

ACT 157

H.B. NO. 922

A Bill for an Act Relating to Environmental Fines and Penalties.

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

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

“§342B- Disposition of collected fines and penalties. Fines and penalties collected under sections 342B-9 and 342B-11 shall be deposited into the environmental response revolving fund established by section 128D-2.”

SECTION 2. Chapter 342D, Part II, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342D- Disposition of collected fines and penalties. Fines and penalties collected under this part shall be deposited into the environmental response revolving fund established by section 128D-2.”

SECTION 3. Chapter 342F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342F- Disposition of collected fines and penalties. Fines and penalties collected under sections 342F-9 and 342F-11 shall be deposited into the environmental response revolving fund established by section 128D-2.”

SECTION 4. Chapter 342H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342H- Disposition of collected fines and penalties. Fines and penalties collected under sections 342H-9 and 342H-10 shall be deposited into the environmental response revolving fund established by section 128D-2.”

SECTION 5. Chapter 342J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342J- Disposition of collected fines and penalties. Fines and penalties collected under sections 342J-9 and 342J-10 shall be deposited into the environmental response revolving fund established by section 128D-2.”

SECTION 6. Chapter 342L, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342L- Disposition of collected fines and penalties. Fines and penalties collected under sections 342L-10 and 342L-11 shall be deposited into the environmental response revolving fund established by section 128D-2.”

SECTION 7. Chapter 342N, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342N- Disposition of collected fines and penalties. Fines and penalties collected under sections 342N-8 and 342N-9 shall be deposited into the environmental response revolving fund established by section 128D-2.”

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SECTION 8. Section 128D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created an environmental response revolving fund within the department which shall consist of moneys appropriated to the fund by the legislature, moneys paid to the fund as a result of departmental compliance proceedings, moneys paid to the fund pursuant to court-ordered awards or judgments, moneys paid to the fund in court-approved or out-of-court settlements, all interest attributable to investment of money deposited in the fund, and moneys allotted to the fund from other sources[.]; provided that when deposits of fines and penalties pursuant to sections 342B- , 342D- , 342F- , 342H- , 342J- , 342L- , and 342N- exceed \$3,000,000, that amount of deposited fines and penalties in excess of \$3,000,000 shall be transferred to the general fund.”

SECTION 9. Section 339-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Littering” means placing, throwing, or dropping litter on public or private property or in any public or private waters, except:

- (1) In a place which is designated by the department or the county for the disposal of garbage and refuse;
- (2) Into a litter receptacle; or
- (3) Into a litter bag, provided that the bag is disposed of properly into a litter receptacle or in a place designated by the department or the county for disposal of garbage and refuse.”

SECTION 10. Section 339-8, Hawaii Revised Statutes, is amended to read as follows:

“**§339-8 Penalties.** Except as otherwise provided by this chapter, any person violating any provision of this chapter or any rule adopted hereunder shall be guilty of a violation, and shall be fined not less than \$25, and not more than \$500 for each offense, [or] and ordered to pick up and remove litter from a public place under the supervision of the director [for a total of forty hours, or both.] as follows:

- (1) For the first offense, defendant shall spend four hours picking up litter.
- (2) For any subsequent offense, defendant shall spend eight hours picking up litter.

If the court judges the violator to be incapable of litter removal and pick up, the court may provide some other community work as it deems appropriate. All persons who are caught littering [may] shall be required to remove the litter that they caused or [are] shall be liable for the costs of removing that litter.”

SECTION 11. Section 342B-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any person who violates this chapter, any rule adopted pursuant to this chapter, other than vehicular smoke emission control and open burning control rules, or any condition of a permit or variance issued pursuant to this chapter, shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect

the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular smoke emission and open burning rules, shall be considered a civil action.”

SECTION 12. Section 342D-30, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342D-30]]~~ **Civil penalties.** (a) Any person who violates this chapter or any rule shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this [subsection] section shall be considered a civil action.

(b) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building, place, or vehicle that the officer or employee is authorized to enter and inspect shall be fined not more than \$5,000[.] for each day of denial, obstruction, or hampering. Any action taken to impose or collect the penalty provided for in this [subsection] section shall be considered a civil action.”

SECTION 13. Section 342D-51, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342D-51]]~~ **Affirmative duty to report discharges.** [(a)] Any person who has caused an unlawful discharge under section 342D-50(a) has an affirmative duty to report the incident to the director within twenty-four hours of the discharge[.], unless a valid permit issued under section 342D-6 specifies another reporting period for the specific 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 cleanup 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 14. Section 342F-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any person who violates this chapter, any rule adopted pursuant to this chapter, other than vehicular noise control rules, or any permit or variance issued pursuant to this chapter[,], shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control rules, shall be considered a civil action.”

SECTION 15. Section 342H-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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“(a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 16. Section 342J-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 17. Section 342L-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$10,000 for each tank for each day of violation. Each day of each violation shall constitute a separate offense. Any person who fails to comply with an order issued under this chapter within the time specified in the order[,] shall be fined not more than \$25,000 for each day of continued noncompliance. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 18. Section 342N-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 20. This Act shall take effect on July 1, 1991.

(Approved May 23, 1991.)