

1 A bill to be entitled
2 An act relating to environmental enforcement; amending
3 s. 161.054, F.S.; revising administrative penalties
4 for violations of certain provisions relating to beach
5 and shore construction and activities; making
6 technical changes; amending ss. 258.397, 258.46,
7 373.129, 376.16, 376.25, 377.37, 378.211, and 403.141,
8 F.S.; revising civil penalties for violations of
9 certain provisions relating to the Biscayne Bay
10 Aquatic Preserve, aquatic preserves, water resources,
11 the Pollutant Discharge Prevention and Control Act,
12 the Clean Ocean Act, regulation of oil and gas
13 resources, the Phosphate Land Reclamation Act, and
14 other provisions relating to pollution and the
15 environment, respectively; providing that each day
16 that certain violations occur constitutes a separate
17 offense; making technical changes; amending ss.
18 373.209, 376.065, 376.071, 403.086, 403.413, 403.7234,
19 and 403.93345, F.S.; revising civil penalties for
20 violations of certain provisions relating to artesian
21 wells, terminal facilities, discharge contingency
22 plans for vessels, sewage disposal facilities, dumping
23 litter, small quantity generators, and coral reef
24 protection, respectively; making technical changes;
25 amending ss. 373.430 and 403.161, F.S.; revising

26 criminal penalties for violations of certain
27 provisions relating to pollution and the environment;
28 providing that each day that the cause of unauthorized
29 discharges of domestic wastewater is not addressed
30 constitutes a separate offense; making technical
31 changes; amending s. 403.121, F.S.; revising civil and
32 administrative penalties for violations of certain
33 provisions relating to pollution and the environment;
34 providing that each day that the cause of unauthorized
35 discharges of domestic wastewater is not addressed
36 constitutes a separate offense; increasing the amount
37 of penalties that can be assessed administratively;
38 making technical changes; amending ss. 403.726 and
39 403.727, F.S.; revising civil penalties for violations
40 of certain provisions relating to hazardous waste;
41 making technical changes; reenacting s. 823.11(5),
42 F.S., to incorporate the amendment made to s. 376.16,
43 F.S., in a reference thereto; reenacting ss.
44 403.077(5), 403.131(2), 403.4154(3)(d), and
45 403.860(5), F.S., to incorporate the amendment made to
46 s. 403.121, F.S., in a reference thereto; reenacting
47 ss. 403.708(10), 403.7191(7), and 403.811, F.S., to
48 incorporate the amendment made to s. 403.141, F.S., in
49 a reference thereto; reenacting s. 403.7186(8), F.S.,
50 to incorporate the amendment made to ss. 403.141 and

51 403.161, F.S., in references thereto; reenacting s.
 52 403.7255(2), F.S., to incorporate the amendment made
 53 to s. 403.161, F.S., in a reference thereto; providing
 54 an effective date.

55

56 Be It Enacted by the Legislature of the State of Florida:

57

58 Section 1. Subsection (1) of section 161.054, Florida
 59 Statutes, is amended to read:

60 161.054 Administrative fines; liability for damage;
 61 liens.—

62 (1) In addition to the penalties provided for in ss.
 63 161.052, 161.053, and 161.121, any person, firm, corporation, or
 64 governmental agency, or agent thereof, refusing to comply with
 65 or willfully violating ~~any of the provisions of~~ s. 161.041, s.
 66 161.052, or s. 161.053, or any rule or order prescribed by the
 67 department thereunder, shall incur a fine for each offense in an
 68 amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected
 69 by the department. Each day during any portion of which such
 70 violation occurs constitutes a separate offense.

71 Section 2. Subsection (7) of section 258.397, Florida
 72 Statutes, is amended to read:

73 258.397 Biscayne Bay Aquatic Preserve.—

74 (7) ENFORCEMENT.—~~The provisions of~~ This section may be
 75 enforced in accordance with ~~the provisions of~~ s. 403.412. In

76 | addition, the Department of Legal Affairs may ~~is authorized to~~
 77 | bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day
 78 | against any person, natural or corporate, who violates ~~the~~
 79 | ~~provisions of~~ this section or any rule or regulation issued
 80 | hereunder. Each day during any portion of which such violation
 81 | occurs constitutes a separate offense. Enforcement of applicable
 82 | state regulations shall be supplemented by the Miami-Dade County
 83 | Department of Environmental Resources Management through the
 84 | creation of a full-time enforcement presence along the Miami
 85 | River.

86 | Section 3. Section 258.46, Florida Statutes, is amended to
 87 | read:

88 | 258.46 Enforcement; violations; penalty. ~~The provisions of~~
 89 | This act may be enforced by the Board of Trustees of the
 90 | Internal Improvement Trust Fund or in accordance with ~~the~~
 91 | ~~provisions of~~ s. 403.412. However, any violation by any person,
 92 | natural or corporate, of ~~the provisions of~~ this act or any rule
 93 | or regulation issued hereunder is ~~shall be~~ further punishable by
 94 | a civil penalty of not less than \$750 ~~\$500~~ per day or more than
 95 | \$7,500 ~~\$5,000~~ per day of such violation. Each day during any
 96 | portion of which such violation occurs constitutes a separate
 97 | offense.

98 | Section 4. Subsections (5) and (7) of section 373.129,
 99 | Florida Statutes, are amended to read:

100 | 373.129 Maintenance of actions.—The department, the

101 governing board of any water management district, any local
102 board, or a local government to which authority has been
103 delegated pursuant to s. 373.103(8), is authorized to commence
104 and maintain proper and necessary actions and proceedings in any
105 court of competent jurisdiction for any of the following
106 purposes:

107 (5) To recover a civil penalty for each offense in an
108 amount not to exceed \$15,000 ~~\$10,000~~ per offense. Each date
109 during which such violation occurs constitutes a separate
110 offense.

111 (a) A civil penalty recovered by a water management
112 district pursuant to this subsection shall be retained and used
113 exclusively by the water management district that collected the
114 money. A civil penalty recovered by the department pursuant to
115 this subsection must be deposited into the Water Quality
116 Assurance Trust Fund established under s. 376.307.

