

ACT 361

H.B. NO. 1209

A Bill for an Act Relating to Environmental Quality in Harbors.

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

SECTION 1. Chapter 342, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

“§342- Affirmative duty to report discharges. (a) Any person who has caused an unlawful discharge under section 342-33(a) has an affirmative duty to report the incident to the director of health within twenty-four hours of the discharge.

(b) Upon notification, the department may investigate the incident or report and may assess the adequacy of the corrective action taken by the person responsible for the discharge. If the department finds that the corrective actions taken are inadequate to protect the environment or the public health or safety, the department may prescribe additional actions to be taken and the time in which such actions must be taken.

(c) Any person who fails to report an unlawful discharge or who fails to execute corrective actions as prescribed by the department shall be subject to a fine for each day in which the violation occurs in an amount necessary for the clean-up expenses, but in no event shall such fine exceed \$10,000 for each day of violation. Legal interest shall accrue from the first day of violation.”

SECTION 2. Section 266-25, Hawaii Revised Statutes, is amended to read as follows:

“§266-25 Violation of rules; penalty. Any person who violates any rule made, adopted, and published by the department of transportation as herein provided, or who violates any lawful command of any harbor master, harbor agent, or harbor district manager, while in the discharge of [his] the person's duty, or who violates this chapter, shall be fined not more than [\$1,000] \$10,000 for each offense, and any vessel, the agents, owner, or crew of which violate the rules of the department or this chapter, shall be fined not more than [\$1,000] \$10,000 for each violation; provided that in addition to[,] or as a condition to the suspension of the fines and penalties, the court may

deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than two years."

SECTION 3. Section 342-11, Hawaii Revised Statutes, is amended to read as follows:

"§342-11 Penalties. (a) Violation of the vehicular noise control and vehicular smoke emission rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2,500 for each separated¹ offense. Each day of violation shall constitute a separate offense.

(b) Violation of the open burning control rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of the violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule, other than vehicular noise control, vehicular smoke emission control, and open burning control rules, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for¹ this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission, and open burning rules, shall be considered a civil action.

(d) Any person who knowingly (1) transports any hazardous waste to a storage, treatment, or disposal facility and who does not have a permit under section 342-53(b) to treat, store¹ or dispose of that particular hazardous waste; (2) treats, stores¹ or disposes of hazardous waste without first having a permit under section 342-53(b); or (3) makes a false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with chapter 342, part V, shall be subject to criminal penalties of not more than \$25,000 for each day of violation or to imprisonment not to exceed one year, or both. If the conviction, is for a violation committed after a first conviction, criminal punishment shall be by a fine of not more than \$50,000 for each day of violation, or by imprisonment for not more than two years, or both.

(e) Any person who willfully or negligently violates part III of this chapter or any rule or regulation promulgated by the department pursuant to part III of this chapter shall be punished by a fine of not less than [\$2,500] \$25,000 nor more than [\$25,000,] \$100,000, per day of violation or by imprisonment for not more than [one year,] five years, or both.

(f) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building,¹ place,¹ which the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored².

SECTION 5. This Act shall take effect on July 1, 1987.

(Approved July 2, 1987.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.