
A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCE VIOLATIONS.

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

1 SECTION 1. Section 187A-12.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[§187A-12.5]~~ **General administrative penalties.** (a)

4 Except as otherwise provided by law, the board is authorized to
5 set, charge, and collect administrative fines; to require the
6 performance of natural resource-related community services; and
7 to recover administrative fees and costs, including attorney's
8 fees and costs, or bring legal action to recover administrative
9 fines, fees, and costs, including attorney's fees and costs, or
10 payment for damages or for the cost to correct damages resulting
11 from a violation of ~~[subtitle 5 of title 12]~~ chapters 187A
12 through 190, or any rule adopted thereunder.

13 (b) For violations involving threatened or endangered
14 species, the administrative fines shall be as follows:

15 (1) For a first violation, a fine of not more than \$5,000;

16 (2) For a second violation within five years of a previous
17 violation, a fine of not more than \$10,000; and



1 (3) For a third or subsequent violation within five years
2 of the last violation, a fine of not more than
3 \$15,000.

4 (c) For all other violations the administrative fines
5 shall be as follows:

6 (1) For a first violation, a fine of not more than \$1,000;

7 (2) For a second violation within five years of a previous
8 violation, a fine of not more than \$2,000; and

9 (3) For a third or subsequent violation within five years
10 of the last violation, a fine of not more than \$3,000.

11 (d) In addition to subsection (b), a fine of up to \$5,000
12 may be levied for each specimen of threatened or endangered
13 aquatic life taken, killed, or injured in violation of [~~sub~~title
14 ~~5 of title 12~~] chapters 187A through 190, or any rule adopted
15 thereunder.

16 (e) In addition to subsection (c), a fine of up to \$1,000
17 may be levied for each specimen of all other aquatic life taken,
18 killed, or injured in violation of [~~sub~~title ~~5 of title 12~~]
19 chapters 187A through 190, or any rule adopted thereunder.

20 (f) In addition to, or in lieu of, the administrative
21 fines listed in subsections (b) through (e), for any violation
22 of chapters 187A through 190, or any rule adopted thereunder,



1 the board may further require the performance of natural
2 resource-related community service under the supervision of a
3 governmental agency, benevolent or charitable organization, or
4 other community service group; provided that the person who
5 performs the services shall not be deemed to be an employee of
6 the governmental agency or assigned work site for any purpose.
7 The maximum amount of hours of community service that the board
8 may impose shall be as follows:

- 9 (1) For a first violation, up to one hundred hours;
10 (2) For a second violation within five years of a previous
11 violation, up to two hundred hours; and
12 (3) For a third or subsequent violation within five years
13 of a previous violation, up to three hundred hours.

14 Any community service imposed under this subsection shall
15 be performed during a time that does not directly interfere with
16 the performing person's school attendance or employment.

17 (g) In addition to any other fines and penalties provided
18 by this section, the driver's license of a person who violates
19 chapters 187A through 190 shall be suspended and any application
20 for renewal, reinstatement, or reapplication shall be denied by
21 the examiner of drivers upon certification of noncompliance with
22 this section by the board. Upon a finding by the board that a



1 person has failed to pay any administrative fines, fees, costs,
2 or damages or to complete performance of any natural resource
3 related community service imposed by the board and that the
4 individual is the holder of or an applicant for a driver's
5 license issued by a licensing authority in the State, the board
6 shall issue notice to the person of the board's intent to
7 certify the person as noncompliant with administrative penalties
8 imposed by the board. The department shall direct the examiner
9 of drivers to deny or suspend any driver's license or deny any
10 application for renewal, reinstatement, or reactivation of any
11 driver's license issued to the person. The notice required by
12 this section shall:

13 (1) Be sent by regular mail to both the last known address
14 of record of the person as shown in the records of the
15 licensing authority, if such record exists, and the
16 last known address of record of the person as shown in
17 the records of the department;

18 (2) Identify the licenses subject to suspension,
19 nonrenewal, nonreinstatement, nonreactivation, or
20 denial;

21 (3) Include a copy of the board's determination or
22 determinations setting or charging any administrative



- 1 finances, fees, costs, or natural resource-related
2 community service to be paid or performed by the
3 person;
- 4 (4) Specify the amount of fines, fees, or costs or number
5 of hours of natural resource-related community service
6 left to be paid or performed by the person pursuant to
7 the board's determination or determinations in
8 paragraph (3);
- 9 (5) Include a statement that if the person pays the
10 outstanding amount of fines, fees, or costs or
11 performs the community service indicated in paragraph
12 (4) within thirty days of the mailing date of the
13 notice of intent, the board shall not pursue the
14 certification action;
- 15 (6) Include a statement that the person may contest the
16 suspension, nonrenewal, nonreinstatement,
17 nonreactivation, or denial of a license by requesting
18 a hearing in writing within thirty days of the mailing
19 date of the notice of intent to suspend, not renew,
20 reinstate, or reactivate or otherwise deny the
21 license; and



1 (7) Include a statement that if the person makes a timely
2 request as specified in paragraph (6), the board shall
3 stay the certification action until a decision on that
4 request is made.