117 (b) A local government that is delegated authority
118 pursuant to s. 373.103(8) may deposit a civil penalty recovered
119 pursuant to this subsection into a local water pollution control
120 program trust fund, notwithstanding ~~the provisions of~~ paragraph
121 (a). However, civil penalties that are deposited in a local
122 water pollution control program trust fund and that are
123 recovered for violations of state water quality standards may be
124 used only to restore water quality in the area that was the
125 subject of the action, and civil penalties that are deposited in

126 a local water pollution control program trust fund and that are
127 recovered for violation of requirements relating to water
128 quantity may be used only to purchase lands and make capital
129 improvements associated with surface water management, or other
130 purposes consistent with the requirements of this chapter for
131 the management and storage of surface water.

132 (7) To enforce ~~the provisions of~~ part IV of this chapter
133 in the same manner and to the same extent as provided in ss.
134 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

135 Section 5. Subsection (3) of section 373.209, Florida
136 Statutes, is amended to read:

137 373.209 Artesian wells; penalties for violation.—

138 (3) Any person who violates ~~any provision of~~ this section
139 is shall be subject to either:

140 (a) The remedial measures provided for in s. 373.436; or

141 (b) A civil penalty of \$150 ~~\$100~~ a day for each and every
142 day of such violation and for each and every act of violation.

143 The civil penalty may be recovered by the water management board
144 of the water management district in which the well is located or
145 by the department in a suit in a court of competent jurisdiction
146 in the county where the defendant resides, in the county of
147 residence of any defendant if there is more than one defendant,
148 or in the county where the violation took place. The place of
149 suit shall be selected by the board or department, and the suit,
150 by direction of the board or department, shall be instituted and

151 conducted in the name of the board or department by appropriate
 152 counsel. The payment of any such damages does not impair or
 153 abridge any cause of action which any person may have against
 154 the person violating ~~any provision of~~ this section.

155 Section 6. Subsections (2) through (5) of section 373.430,
 156 Florida Statutes, are amended to read:

157 373.430 Prohibitions, violation, penalty, intent.—

158 (2) A person who ~~Whoever~~ commits a violation specified in
 159 subsection (1) is liable for any damage caused and for civil
 160 penalties as provided in s. 373.129.

161 (3) A ~~Any~~ person who willfully commits a violation
 162 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of
 163 the third degree, punishable as provided in ss. 775.082(3)(e)
 164 and 775.083(1)(g), by a fine of not more than \$50,000 or by
 165 imprisonment for 5 years, or by both, for each offense. Each day
 166 during any portion of which such violation occurs constitutes a
 167 separate offense.

168 (4) A ~~Any~~ person who commits a violation specified in
 169 paragraph (1)(a) or paragraph (1)(b) due to reckless
 170 indifference or gross careless disregard commits ~~is guilty of~~ a
 171 misdemeanor of the second degree, punishable as provided in ss.
 172 775.082(4)(b) and 775.083(1)(g), by a fine of not more than
 173 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

174 (5) A ~~Any~~ person who willfully commits a violation
 175 specified in paragraph (1)(b) or who commits a violation

176 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor
 177 of the first degree, punishable as provided in ss. 775.082(4)(a)
 178 and 775.083(1)(g), by a fine of not more than \$10,000 or by 6
 179 months in jail, or by both, for each offense.

180 Section 7. Paragraphs (a) and (e) of subsection (5) of
 181 section 376.065, Florida Statutes, are amended to read:

182 376.065 Operation of terminal facility without discharge
 183 prevention and response certificate prohibited; penalty.—

184 (5)(a) A person who violates this section or the terms and
 185 requirements of such certification commits a noncriminal
 186 infraction. The civil penalty for any such infraction shall be
 187 \$750 ~~\$500~~, except as otherwise provided in this section.

188 (e) A person who elects to appear before the county court
 189 or who is required to so appear waives the limitations of the
 190 civil penalty specified in paragraph (a). The court, after a
 191 hearing, shall make a determination as to whether an infraction
 192 has been committed. If the commission of the infraction is
 193 proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

194 Section 8. Paragraphs (a) and (e) of subsection (2) of
 195 section 376.071, Florida Statutes, are amended to read:

196 376.071 Discharge contingency plan for vessels.—

197 (2)(a) A master of a vessel that violates subsection (1)
 198 commits a noncriminal infraction and shall be cited for such
 199 infraction. The civil penalty for such an infraction shall be
 200 \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

201 (e) A person who elects to appear before the county court
 202 or who is required to appear waives the limitations of the civil
 203 penalty specified in paragraph (a). The court, after a hearing,
 204 shall make a determination as to whether an infraction has been
 205 committed. If the commission of the infraction is proved, the
 206 court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

207 Section 9. Section 376.16, Florida Statutes, is amended to
 208 read:

209 376.16 Enforcement and penalties.—

210 (1) It is unlawful for any person to violate ~~any provision~~
 211 ~~of~~ ss. 376.011-376.21 or any rule or order of the department
 212 made pursuant to this act. A violation is ~~shall be~~ punishable by
 213 a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day
 214 to be assessed by the department. Each day during any portion of
 215 which the violation occurs constitutes a separate offense. The
 216 penalty provisions of this subsection do ~~shall~~ not apply to any
 217 discharge promptly reported and removed by a person responsible,
 218 in accordance with the rules and orders of the department, or to
 219 any discharge of pollutants equal to or less than 5 gallons.

220 (2) In addition to the penalty provisions which may apply
 221 under subsection (1), a person responsible for two or more
 222 discharges of any pollutant reported pursuant to s. 376.12
 223 within a 12-month period at the same facility commits a
 224 noncriminal infraction and shall be cited by the department for
 225 such infraction.

226 (a) For discharges of gasoline or diesel over 5 gallons,
 227 the civil penalty for the second discharge shall be \$750 ~~\$500~~
 228 and the civil penalty for each subsequent discharge within a 12-
 229 month period shall be \$1,500 ~~\$1,000~~, except as otherwise
 230 provided in this section.

231 (b) For discharges of any pollutant other than gasoline or
 232 diesel, the civil penalty for a second discharge shall be \$3,750
 233 ~~\$2,500~~ and the civil penalty for each subsequent discharge
 234 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as
 235 otherwise provided in this section.

236 (3) A person responsible for two or more discharges of any
 237 pollutant reported pursuant to s. 376.12 within a 12-month
 238 period at the same facility commits a noncriminal infraction and
 239 shall be cited by the department for such infraction.

