

## ACT 269

H.B. NO. 2642

A Bill for an Act Relating to Water Pollution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 Energy and Environmental Summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of the participants of the Summit.

SECTION 2. Section 342D-31, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~342D-31~~(1)~~] **Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter, or by rules adopted under this chapter, the director is authorized to impose by order the penalties specified in section 342D-30.

(b) Factors to be considered in imposing an administrative penalty include:

- (1) [~~the~~] The nature and history of the violation and of any prior violations[.];
- (2) The economic benefit to the violator, or anticipated by the violator, resulting from the violation;
- (3) [~~and the~~] The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Such other matters as justice may require.

(c) It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator.

(d) In any judicial proceeding to recover the [civil] administrative penalty imposed, the director need only show that:

- (1) [notice] Notice was given[.];
- (2) [a] A hearing was held or the time granted for requesting a hearing has run without such a request[.];
- (3) [the civil] The administrative penalty was imposed[.]; and
- (4) [that the] The penalty remains unpaid."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon approval.

(Approved July 1, 1994.)