
13           clarifying what constitutes a separate offense; and  
14           (2) Requiring the commission on water resource management  
15           to consider certain factors when imposing penalties.

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



1       "**§174C-15 Penalties and common law remedies.** (a) The  
2 commission may enforce its rules and orders adopted pursuant to  
3 this chapter by suit for injunction or for damages or both.

4       (b) Any person who [~~violates~~]:

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

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

8       (3) Violates any order of the commission;

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

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

12       (6) Fails to comply with standardized water audit  
13       requirements pursuant to Act 169, Session Laws of  
14       Hawaii 2016,

15 may be subject to a fine imposed by the commission. [~~Such~~] The

16 fine shall be no less than \$50 and shall not exceed [~~\$5,000.~~

17 ~~For a continuing offense, each day during which the offense is~~

18 ~~committed is a separate violation.] \$25,000 per violation. Each~~

19 day that a violation exists or continues to exist shall

20 constitute a separate offense. Penalties for continuing

21 violations shall be assessed from the earliest known date of the



1 violation. The earliest known date of a violation shall be  
2 determined by the commission by a preponderance of the evidence;  
3 provided that if the earliest known date cannot be determined by  
4 a preponderance of the evidence, penalties for continuing  
5 violations shall be assessed from the earliest date the  
6 commission is made aware of the violation.

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

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

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

13 (3) The opportunity, difficulty, and history of corrective  
14 action;

15 (4) Good faith efforts to comply;

16 (5) Degree of culpability; and

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

18 The commission shall adopt further guidelines for penalties to  
19 be imposed at a duly-noticed public meeting.



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

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

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

16           SECTION 4. This Act shall take effect on July 1, 2025.

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INTRODUCED BY:

*Linda Delacruz*

JAN 17 2025



# H.B. NO. 509

**Report Title:**

State Water Code; Commission on Water Resource Management;  
Penalties

**Description:**

Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations 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 consider certain factors when imposing penalties.

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