240 (a) For discharges of gasoline or diesel equal to or less
 241 than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each
 242 discharge subsequent to the first.

243 (b) For discharges of pollutants other than gasoline or
 244 diesel equal to or less than 5 gallons, the civil penalty shall
 245 be \$150 ~~\$100~~ for each discharge subsequent to the first.

246 (4) A person charged with a noncriminal infraction
 247 pursuant to subsection (2) or subsection (3) may:

248 (a) Pay the civil penalty;

249 (b) Post a bond equal to the amount of the applicable
 250 civil penalty; or

251 (c) Sign and accept a citation indicating a promise to
 252 appear before the county court.

253
 254 The department employee authorized to issue these citations may
 255 indicate on the citation the time and location of the scheduled
 256 hearing and shall indicate the applicable civil penalty.

257 (5) Any person who willfully refuses to post bond or
 258 accept and sign a citation commits a misdemeanor of the second
 259 degree, punishable as provided in s. 775.082 or s. 775.083.

260 (6) After compliance with paragraph (4) (b) or paragraph
 261 (4) (c), any person charged with a noncriminal infraction under
 262 subsection (2) or subsection (3) may:

263 (a) Pay the civil penalty, either by mail or in person,
 264 within 30 days after the date of receiving the citation; or

265 (b) If the person has posted bond, forfeit the bond by not
 266 appearing at the designated time and location.

267
 268 A person cited for an infraction under this section who pays the
 269 civil penalty or forfeits the bond has admitted the infraction
 270 and waives the right to a hearing on the issue of commission of
 271 the infraction. Such admission may not be used as evidence in
 272 any other proceeding.

273 (7) Any person who elects to appear before the county
 274 court or who is required to appear waives the limitations of the
 275 civil penalties specified in subsection (2). The court, after a

276 hearing, shall make a determination as to whether an infraction
 277 has been committed. If the commission of an infraction is
 278 proved, the court may impose a civil penalty up to, but not
 279 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or
 280 diesel and a civil penalty up to, but not exceeding, \$1,500
 281 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel
 282 within a 12-month period.

283 (8) Any person who elects to appear before the county
 284 court or who is required to appear waives the limitations of the
 285 civil penalties specified in subsection (2) or subsection (3).
 286 The court, after a hearing, shall make a determination as to
 287 whether an infraction has been committed. If the commission of
 288 an infraction is proved, the court may impose a civil penalty up
 289 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of
 290 pollutants other than gasoline or diesel and a civil penalty up
 291 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent
 292 discharge of pollutants other than gasoline or diesel within a
 293 12-month period.

294 (9) At a hearing under this section, the commission of a
 295 charged offense must be proved by the greater weight of the
 296 evidence.

297 (10) A person who is found by a hearing official to have
 298 committed an infraction may appeal that finding to the circuit
 299 court.

300 (11) Any person who has not posted bond and who neither

301 pays the applicable civil penalty, as specified in subsection
 302 (2) or subsection (3) within 30 days of receipt of the citation
 303 nor appears before the court commits a misdemeanor of the second
 304 degree, punishable as provided in s. 775.082 or s. 775.083.

305 (12) Any person who makes or causes to be made a false
 306 statement that ~~which~~ the person does not believe to be true in
 307 response to requirements of ~~the provisions of~~ ss. 376.011-376.21
 308 commits a felony of the second degree, punishable as provided in
 309 s. 775.082, s. 775.083, or s. 775.084.

310 Section 10. Paragraph (a) of subsection (6) of section
 311 376.25, Florida Statutes, is amended to read:

312 376.25 Gambling vessels; registration; required and
 313 prohibited releases.-

314 (6) PENALTIES.-

315 (a) A person who violates this section is subject to a
 316 civil penalty of not more than \$75,000 ~~\$50,000~~ for each
 317 violation. Each day during any portion of which such violation
 318 occurs constitutes a separate offense.

319 Section 11. Paragraph (a) of subsection (1) of section
 320 377.37, Florida Statutes, is amended to read:

321 377.37 Penalties.-

322 (1) (a) Any person who violates ~~any provision of~~ this law
 323 or any rule, regulation, or order of the division made under
 324 this chapter or who violates the terms of any permit to drill
 325 for or produce oil, gas, or other petroleum products referred to

326 in s. 377.242(1) or to store gas in a natural gas storage
327 facility, or any lessee, permitholder, or operator of equipment
328 or facilities used in the exploration for, drilling for, or
329 production of oil, gas, or other petroleum products, or storage
330 of gas in a natural gas storage facility, who refuses inspection
331 by the division as provided in this chapter, is liable to the
332 state for any damage caused to the air, waters, or property,
333 including animal, plant, or aquatic life, of the state and for
334 reasonable costs and expenses of the state in tracing the source
335 of the discharge, in controlling and abating the source and the
336 pollutants, and in restoring the air, waters, and property,
337 including animal, plant, and aquatic life, of the state.
338 Furthermore, such person, lessee, permitholder, or operator is
339 subject to the judicial imposition of a civil penalty in an
340 amount of not more than \$15,000 ~~\$10,000~~ for each offense.
341 However, the court may receive evidence in mitigation. Each day
342 during any portion of which such violation occurs constitutes a
343 separate offense. This section does not ~~Nothing herein shall~~
344 give the department the right to bring an action on behalf of
345 any private person.

346 Section 12. Subsection (2) of section 378.211, Florida
347 Statutes, is amended to read:

348 378.211 Violations; damages; penalties.—

349 (2) The department may institute a civil action in a court
350 of competent jurisdiction to impose and recover a civil penalty

351 for violation of this part or of any rule adopted or order
 352 issued pursuant to this part. The penalty may ~~shall~~ not exceed
 353 the following amounts, and the court shall consider evidence in
 354 mitigation:

355 (a) For violations of a minor or technical nature, \$150
 356 ~~\$100~~ per violation.

357 (b) For major violations by an operator on which a penalty
 358 has not been imposed under this paragraph during the previous 5
 359 years, \$1,500 ~~\$1,000~~ per violation.

360 (c) For major violations not covered by paragraph (b),
 361 \$7,500 ~~\$5,000~~ per violation.

362
 363 Subject to ~~the provisions of~~ subsection (4), each day or any
 364 portion thereof in which the violation continues shall
 365 constitute a separate violation.

