

JAN 22 2021

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. To better enable the department of land and natural
4 resources and commission on water resource management to carry
5 out that mission, the legislature finds that the water code's
6 penalties and fines must be amended and increased to serve as an
7 effective deterrence to violators.

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

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

13 "**§174C-15 Penalties and common law remedies.** (a) The
14 commission may enforce its rules and orders adopted pursuant to
15 this chapter by suit for injunction or for damages or both.

16 (b) Any person who violates any provision of this chapter,
17 ~~[or]~~ violates any rule adopted pursuant to this chapter, ~~[may]~~



1 violates any order of the commission, fails to obtain a permit
2 where a permit is required under this chapter, or fails to
3 comply with permit conditions, shall be subject to a fine
4 imposed by the commission. Such fine shall be no less than \$50
5 and shall not exceed \$5,000~~[. For a continuing offense, each~~
6 ~~day during which the offense is committed is a separate~~
7 ~~violation.]~~ per violation. Each day that a violation exists or
8 continues to exist shall constitute a separate offense.

9 Penalties for continuing violations shall be assessed from the
10 earliest known date of the violation. The earliest known date
11 of a violation shall be determined by the commission by a
12 preponderance of the evidence; provided that if the earliest
13 known date cannot be determined by a preponderance of the
14 evidence, penalties for continuing violations shall be assessed
15 from the earliest date the commission is made aware of the
16 violation.

17 (c) The commission shall determine the penalty amount for
18 each violation upon review of the circumstances of the
19 violation, taking into account the nature, extent, and gravity
20 of the violation and considering the history of such violations,
21 degree of culpability, and other 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]~~ shall set, charge, and collect administrative fines; ~~[or]~~
7 may bring legal action to recover administrative fees and costs
8 as documented by receipts or affidavit, including attorneys'
9 fees and costs; ~~[or]~~ and may bring legal action to recover
10 administrative fines, fees, and costs, including attorneys' fees
11 and costs, or payment for damages resulting from a violation of
12 this chapter or any rule 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.

16
INTRODUCED BY: _____

Hal N. N. N.



S.B. NO. 284

Report Title:

State Water Code; Commission on Water Resource Management;
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.

