

ACT 104

H.B. NO. 182

A Bill for an Act Relating to the Hawaii Pesticides Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part IV, chapter 149A, Hawaii Revised Statutes, is amended to read as follows:

**“PART IV. VIOLATIONS, WARNING NOTICE,  
AND PENALTIES**

**Sec. 149A-41 Violations, warning notice, and penalties.** (a) Warning notice. Any person who violates this chapter or any rule or regulation issued hereunder may upon the first violation be issued a written warning notice citing the specific violation and necessary corrective action.

(b) Civil penalties.

- (1) In general any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this chapter may be assessed a civil penalty by the board of not more than \$5,000 for each offense.
- (2) Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter subsequent to receiving a written warning from the department or following a citation for a prior violation may be assessed a civil penalty by the board of not more than \$1,000 for each offense.
- (3) No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county of the residence of the person charged. In determining the amount of penalty the board shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue business, and the gravity of the violation.

- (4) In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the board may determine, the board shall refer the matter to the attorney general, who shall recover such amount by action in the appropriate court.
- (c) Criminal penalties.
  - (1) In general any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall on conviction be fined not more than \$25,000, or imprisoned for not more than one year, or both.
  - (2) Any private applicator or other person not included in paragraph (1) who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000, or imprisoned for not more than thirty days, or both.
  - (3) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, shall be fined not more than \$10,000, or imprisoned for not more than three years, or both.
  - (4) When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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

(Approved May 14, 1977.)

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\*Edited accordingly.