366 Section 13. Subsection (2) of section 403.086, Florida
 367 Statutes, is amended to read:

368 403.086 Sewage disposal facilities; advanced and secondary
 369 waste treatment.—

370 (2) Any facilities for sanitary sewage disposal shall
 371 provide for secondary waste treatment and, in addition thereto,
 372 advanced waste treatment as deemed necessary and ordered by the
 373 Department of Environmental Protection. Failure to conform shall
 374 be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour
 375 day or fraction thereof that such failure is allowed to continue

376 thereafter.

377 Section 14. Section 403.121, Florida Statutes, is amended
378 to read:

379 403.121 Enforcement; procedure; remedies.—The department
380 shall have the following judicial and administrative remedies
381 available to it for violations of this chapter, as specified in
382 s. 403.161(1).

383 (1) Judicial remedies:

384 (a) The department may institute a civil action in a court
385 of competent jurisdiction to establish liability and to recover
386 damages for any injury to the air, waters, or property,
387 including animal, plant, and aquatic life, of the state caused
388 by any violation.

389 (b) The department may institute a civil action in a court
390 of competent jurisdiction to impose and to recover a civil
391 penalty for each violation in an amount of not more than \$15,000
392 ~~\$10,000~~ per offense. However, the court may receive evidence in
393 mitigation. Each day during any portion of which such violation
394 occurs constitutes a separate offense.

395 (c) Except as provided in paragraph (2)(c), it is ~~shall~~
396 not ~~be~~ a defense to, or ground for dismissal of, these judicial
397 remedies for damages and civil penalties that the department has
398 failed to exhaust its administrative remedies, has failed to
399 serve a notice of violation, or has failed to hold an
400 administrative hearing before ~~prior to~~ the institution of a

401 civil action.

402 (2) Administrative remedies:

403 (a) The department may institute an administrative
404 proceeding to establish liability and to recover damages for any
405 injury to the air, waters, or property, including animal, plant,
406 or aquatic life, of the state caused by any violation. The
407 department may order that the violator pay a specified sum as
408 damages to the state. Judgment for the amount of damages
409 determined by the department may be entered in any court having
410 jurisdiction thereof and may be enforced as any other judgment.

411 (b) If the department has reason to believe a violation
412 has occurred, it may institute an administrative proceeding to
413 order the prevention, abatement, or control of the conditions
414 creating the violation or other appropriate corrective action.
415 Except for violations involving hazardous wastes, asbestos, or
416 underground injection, the department shall proceed
417 administratively in all cases in which the department seeks
418 administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per
419 assessment as calculated in accordance with subsections (3),
420 (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the
421 administrative penalty assessed pursuant to subsection (3),
422 subsection (4), or subsection (5) against a public water system
423 serving a population of more than 10,000 shall be not less than
424 \$1,000 per day per violation. The department may ~~shall~~ not
425 impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in

426 a notice of violation. The department may ~~shall~~ not have more
427 than one notice of violation seeking administrative penalties
428 pending against the same party at the same time unless the
429 violations occurred at a different site or the violations were
430 discovered by the department subsequent to the filing of a
431 previous notice of violation.

432 (c) An administrative proceeding shall be instituted by
433 the department's serving of a written notice of violation upon
434 the alleged violator by certified mail. If the department is
435 unable to effect service by certified mail, the notice of
436 violation may be hand delivered or personally served in
437 accordance with chapter 48. The notice shall specify the
438 ~~provision of the~~ law, rule, regulation, permit, certification,
439 or order of the department alleged to be violated and the facts
440 alleged to constitute a violation thereof. An order for
441 corrective action, penalty assessment, or damages may be
442 included with the notice. When the department is seeking to
443 impose an administrative penalty for any violation by issuing a
444 notice of violation, any corrective action needed to correct the
445 violation or damages caused by the violation must be pursued in
446 the notice of violation or they are waived. However, an ~~no~~ order
447 is not ~~shall become~~ effective until after service and an
448 administrative hearing, if requested within 20 days after
449 service. Failure to request an administrative hearing within
450 this time period constitutes ~~shall constitute~~ a waiver thereof,

451 unless the respondent files a written notice with the department
452 within this time period opting out of the administrative process
453 initiated by the department to impose administrative penalties.
454 Any respondent choosing to opt out of the administrative process
455 initiated by the department in an action that seeks the
456 imposition of administrative penalties must file a written
457 notice with the department within 20 days after service of the
458 notice of violation opting out of the administrative process. A
459 respondent's decision to opt out of the administrative process
460 does not preclude the department from initiating a state court
461 action seeking injunctive relief, damages, and the judicial
462 imposition of civil penalties.

463 (d) If a person timely files a petition challenging a
464 notice of violation, that person will thereafter be referred to
465 as the respondent. The hearing requested by the respondent shall
466 be held within 180 days after the department has referred the
467 initial petition to the Division of Administrative Hearings
468 unless the parties agree to a later date. The department has the
469 burden of proving with the preponderance of the evidence that
470 the respondent is responsible for the violation. ~~No~~
471 Administrative penalties should not be imposed unless the
472 department satisfies that burden. Following the close of the
473 hearing, the administrative law judge shall issue a final order
474 on all matters, including the imposition of an administrative
475 penalty. When the department seeks to enforce that portion of a

476 final order imposing administrative penalties pursuant to s.
477 120.69, the respondent may ~~shall~~ not assert as a defense the
478 inappropriateness of the administrative remedy. The department
479 retains its final-order authority in all administrative actions
480 that do not request the imposition of administrative penalties.

481 (e) After filing a petition requesting a formal hearing in
482 response to a notice of violation in which the department
483 imposes an administrative penalty, a respondent may request that
484 a private mediator be appointed to mediate the dispute by
485 contacting the Florida Conflict Resolution Consortium within 10
486 days after receipt of the initial order from the administrative
487 law judge. The Florida Conflict Resolution Consortium shall pay
488 all of the costs of the mediator and for up to 8 hours of the
489 mediator's time per case at \$150 per hour. Upon notice from the
490 respondent, the Florida Conflict Resolution Consortium shall
491 provide to the respondent a panel of possible mediators from the
492 area in which the hearing on the petition would be heard. The
493 respondent shall select the mediator and notify the Florida
494 Conflict Resolution Consortium of the selection within 15 days
495 of receipt of the proposed panel of mediators. The Florida
496 Conflict Resolution Consortium shall provide all of the
497 administrative support for the mediation process. The mediation
498 must be completed at least 15 days before the final hearing date
499 set by the administrative law judge.

