

JAN 17 2014

A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

1 SECTION 1. Chapter 149A, Hawaii Revised Statutes, is
2 amended by amended the title of part IV to read as follows:

3 "PART IV. VIOLATIONS [~~7 WARNING NOTICE,~~] AND PENALTIES"

4 SECTION 2. Section 149A-41, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~§149A-41~~ Violations [~~7 warning notice,~~] and penalties.

7 [~~(a) Warning notice. Any person who violates this chapter or~~
8 ~~any rule issued under this chapter may upon the first violation~~
9 ~~be issued a written warning notice citing the specific violation~~
10 ~~and necessary corrective action.~~

11 ~~(b)]~~ (a) Administrative penalties.

12 (1) In general, any registrant, commercial applicator,
13 wholesaler, dealer, retailer, or other distributor who
14 violates any provision of this chapter may be assessed
15 an administrative penalty by the board of not more
16 than \$5,000 for each offense;

17 (2) Any private applicator or other person not included in
18 paragraph (1) who violates any provision of this



1 chapter relating to the use of pesticides while on
2 property owned or rented by that person or the
3 person's employer, subsequent to receiving a written
4 warning from the department or following a citation
5 for a prior violation, may be assessed an
6 administrative penalty by the board of not more than
7 \$1,000 for each offense. Any private applicator or
8 other person not included in paragraph (1) who
9 violates any provision of this chapter relating to
10 licensing, transport, sale, distribution, or
11 application of a pesticide for commercial purposes may
12 be assessed an administrative penalty as provided in
13 paragraph (1);

14 (3) No administrative penalty shall be assessed unless the
15 person charged shall have been given notice and an
16 opportunity for a hearing on the specific charge in
17 the county of the residence of the person charged.
18 The administrative penalty and any proposed action
19 contained in the notice of finding of violation shall
20 become a final order unless, within twenty days of
21 receipt of the notice, the person or persons charged
22 make a written request for a hearing. In determining



1 the amount of penalty, the board shall consider the
2 appropriateness of the penalty to the size of the
3 business of the person charged, the effect on the
4 person's ability to continue business, and the gravity
5 of the violation; and

6 (4) In case of inability to collect the administrative
7 penalty or failure of any person to pay all or such
8 portion of the administrative penalty as the board may
9 determine, the board shall refer the matter to the
10 attorney general, who shall recover the amount by
11 action in the appropriate court. For any judicial
12 proceeding to recover the administrative penalty
13 imposed, the attorney general need only show that
14 notice was given, a hearing was held or the time
15 granted for requesting a hearing has expired without
16 such a request, the administrative penalty was
17 imposed, and that the penalty remains unpaid.

18 [~~e~~] (b) Criminal penalties.

19 (1) In general, any registrant, commercial applicator,
20 wholesaler, dealer, retailer, or other distributor who
21 knowingly violates any provision of this chapter shall
22 be guilty of a misdemeanor and shall on conviction be



1 fined not more than \$25,000, or imprisoned for not
2 more than one year, or both.

3 (2) Any private applicator or other person not included in
4 paragraph (1) who knowingly violates any provision of
5 this chapter shall be guilty of a misdemeanor and
6 shall on conviction be fined not more than \$1,000, or
7 imprisoned for not more than one year, or both.

8 (3) Any person who causes physical harm to another person
9 through the negligent application of a pesticide shall
10 be guilty of a class C felony and shall on conviction
11 be fined not more than \$10,000, or imprisoned for not
12 more than five years, or both.

13 [~~3~~] (4) Any person, who, with intent to defraud, uses or
14 reveals information relative to formulas of products
15 acquired under the authority of section 3, Federal
16 Insecticide, Fungicide, and Rodenticide Act (FIFRA),
17 as amended, shall be fined not more than \$10,000, or
18 imprisoned for not more than three years, or both.

19 [~~d~~] (c) Liabilities. When construing and enforcing the
20 provisions of this chapter, the act, omission, or failure of any
21 officer, agent, or other person acting for or employed by any
22 person shall in every case be also deemed to be the act,



1 omission, or failure of such person as well as that of the
2 person employed."

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

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

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

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S.B. NO. 2648

Report Title:

Pesticides; Pesticide Use; Violations; Penalties

Description:

Removes the warning notice for first violations of chapter 149A, Hawaii Revised Statutes, the Hawaii pesticides law. Makes it a class C felony for any person who causes physical harm to another person through the negligent application of a pesticide.

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

