
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]~~ violates any rule adopted pursuant to this chapter,
3 violates any order of the commission, fails to obtain a permit
4 where a permit is required under this chapter, or fails to
5 comply with permit conditions, may be subject to a fine imposed
6 by the commission. Such fine shall be no less than \$50 and
7 shall not exceed \$5,000 ~~[. For a continuing offense, each day~~
8 ~~during which the offense is committed is a separate violation.]~~
9 per violation. Each day that a violation exists or continues to
10 exist shall constitute a separate offense. Penalties for
11 continuing violations shall be assessed from the earliest known
12 date of the violation. The earliest known date of a violation
13 shall be determined by the commission by a preponderance of the
14 evidence; provided that if the earliest known date cannot be
15 determined by a preponderance of the evidence, penalties for
16 continuing violations shall be assessed from the earliest date
17 the commission is made aware of the violation.

18 (c) The commission shall determine the penalty amount for
19 each violation upon review of the circumstances of the
20 violation, taking into account the nature, extent, and gravity



1 of the violation and considering the history of such violations,
2 degree of culpability, and other matters as justice may require.

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

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

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on December 31,
18 2050.



S.B. NO. 554
S.D. 2

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. Takes effect 12/31/2050. (SD2)

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