500 (f) In any administrative proceeding brought by the

501 department, the prevailing party shall recover all costs as
502 provided in ss. 57.041 and 57.071. The costs must be included in
503 the final order. The respondent is the prevailing party when an
504 order is entered awarding no penalties to the department and
505 such order has not been reversed on appeal or the time for
506 seeking judicial review has expired. The respondent is ~~shall be~~
507 entitled to an award of attorney's fees if the administrative
508 law judge determines that the notice of violation issued by the
509 department seeking the imposition of administrative penalties
510 was not substantially justified as defined in s. 57.111(3)(e).
511 An ~~No~~ award of attorney's fees as provided by this subsection
512 may not ~~shall~~ exceed \$15,000.

513 (g) This section does not prevent ~~Nothing herein shall be~~
514 ~~construed as preventing~~ any other legal or administrative action
515 in accordance with law and does not. ~~Nothing in this subsection~~
516 ~~shall~~ limit the department's authority provided in ss. 403.131,
517 403.141, and this section to judicially pursue injunctive
518 relief. When the department exercises its authority to
519 judicially pursue injunctive relief, penalties in any amount up
520 to the statutory maximum sought by the department must be
521 pursued as part of the state court action and not by initiating
522 a separate administrative proceeding. The department retains the
523 authority to judicially pursue penalties in excess of \$50,000
524 ~~\$10,000~~ for violations not specifically included in the
525 administrative penalty schedule, or for multiple or multiday

526 | violations alleged to exceed a total of \$50,000 ~~\$10,000~~. The
 527 | department also retains the authority provided in ss. 403.131,
 528 | 403.141, and this section to judicially pursue injunctive relief
 529 | and damages, if a notice of violation seeking the imposition of
 530 | administrative penalties has not been issued. The department has
 531 | the authority to enter into a settlement, either before or after
 532 | initiating a notice of violation, and the settlement may include
 533 | a penalty amount different from the administrative penalty
 534 | schedule. Any case filed in state court because it is alleged to
 535 | exceed a total of \$50,000 ~~\$10,000~~ in penalties may be settled in
 536 | the court action for less than \$50,000 ~~\$10,000~~.

537 | (h) Chapter 120 applies ~~shall apply~~ to any administrative
 538 | action taken by the department or any delegated program pursuing
 539 | administrative penalties in accordance with this section.

540 | (3) Except for violations involving hazardous wastes,
 541 | asbestos, or underground injection, administrative penalties
 542 | must be calculated according to the following schedule:

543 | (a) For a drinking water contamination violation, the
 544 | department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum
 545 | Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the
 546 | violation is for a primary inorganic, organic, or radiological
 547 | Maximum Contaminant Level or it is a fecal coliform bacteria
 548 | violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a
 549 | community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum
 550 | Contaminant Level is exceeded by more than 100 percent. For

551 failure to obtain a clearance letter before ~~prior to~~ placing a
552 drinking water system into service when the system would not
553 have been eligible for clearance, the department shall assess a
554 penalty of \$4,500 ~~\$3,000~~.

555 (b) For failure to obtain a required wastewater permit,
556 other than a permit required for surface water discharge, the
557 department shall assess a penalty of \$2,000 ~~\$1,000~~. For a
558 domestic or industrial wastewater violation not involving a
559 surface water or groundwater quality violation, the department
560 shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or
561 unauthorized discharge or effluent-limitation exceedance. For an
562 unpermitted or unauthorized discharge or effluent-limitation
563 exceedance that resulted in a surface water or groundwater
564 quality violation, the department shall assess a penalty of
565 \$10,000 ~~\$5,000~~. Each day the cause of an unauthorized discharge
566 of domestic wastewater is not addressed constitutes a separate
567 offense.

568 (c) For a dredge and fill or stormwater violation, the
569 department shall assess a penalty of \$1,500 ~~\$1,000~~ for
570 unpermitted or unauthorized dredging or filling or unauthorized
571 construction of a stormwater management system against the
572 person or persons responsible for the illegal dredging or
573 filling, or unauthorized construction of a stormwater management
574 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in
575 an aquatic preserve, an Outstanding Florida Water, a

576 conservation easement, or a Class I or Class II surface water,
 577 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
 578 one-quarter acre but less than or equal to one-half acre, and
 579 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
 580 one-half acre but less than or equal to one acre. The
 581 administrative penalty schedule does ~~shall~~ not apply to a dredge
 582 and fill violation if the area dredged or filled exceeds one
 583 acre. The department retains the authority to seek the judicial
 584 imposition of civil penalties for all dredge and fill violations
 585 involving more than one acre. The department shall assess a
 586 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required
 587 mitigation, failure to record a required conservation easement,
 588 or for a water quality violation resulting from dredging or
 589 filling activities, stormwater construction activities or
 590 failure of a stormwater treatment facility. For stormwater
 591 management systems serving less than 5 acres, the department
 592 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to
 593 properly or timely construct a stormwater management system. In
 594 addition to the penalties authorized in this subsection, the
 595 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
 596 against the contractor or agent of the owner or tenant that
 597 conducts unpermitted or unauthorized dredging or filling. For
 598 purposes of this paragraph, the preparation or signing of a
 599 permit application by a person currently licensed under chapter
 600 471 to practice as a professional engineer does ~~shall~~ not make

601 that person an agent of the owner or tenant.

602 (d) For mangrove trimming or alteration violations, the
603 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
604 against the contractor or agent of the owner or tenant that
605 conducts mangrove trimming or alteration without a permit as
606 required by s. 403.9328. For purposes of this paragraph, the
607 preparation or signing of a permit application by a person
608 currently licensed under chapter 471 to practice as a
609 professional engineer does ~~shall~~ not make that person an agent
610 of the owner or tenant.