5 For the purposes of this subsection and subsection (h), the
6 date of issuance of a notification shall be two days following
7 the date of mailing of the notice of intent to certify. Board
8 action under this subsection shall not preclude the board from
9 pursuing other legal action to collect outstanding fines or fees
10 as authorized by law.

11 (h) The board shall certify in writing to the examiner of
12 drivers that a person notified pursuant to subsection (g) has
13 failed to pay an outstanding administrative fine, fee, or costs,
14 or perform natural resource-related community service imposed by
15 the board and shall authorize the immediate suspension,
16 nonrenewal, nonreinstatement, nonreactivation, or denial of any
17 driver's license held or applied for by the person if the
18 person:

19 (1) Fails to pay the outstanding administrative fines,
20 fees, or costs, or fails to perform the natural
21 resource-related community service within thirty days



1 of the date of mailing of the notice of intent to
2 certify;

3 (2) Fails to contact the agency in writing within thirty
4 days of the date of mailing of the notice requesting a
5 hearing to contest the certification; or

6 (3) Fails appear at the hearing or fails to successfully
7 contest the notice at the hearing.

8 The board shall provide a copy of the certification to the
9 person by regular mail to the address or addresses described in
10 paragraph (g) (1). Notwithstanding any other provision affecting
11 the status of a person's driver's license, upon receipt of the
12 certification, the examiner of drivers shall suspend any
13 driver's license that the person holds or deny any driver's
14 license for which the person applies without further review or
15 hearing concerning the suspension, nonrenewal, nonreinstatement,
16 nonreactivation, or denial. Notwithstanding the provisions of
17 any other law setting terms of suspension, revocation, denial,
18 termination, renewal, reinstatement, or reactivation of a
19 driver's license, a certification issued by the board
20 suspending, not renewing, not reinstating, not reactivating, or
21 denying a driver's license shall be implemented by the examiner



1 of drivers and shall continue in effect until the examiner of
2 drivers receives a written release from the board.

3 (i) Upon the complete payment or performance by a person
4 subject to certification under subsection (h) of all
5 administrative penalties imposed by the board and approval of
6 the board, the department shall provide the person with written
7 confirmation of payment or performance and shall issue a written
8 release canceling the certification in writing to the examiner
9 of drivers.

10 (j) If a driver's license is suspended or denied under
11 this section, the examiner of drivers may charge a fee for
12 reinstating a driver's license, and any funds paid by the
13 individual to the examiner of drivers shall not be refunded.
14 The examiner of drivers may also charge the individual a
15 reasonable fee to cover the administrative costs incurred in
16 complying with this section.

17 (k) The board may delegate to a hearings officer or
18 officers its authority to take any action or render any decision
19 under this section, including its final decision-making power in
20 any contested case proceeding requested pursuant to chapter 91.

21 (l) The board may adopt rules pursuant to chapter 91
22 necessary for the implementation of this section. The examiner



1 of drivers may adopt rules pursuant to chapter 91 for the
2 implementation and administration of this section.

3 [~~(f)~~] (m) Any criminal penalty for any violation of
4 [~~subtitle 5 of title 12~~] chapters 187A through 190, or any rule
5 adopted thereunder shall not be deemed to preclude the State
6 from recovering additional administrative fines, fees, and
7 costs, including attorney's fees and costs[-]; or imposing
8 natural resource-related community service."

9 SECTION 2. Section 286-102, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) In addition to other qualifications and conditions by
12 or pursuant to this part, the right of an individual to hold a
13 motor vehicle operator's license or permit issued by the county
14 is subject to the requirements of section 576D-13[-], and
15 compliance with the terms of administrative penalties imposed by
16 the board of land and natural resources pursuant to section
17 187A-12.5.

18 Upon receipt of certification from the child support
19 enforcement agency pursuant to section 576D-13 that an obligor
20 or individual who owns or operates a motor vehicle is not in
21 compliance with an order of support as defined in section 576D-1
22 or has failed to comply with a subpoena or warrant relating to a



1 paternity or child support proceeding, the examiner of drivers
2 shall suspend the license and right to operate motor vehicles
3 and confiscate the license of the obligor. The examiner of
4 drivers shall not reinstate an obligor's or individual's license
5 until the child support enforcement agency, the office of child
6 support hearings, or the family court issues an authorization
7 that states the obligor or individual is in compliance with an
8 order of support or has complied with a subpoena or warrant
9 relating to a paternity or child support hearing.

10 Upon receipt of certification from the board of land and
11 natural resources pursuant to section 187A-12.5 that a person
12 has failed to comply with administrative penalties imposed by
13 the board of land and natural resources, the examiner of drivers
14 shall deny or suspend any license to operate motor vehicles and
15 confiscate any license issued to the person. The examiner of
16 drivers shall not reinstate a person's license until the board
17 of land and natural resources issues a release canceling the
18 certification pursuant to section 187A-12.5.

19 The licensing authority may adopt rules pursuant to chapter
20 91 to implement and enforce the requirements of this section."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Aquatic Resource Violations

Description:

Provides for natural resource-related community service administrative penalty alternatives and an enhanced collection mechanism for outstanding fines and penalties resulting from aquatic resource violations. (HB2590 HD1)

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

