

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1           SECTION 1. In 1987 the Hawai'i State Legislature adopted  
2 the state water code to protect the precious water resources of  
3 the State of Hawai'i. To better enable the Department of Land  
4 and Natural Resources and Commission on Water Resource  
5 Management to carry out that mission, the legislature finds that  
6 the water code's penalties and fines must be strengthened to  
7 deter violators because current fines and penalties appear to be  
8 too low to deter violators.

9           The purpose of this Act is to ensure that all violators of  
10 the state water code are held accountable for their violations  
11 by creating a minimum penalty of \$50 for every violation.

12           SECTION 2. Section 174C-15, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "**§174C-15 Penalties and common law remedies.** (a) The  
15 commission may enforce its rules and orders adopted pursuant to  
16 this chapter by suit for injunction or for damages or both.



1           (b) Any person who violates any provision of this chapter,  
2 or any rule adopted pursuant to this chapter, may be subject to  
3 a fine imposed by the commission. Such fine shall be no less  
4 than \$50 and shall not exceed \$5,000 [-] per offense. [~~For a~~  
5 ~~continuing offense, each day during which the offense is~~  
6 ~~committed is a separate violation.] Each day that a violation  
7 exists or continues to exist shall constitute a separate  
8 offense. Penalties for continuing violations shall be assessed  
9 from the earliest known date of the violation. The earliest  
10 known date of a violation shall be determined by the commission  
11 by a preponderance of the evidence; provided that if the  
12 earliest known date cannot be determined by a preponderance of  
13 the evidence, penalties for continuing violations shall be  
14 assessed from the earliest date the commission is made aware of  
15 the violation.~~

16           (c) The commission shall determine the penalty amount for  
17 each violation upon review of the circumstances of the  
18 violation, taking into account the nature, extent, and gravity  
19 of the violation and consider the violator's ability to pay,  
20 history of such violations, degree of culpability, and other  
21 matters as justice may require.



1        [~~e~~] (d) No provision of this chapter shall bar the right  
2 of any injured person to seek other legal or equitable relief  
3 against a violator of this chapter.

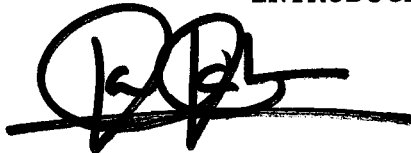
4        [~~d~~] (e) Except as otherwise provided by law, the  
5 commission or its authorized representative by proper delegation  
6 may set, charge, and collect administrative fines or bring legal  
7 action to recover administrative fees and costs as documented by  
8 receipts or affidavit, including attorneys' fees and costs; or  
9 bring legal action to recover administrative fines, fees, and  
10 costs, including attorneys' fees and costs, or payment for  
11 damages resulting from a violation of this chapter or any rule  
12 adopted pursuant to this chapter."

13        SECTION 3. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15        SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



Kal Rhoads  
~~Don C. Korblygen~~  
Sil Riviere



# S.B. NO. 554

**Report Title:**

State Water Code; DLNR; Commission; Penalties

**Description:**

Adds a minimum penalty of \$50 per violation of the state water code and makes each day that a violation exists or continues a separate offense. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation.

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