611 (e) For solid waste violations, the department shall
612 assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or
613 unauthorized disposal or storage of solid waste; plus \$1,000 if
614 the solid waste is Class I or Class III (excluding yard trash)
615 or if the solid waste is construction and demolition debris in
616 excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is
617 disposed of or stored in any natural or artificial body of water
618 or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~
619 if the waste contains PCB at a concentration of 50 parts per
620 million or greater; untreated biomedical waste; friable asbestos
621 greater than 1 cubic meter which is not wetted, bagged, and
622 covered; used oil greater than 25 gallons; or 10 or more lead
623 acid batteries. The department shall assess a penalty of \$4,500
624 ~~\$3,000~~ for failure to properly maintain leachate control;
625 unauthorized burning; failure to have a trained spotter on duty

626 at the working face when accepting waste; or failure to provide
 627 access control for three consecutive inspections. The department
 628 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct
 629 or maintain a required stormwater management system.

630 (f) For an air emission violation, the department shall
 631 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or
 632 unauthorized air emission or an air-emission-permit exceedance,
 633 ~~plus \$1,000 if the emission results in an air quality violation,~~
 634 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and
 635 the source was major for the pollutant in violation; plus \$1,500
 636 ~~\$1,000~~ if the emission was more than 150 percent of the
 637 allowable level.

638 (g) For storage tank system and petroleum contamination
 639 violations, the department shall assess a penalty of \$7,500
 640 ~~\$5,000~~ for failure to empty a damaged storage system as
 641 necessary to ensure that a release does not occur until repairs
 642 to the storage system are completed; when a release has occurred
 643 from that storage tank system; for failure to timely recover
 644 free product; or for failure to conduct remediation or
 645 monitoring activities until a no-further-action or site-
 646 rehabilitation completion order has been issued. The department
 647 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely
 648 upgrade a storage tank system. The department shall assess a
 649 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain
 650 required release detection; failure to timely investigate a

651 suspected release from a storage system; depositing motor fuel
652 into an unregistered storage tank system; failure to timely
653 assess or remediate petroleum contamination; or failure to
654 properly install a storage tank system. The department shall
655 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly
656 operate, maintain, or close a storage tank system.

657 (4) In an administrative proceeding, in addition to the
658 penalties that may be assessed under subsection (3), the
659 department shall assess administrative penalties according to
660 the following schedule:

661 (a) For failure to satisfy financial responsibility
662 requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

663 (b) For failure to install, maintain, or use a required
664 pollution control system or device, \$6,000 ~~\$4,000~~.

665 (c) For failure to obtain a required permit before
666 construction or modification, \$4,500 ~~\$3,000~~.

667 (d) For failure to conduct required monitoring or testing;
668 failure to conduct required release detection; or failure to
669 construct in compliance with a permit, \$3,000 ~~\$2,000~~.

670 (e) For failure to maintain required staff to respond to
671 emergencies; failure to conduct required training; failure to
672 prepare, maintain, or update required contingency plans; failure
673 to adequately respond to emergencies to bring an emergency
674 situation under control; or failure to submit required
675 notification to the department, \$1,500 ~~\$1,000~~.

676 (f) Except as provided in subsection (2) with respect to
677 public water systems serving a population of more than 10,000,
678 for failure to prepare, submit, maintain, or use required
679 reports or other required documentation, \$750 ~~\$500~~.

680 (5) Except as provided in subsection (2) with respect to
681 public water systems serving a population of more than 10,000,
682 for failure to comply with any other departmental regulatory
683 statute or rule requirement not otherwise identified in this
684 section, the department may assess a penalty of \$1,000 ~~\$500~~.

685 (6) For each additional day during which a violation
686 occurs, the administrative penalties in subsections ~~subsection~~
687 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day
688 per violation.

689 (7) The history of noncompliance of the violator for any
690 previous violation resulting in an executed consent order, but
691 not including a consent order entered into without a finding of
692 violation, or resulting in a final order or judgment after the
693 effective date of this law involving the imposition of \$3,000
694 ~~\$2,000~~ or more in penalties shall be taken into consideration in
695 the following manner:

696 (a) One previous such violation within 5 years before
697 ~~prior to~~ the filing of the notice of violation will result in a
698 25-percent per day increase in the scheduled administrative
699 penalty.

700 (b) Two previous such violations within 5 years before

701 ~~prior to~~ the filing of the notice of violation will result in a
 702 50-percent per day increase in the scheduled administrative
 703 penalty.

704 (c) Three or more previous such violations within 5 years
 705 before ~~prior to~~ the filing of the notice of violation will
 706 result in a 100-percent per day increase in the scheduled
 707 administrative penalty.

708 (8) The direct economic benefit gained by the violator
 709 from the violation, where consideration of economic benefit is
 710 provided by Florida law or required by federal law as part of a
 711 federally delegated or approved program, shall be added to the
 712 scheduled administrative penalty. The total administrative
 713 penalty, including any economic benefit added to the scheduled
 714 administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

715 (9) The administrative penalties assessed for any
 716 particular violation may ~~shall~~ not exceed \$10,000 ~~\$5,000~~ against
 717 any one violator, unless the violator has a history of
 718 noncompliance, the economic benefit of the violation as
 719 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are
 720 multiday violations. The total administrative penalties may
 721 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all
 722 violations attributable to a specific person in the notice of
 723 violation.

724 (10) The administrative law judge may receive evidence in
 725 mitigation. The penalties identified in subsections ~~subsection~~

726 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50
727 percent by the administrative law judge for mitigating
728 circumstances, including good faith efforts to comply before
729 ~~prior to~~ or after discovery of the violations by the department.
730 Upon an affirmative finding that the violation was caused by
731 circumstances beyond the reasonable control of the respondent
732 and could not have been prevented by respondent's due diligence,
733 the administrative law judge may further reduce the penalty.

734 (11) Penalties collected pursuant to this section shall be
735 deposited into the Water Quality Assurance Trust Fund or other
736 trust fund designated by statute and shall be used to fund the
737 restoration of ecosystems, or polluted areas of the state, as
738 defined by the department, to their condition before pollution
739 occurred. The Florida Conflict Resolution Consortium may use a
740 portion of the fund to administer the mediation process provided
741 in paragraph (2)(e) and to contract with private mediators for
742 administrative penalty cases.

743 (12) The purpose of the administrative penalty schedule
744 and process is to provide a more predictable and efficient
745 manner for individuals and businesses to resolve relatively
746 minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~
747 ~~(3), subsection (4), subsection (5), subsection (6), or~~
748 ~~subsection (7) shall~~ not be construed as limiting a state court
749 in the assessment of damages. The administrative penalty
750 schedule does not apply to the judicial imposition of civil

751 penalties in state court as provided in this section.

