

S.B. NO. 1318

JAN 23 2025

A BILL FOR AN ACT

RELATING TO WATER POLLUTION.

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

SECTION 1. Section 200-14, Hawaii Revised Statutes, is amended to read as follows:

"§200-14 Violation of chapter or rules; penalty. (a) Any person who violates any provision in this chapter, or rule adopted by the department, relating to boating accidents, reckless or unauthorized operation of a vessel, unauthorized mooring of a vessel, unauthorized commercial activity, unauthorized camping within state small boat harbors or boating facilities, animal abandonment within state small boat harbors or boating facilities, or creation of animal colonies within state small boat harbors or boating facilities shall be guilty of a petty misdemeanor and shall be fined not more than \$1,000.

(b) Any person who violates any rule adopted by the department under this part regulating vehicular parking or traffic movement shall have committed a traffic infraction as set forth in chapter 291D, the adjudication of which shall be subject to the provisions contained therein. A person found to have committed a traffic infraction shall be fined not more

S.B. NO. 1318

1 than:

2 (1) \$100 for a first violation;

3 (2) \$200 for a second violation; and

4 (3) \$500 for a third or subsequent violation.

5 ~~[(c) Notwithstanding the provisions of subsection (a), any~~
6 ~~person who knowingly or intentionally violates any rule adopted~~
7 ~~by the department relating to unauthorized discharge, dumping,~~
8 ~~or abandoning, in any state boating facility or state waters, of~~
9 ~~any petroleum product, hazardous material, or sewage in~~
10 ~~violation of the state water quality standards established by~~
11 ~~the department of health, shall be fined not more than \$10,000~~
12 ~~for each day of violation, and any vessel, the agents, owner, or~~
13 ~~crew of which violate the rules of the department shall be fined~~
14 ~~not more than \$10,000 for each day or instance of violation, or~~
15 ~~sentenced to a term of imprisonment of not more than thirty~~
16 ~~days, or both. Each day or instance of each violation shall be~~
17 ~~deemed a separate offense. Additionally, the agents, owner, or~~
18 ~~crew of any vessel that violates the rules of the department~~
19 ~~shall be fined not more than \$10,000 for each day of violation.~~

20 ~~(d)]~~ (c) As a condition of probation pursuant to sections
21 706-623 and 706-624, or as a condition to the suspension of any
22 criminal penalties, the environmental court may provide that the

S.B. NO. 1318

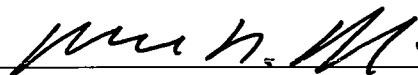
defendant refrain from operating any vessel, including but not limited to any thrill craft or vessel engaged in parasailing or water sledding, in specified geographical areas of the waters of the State.

~~[(e)]~~ (d) For the purposes of this section, "operate", "parasailing", "thrill craft", "vessel", "water sledding", and "waters of the State" have the same meaning as those terms are defined in section 200-23."

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

SECTION 3. The Act shall take effect upon its approval.

INTRODUCED BY:



BY REQUEST

S.B. NO. 1318

Report Title:

Water Pollution Offenses; Enforcement

Description:

Amends section 200-14, HRS, to clarify that enforcement of criminal water pollution offenses remains under the jurisdiction of the Department of Health, rather than the Department of Land and Natural Resources.

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

JUSTIFICATION SHEET

SB. NO. 1318

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO WATER POLLUTION.

PURPOSE: To repeal duplicative and potentially confusing water pollution offenses with relatively low-level penalties from the Department of Land and Natural Resources' (DLNR) criminal enforcement jurisdiction, and thereby solidify the Department of Health's (DOH) jurisdiction to enforce the same types of water pollution offenses with much higher criminal penalties.

MEANS: Amend section 200-14, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Act 215, Session Laws of Hawaii 2024, made many helpful clarifications to section 200-14, HRS, in terms of the criminal and administrative penalties for various types of offenses relating to ocean recreation. However, Act 215 retained section 200-14(c), HRS, which attempts to criminalize violations of DLNR rules regarding the unauthorized discharge of petroleum products, hazardous materials (undefined), or sewage in state boating facilities or state waters, if done in violation of the DOH's water quality standards. According to section 200-14(c), HRS, these offenses are punishable by up to **thirty days** imprisonment and/or up to a **\$10,000 fine**.

Although well-intentioned, this conflicts with existing provisions under section 342D-50, HRS, which already prohibit discharge of "water pollutants" (as defined under section 342D-1, HRS) into state waters. According to section 342D-33, HRS, these offenses, if done knowingly, are punishable by up to **three years** imprisonment and/or up to a **\$50,000 fine**. Under some circumstances, where the wording of these offenses

overlaps, criminal sentencing for these offenses may be limited to the lower penalties found under section 200-14(c), HRS.

This bill is needed to eliminate confusion and potential conflicts arising when two different statutes criminalize the same conduct. It ensures that a defendant convicted under the statute with the higher penalty is not sentenced under a statute with the lower penalty. Specifically, if a defendant were convicted for certain illegal acts under section 342D-50, HRS, such as discharging sewage into state waters, a court might be restricted to imposing a maximum sentence of thirty days imprisonment and/or up to a \$10,000 fine under section 200-14(c), HRS, instead of the higher penalties under section 342D-33, HRS. Similarly, a second offense under section 342D-50, HRS, which should be punishable by up to **six years** imprisonment and/or up to a \$100,000 fine under section 342D-33, HRS, could be limited to the lighter penalty under section 200-14(c), HRS. This bill will address and resolve such inconsistencies, ensuring that appropriate penalties are applied as intended by the Legislature.

Impact on the public: This bill would assist the public in understanding the law by clarifying which state agency the public should look to for enforcement of Hawaii's water pollution laws, and by further clarifying the appropriate penalties.

Impact on the department and other agencies: This bill would remove duplicative and confusing water pollution offenses from the DLNR's criminal enforcement jurisdiction and clarify the DOH's jurisdiction to enforce these types of offenses with much more stringent criminal penalties.

GENERAL FUND:

None.

SB. NO. 1318

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Land and Natural Resources,
Department of Health.

EFFECTIVE DATE: Upon approval.