
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 service, 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 [~~subtitle~~
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 [~~subtitle 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 finest listed in subsections (b) to (e), for any violation of
22 chapters 187A through 190, or any rule adopted thereunder, the



1 board may further require the performance of natural resource
2 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 such services shall not be deemed to be an employee of
6 the governmental agency or assigned work site for any purpose.
7 The maximum number of hours of service that the board may impose
8 is 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 services imposed under this subsection shall be
15 performed during a time that does not directly interfere with
16 the performing person's school attendance or employment.

17 (g) Upon a finding by the board that a person has failed
18 to pay any administrative fines, fees, costs, or damages or
19 complete performance of any natural resource related community
20 service imposed by the board, and that the individual is the
21 holder of or an applicant for a driver's license issued by a
22 licensing authority in the State, the board may issue notice to



1 the person of the board's intent to certify the person as
2 noncompliant with administrative penalties imposed by the board
3 and shall direct the examiner of drivers to deny or suspend any
4 driver's license, or deny any application for renewal,
5 reinstatement, or reactivation of any driver's license issued to
6 such person. The notice shall:

7 (1) Be sent by regular mail to both the last known address
8 of record of the person as shown in the records of the
9 licensing authority, if such record exists, and the
10 last known address of record of the person as shown in
11 the records of the department;

12 (2) Contain the identification of any licenses subject to
13 suspension, nonrenewal, nonreinstatement, or denial;

14 (3) Contain a copy of the board's determination or
15 determinations resulting from setting or charging any
16 administrative fines, fees, costs, or natural resource
17 related community service to be paid or performed by
18 the person;

19 (4) Specify the amount of money or number of hours of
20 natural resource related community service left to be
21 paid or performed by the person pursuant to the



- 1 board's determination or determinations in paragraph
2 (3);
- 3 (5) Contain a statement that if the person satisfies the
4 outstanding payment or services indicated in paragraph
5 (4) within thirty days of the mailing date of the
6 notice of intent, the board shall not pursue the
7 certification action;
- 8 (6) Contain a statement that the person may contest the
9 suspension, nonrenewal, nonreactivation, or denial of
10 a license by requesting a hearing in writing within
11 thirty days of the date of issuance of the notice of
12 intent to suspend, not reactivate, or otherwise deny
13 the license; and
- 14 (7) Contain a statement that if the person makes a timely
15 request as specified in paragraph (6), the board shall
16 stay the certification action until a decision is
17 made.

18 For the purposes of this subsection and subsection (h), the
19 date of issuance shall be two days following the date of mailing
20 of the notice of intent to certify. Board action under this
21 subsection shall not preclude the board from pursuing other

1 legal action to collect outstanding fines or fees as authorized
2 by law.

3 (h) The board shall certify in writing to the examiner of
4 drivers that a person notified pursuant to subsection (g) has
5 failed to pay or perform any administrative fine, fee, natural
6 resource related community service, or costs imposed by the
7 board, and shall authorize the immediate suspension, nonrenewal,
8 nonreactivation, or denial of any driver's license held or
9 applied for by the person if the person:

10 (1) Fails to satisfy the outstanding administrative fines,
11 fees, costs, or natural resource related community
12 service within thirty days of the date of mailing of
13 the notice of intent to certify;

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

17 (3) Fails to successfully contest the notice after being
18 provided with such a hearing.

19 The board shall provide the examiner of drivers the social
20 security number or driver's license number of the person
21 notified pursuant to subsection (g). The board shall provide a
22 copy of the certification to the person by regular mail to the



1 address or addresses described in subsection (g)(1).
2 Notwithstanding any other provision affecting the status of a
3 person's driver's license to the contrary, upon receipt of the
4 certification, the examiner of drivers shall suspend any
5 driver's license that the person holds or deny any driver's
6 license for which the person applies without further review or
7 hearing concerning the suspension, nonrenewal, nonreactivation,
8 or denial. Notwithstanding the provisions of any other law
9 setting terms of suspension, revocation, denial, termination,
10 renewal, reinstatement, or reactivation of a driver's license to
11 the contrary, a certification issued by the board suspending,
12 not renewing, not reinstating, not reactivating, or denying a
13 driver's license shall be implemented by the examiner of drivers
14 and continue in effect until the examiner of drivers receives a
15 written release from the board.

16 (i) Upon the complete payment or performance of all
17 administrative penalties imposed by the board by a person
18 subject to certification under subsection (h), upon approval by
19 the board, the department shall provide the person with written
20 confirmation of the payment or performance, and issue a written
21 release canceling the certification in writing to the examiner
22 of drivers.

1 (j) If a driver's license is suspended or denied under
2 this section, the examiner of drivers may charge a fee for
3 reinstating a driver's license, and any funds paid by the
4 individual to the examiner of drivers shall not be refunded.
5 The examiner of drivers may also charge the individual a
6 reasonable fee to cover the administrative costs incurred in
7 complying with this section.

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

12 (l) The board may adopt rules pursuant to chapter 91
13 necessary for the implementation of this section. The examiner
14 of drivers may adopt rules pursuant to chapter 91 for the
15 implementation and administration of this section.

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



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

3 "(e) In addition to other qualifications and conditions by
4 or pursuant to this part, the right of an individual to hold a
5 motor vehicle operator's license or permit issued by the county
6 is subject to the requirements of section 576D-13[-], and
7 compliance with the terms of administrative penalties as imposed
8 by the board of land and natural resources pursuant to section
9 187A-12.5.

10 Upon receipt of certification from the child support
11 enforcement agency pursuant to section 576D-13 that an obligor
12 or individual who owns or operates a motor vehicle is not in
13 compliance with an order of support as defined in section 576D-1
14 or has failed to comply with a subpoena or warrant relating to a
15 paternity or child support proceeding, the examiner of drivers
16 shall suspend the license and right to operate motor vehicles
17 and confiscate the license of the obligor. The examiner of
18 drivers shall not reinstate an obligor's or individual's license
19 until the child support enforcement agency, the office of child
20 support hearings, or the family court issues an authorization
21 that states the obligor or individual is in compliance with an



1 order of support or has complied with a subpoena or warrant
2 relating to a paternity or child support hearing.

3 Upon receipt of certification from the board of land and
4 natural resources pursuant to section 187A-12.5 that a person
5 has failed to comply with administrative penalties imposed by
6 the board of land and natural resources, the examiner of drivers
7 shall deny or suspend any license to operate motor vehicles and
8 confiscate any license issued to the person. The examiner of
9 drivers shall not reinstate a person's license until the board
10 of land and natural resources issues a release canceling the
11 certification pursuant to section 187A-12.5.

12 The licensing authority may adopt rules pursuant to chapter
13 91 to implement and enforce the requirements of this section."

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

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

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



Report Title:

Aquatic Resource Violations

Description:

Provides for transformative administrative penalty alternatives and an enhanced collection mechanism for outstanding fines and penalties resulting from aquatic resource violations. (SD1)

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

