

ACT 220

H.B. NO. 692

A Bill for an Act Relating to Pesticides.

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

SECTION 1. The legislature finds that enforcement of the Hawaii pesticides law, including timely and routine inspections and compliance investigations of potential misuse of pesticides, are crucial to protecting public health and ensuring public confidence in the State's oversight of pesticide use.

Accordingly, the purpose of this Act is to protect the State's residents and environment and ensure more stringent enforcement of the Hawaii pesticides law by increasing monetary fines for pesticide violations.

SECTION 2. Section 149A-41, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Administrative penalties.

(1) In general, any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this

- chapter may be assessed an administrative penalty by the board of not more than [~~\$5,000~~] \$10,000 for each offense;
- (2) Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter relating to the use of pesticides while on property owned or rented by that person or the person's employer, subsequent to receiving a written warning from the department or following a citation for a prior violation, may be assessed an administrative penalty by the board of not more than [~~\$1,000~~] \$5,000 for each offense. Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter relating to licensing, transport, sale, distribution, or application of a pesticide for commercial purposes may be assessed an administrative penalty as provided in paragraph (1);
 - (3) No administrative penalty shall be assessed unless the person charged shall have been given notice and an opportunity for a hearing on the specific charge in the county of the residence of the person charged. The administrative penalty and any proposed action contained in the notice of finding of violation shall become a final order unless, within twenty days of receipt of the notice, the person or persons charged make a written request for a hearing. In determining the amount of penalty, the board shall consider the appropriateness of the penalty to the size of the business of the person charged, the effect on the person's ability to continue business, and the gravity of the violation; and
 - (4) In case of inability to collect the administrative penalty or failure of any person to pay all or such portion of the administrative penalty as the board may determine, the board shall refer the matter to the attorney general, who shall recover the amount by action in the appropriate court. For any judicial proceeding to recover the administrative penalty imposed, the attorney general need only show that notice was given, a hearing was held or the time granted for requesting a hearing has expired without such a request, the administrative penalty was imposed, and that the penalty remains unpaid.
- (c) Criminal penalties.
- (1) In general, any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall on conviction be fined not more than [~~\$25,000;~~] \$35,000 or imprisoned for not more than one year, or both.
 - (2) Any private applicator or other person not included in paragraph (1) who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall on conviction be fined not more than [~~\$1,000;~~] \$5,000 or imprisoned for not more than one year, or both.
 - (3) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, shall be fined not more than \$10,000, or imprisoned for not more than three years, or both.”

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

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

SECTION 5. This Act shall take effect on July 1, 2023.

(Approved July 5, 2023.)