752 Section 15. Subsection (1) of section 403.141, Florida
 753 Statutes, is amended to read:

754 403.141 Civil liability; joint and several liability.—

755 (1) A person who ~~Whoever~~ commits a violation specified in
 756 s. 403.161(1) is liable to the state for any damage caused to
 757 the air, waters, or property, including animal, plant, or
 758 aquatic life, of the state and for reasonable costs and expenses
 759 of the state in tracing the source of the discharge, in
 760 controlling and abating the source and the pollutants, and in
 761 restoring the air, waters, and property, including animal,
 762 plant, and aquatic life, of the state to their former condition,
 763 and furthermore is subject to the judicial imposition of a civil
 764 penalty for each offense in an amount of not more than \$15,000
 765 ~~\$10,000~~ per offense. However, the court may receive evidence in
 766 mitigation. Each day during any portion of which such violation
 767 occurs constitutes a separate offense. If a violation is an
 768 unauthorized discharge of domestic wastewater, each day the
 769 cause of the violation is not addressed constitutes a separate
 770 offense until the violation is resolved by order or judgment.
 771 This section does not ~~Nothing herein shall~~ give the department
 772 the right to bring an action on behalf of any private person.

773 Section 16. Subsections (2) through (5) of section
 774 403.161, Florida Statutes, are amended to read:

775 403.161 Prohibitions, violation, penalty, intent.—

776 (2) A person who ~~Whoever~~ commits a violation specified in
777 subsection (1) is liable to the state for any damage caused and
778 for civil penalties as provided in s. 403.141.

779 (3) A ~~Any~~ person who willfully commits a violation
780 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of
781 the third degree, punishable as provided in ss. 775.082(3)(e)
782 and 775.083(1)(g) by a fine of not more than \$50,000 or by
783 imprisonment for 5 years, or by both, for each offense. Each day
784 during any portion of which such violation occurs constitutes a
785 separate offense.

786 (4) A ~~Any~~ person who commits a violation specified in
787 paragraph (1)(a) or paragraph (1)(b) due to reckless
788 indifference or gross careless disregard commits ~~is guilty of~~ a
789 misdemeanor of the second degree, punishable as provided in ss.
790 775.082(4)(b) and 775.083(1)(g) by a fine of not more than
791 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each
792 offense.

793 (5) A ~~Any~~ person who willfully commits a violation
794 specified in paragraph (1)(b) or who commits a violation
795 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor
796 of the first degree punishable as provided in ss. 775.082(4)(a)
797 and 775.083(1)(g) by a fine of not more than \$10,000 or by 6
798 months in jail, or by both for each offense.

799 Section 17. Paragraph (a) of subsection (6) of section
800 403.413, Florida Statutes, is amended to read:

801 403.413 Florida Litter Law.—

802 (6) PENALTIES; ENFORCEMENT.—

803 (a) Any person who dumps litter in violation of subsection
 804 (4) in an amount not exceeding 15 pounds in weight or 27 cubic
 805 feet in volume and not for commercial purposes commits ~~is guilty~~
 806 ~~of~~ a noncriminal infraction, punishable by a civil penalty of
 807 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid
 808 Waste Management Trust Fund to be used for the solid waste
 809 management grant program pursuant to s. 403.7095. In addition,
 810 the court may require the violator to pick up litter or perform
 811 other labor commensurate with the offense committed.

812 Section 18. Subsection (5) of section 403.7234, Florida
 813 Statutes, is amended to read:

814 403.7234 Small quantity generator notification and
 815 verification program.—

816 (5) Any small quantity generator who does not comply with
 817 the requirements of subsection (4) and who has received a
 818 notification and survey in person or through one certified
 819 letter from the county is subject to a fine of between \$75 ~~\$50~~
 820 and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may
 821 collect such fines and deposit them in its general revenue fund.
 822 Fines collected by the county shall be used to carry out the
 823 notification and verification procedure established in this
 824 section. If there are excess funds after the notification and
 825 verification procedures have been completed, such funds shall be

826 | used for hazardous and solid waste management purposes only.

827 | Section 19. Subsection (3) of section 403.726, Florida
828 | Statutes, is amended to read:

829 | 403.726 Abatement of imminent hazard caused by hazardous
830 | substance.—

831 | (3) An imminent hazard exists if any hazardous substance
832 | creates an immediate and substantial danger to human health,
833 | safety, or welfare or to the environment. The department may
834 | institute action in its own name, using the procedures and
835 | remedies of s. 403.121 or s. 403.131, to abate an imminent
836 | hazard. However, the department is authorized to recover a civil
837 | penalty of not more than \$37,500 ~~\$25,000~~ for each day of
838 | continued violation. Whenever serious harm to human health,
839 | safety, and welfare; the environment; or private or public
840 | property may occur before ~~prior to~~ completion of an
841 | administrative hearing or other formal proceeding that which
842 | might be initiated to abate the risk of serious harm, the
843 | department may obtain, ex parte, an injunction without paying
844 | filing and service fees before ~~prior to~~ the filing and service
845 | of process.

846 | Section 20. Paragraph (a) of subsection (3) of section
847 | 403.727, Florida Statutes, is amended to read:

848 | 403.727 Violations; defenses, penalties, and remedies.—

849 | (3) Violations of the provisions of this act are
850 | punishable as follows:

851 (a) Any person who violates ~~the provisions of~~ this act,
 852 the rules or orders of the department, or the conditions of a
 853 permit is liable to the state for any damages specified in s.
 854 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~
 855 for each day of continued violation, except as otherwise
 856 provided herein. The department may revoke any permit issued to
 857 the violator. In any action by the department against a small
 858 hazardous waste generator for the improper disposal of hazardous
 859 wastes, a rebuttable presumption of improper disposal shall be
 860 created if the generator was notified pursuant to s. 403.7234;
 861 the generator shall then have the burden of proving that the
 862 disposal was proper. If the generator was not so notified, the
 863 burden of proving improper disposal shall be placed upon the
 864 department.

865 Section 21. Subsection (8) of section 403.93345, Florida
 866 Statutes, is amended to read:

867 403.93345 Coral reef protection.—

868 (8) In addition to the compensation described in
 869 subsection (5), the department may assess, per occurrence, civil
 870 penalties according to the following schedule:

871 (a) For any anchoring of a vessel on a coral reef or for
 872 any other damage to a coral reef totaling less than or equal to
 873 an area of 1 square meter, \$225 ~~\$150~~, provided that a
 874 responsible party who has anchored a recreational vessel as
 875 defined in s. 327.02 which is lawfully registered or exempt from

876 registration pursuant to chapter 328 is issued, at least once, a
877 warning letter in lieu of penalty; with aggravating
878 circumstances, an additional \$225 ~~\$150~~; occurring within a state
879 park or aquatic preserve, an additional \$225 ~~\$150~~.

880 (b) For damage totaling more than an area of 1 square
881 meter but less than or equal to an area of 10 square meters,
882 \$450 ~~\$300~~ per square meter; with aggravating circumstances, an
883 additional \$450 ~~\$300~~ per square meter; occurring within a state
884 park or aquatic preserve, an additional \$450 ~~\$300~~ per square
885 meter.

886 (c) For damage exceeding an area of 10 square meters,
887 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,
888 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a
889 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per
890 square meter.

891 (d) For a second violation, the total penalty may be
892 doubled.

893 (e) For a third violation, the total penalty may be
894 tripled.

895 (f) For any violation after a third violation, the total
896 penalty may be quadrupled.

897 (g) The total of penalties levied may not exceed \$375,000
898 ~~\$250,000~~ per occurrence.

899 Section 22. For the purpose of incorporating the amendment
900 made by this act to s. 376.16, Florida Statutes, in a reference

901 thereto, subsection (5) of s. 823.11, Florida Statutes, is
 902 reenacted to read:

903 823.11 Derelict vessels; relocation or removal; penalty.—

904 (5) A person, firm, or corporation violating this section
 905 commits a misdemeanor of the first degree and shall be punished
 906 as provided by law. A conviction under this section does not bar
 907 the assessment and collection of the civil penalty provided in
 908 s. 376.16 for violation of s. 376.15. The court having
 909 jurisdiction over the criminal offense, notwithstanding any
 910 jurisdictional limitations on the amount in controversy, may
 911 order the imposition of such civil penalty in addition to any
 912 sentence imposed for the first criminal offense.

913 Section 23. For the purpose of incorporating the amendment
 914 made by this act to section 403.121, Florida Statutes, in a
 915 reference thereto, subsection (5) of section 403.077, Florida
 916 Statutes, is reenacted to read:

917 403.077 Public notification of pollution.—

918 (5) VIOLATIONS.—Failure to provide the notification
 919 required by subsection (2) shall subject the owner or operator
 920 to the civil penalties specified in s. 403.121.

921 Section 24. For the purpose of incorporating the amendment
 922 made by this act to section 403.121, Florida Statutes, in a
 923 reference thereto, subsection (2) of section 403.131, Florida
 924 Statutes, is reenacted to read:

925 403.131 Injunctive relief, remedies.—

926 (2) All the judicial and administrative remedies to
 927 recover damages and penalties in this section and s. 403.121 are
 928 alternative and mutually exclusive.

929 Section 25. For the purpose of incorporating the amendment
 930 made by this act to section 403.121, Florida Statutes, in a
 931 reference thereto, paragraph (d) of subsection (3) of section
 932 403.4154, Florida Statutes, is reenacted to read:

933 403.4154 Phosphogypsum management program.—

934 (3) ABATEMENT OF IMMINENT HAZARD.—

935 (d) If the department determines that the failure of an
 936 owner or operator to comply with department rules requiring
 937 demonstration of financial responsibility or that the physical
 938 condition, maintenance, operation, or closure of a phosphogypsum
 939 stack system poses an imminent hazard, the department shall
 940 request access to the property on which such stack system is
 941 located from the owner or operator of the stack system for the
 942 purposes of taking action to abate or substantially reduce the
 943 imminent hazard. If the department, after reasonable effort, is
 944 unable to timely obtain the necessary access to abate or
 945 substantially reduce the imminent hazard, the department may
 946 institute action in its own name, using the procedures and
 947 remedies of s. 403.121 or s. 403.131, to abate or substantially
 948 reduce an imminent hazard. Whenever serious harm to human
 949 health, safety, or welfare, to the environment, or to private or
 950 public property may occur before ~~prior to~~ completion of an

951 administrative hearing or other formal proceeding that might be
 952 initiated to abate the risk of serious harm, the department may
 953 obtain from the court, *ex parte*, an injunction without paying
 954 filing and service fees before ~~prior to~~ the filing and service
 955 of process.

956 Section 26. For the purpose of incorporating the amendment
 957 made by this act to section 403.121, Florida Statutes, in a
 958 reference thereto, subsection (5) of section 403.860, Florida
 959 Statutes, is reenacted to read:

960 403.860 Penalties and remedies.—

961 (5) In addition to any judicial or administrative remedy
 962 authorized by this part, the department or a county health
 963 department that has received approval by the department pursuant
 964 to s. 403.862(1)(c) shall assess administrative penalties for
 965 violations of this section in accordance with s. 403.121.

966 Section 27. For the purpose of incorporating the amendment
 967 made by this act to section 403.141, Florida Statutes, in a
 968 reference thereto, subsection (10) of section 403.708, Florida
 969 Statutes, is reenacted to read:

970 403.708 Prohibition; penalty.—

971 (10) Violations of this part or rules, regulations,
 972 permits, or orders issued thereunder by the department and
 973 violations of approved local programs of counties or
 974 municipalities or rules, regulations, or orders issued
 975 thereunder are punishable by a civil penalty as provided in s.

976 403.141.

977 Section 28. For the purpose of incorporating the amendment
 978 made by this act to section 403.141, Florida Statutes, in a
 979 reference thereto, subsection (7) of section 403.7191, Florida
 980 Statutes, is reenacted to read:

981 403.7191 Toxics in packaging.—

982 (7) ENFORCEMENT.—It is unlawful for any person to:

983 (a) Violate any provision of this section or any rule
 984 adopted or order issued thereunder by the department.

985 (b) Tender for sale to a purchaser any package, packaging
 986 component, or packaged product in violation of this section or
 987 any rule adopted or order issued thereunder.

988 (c) Furnish a certificate of compliance with respect to
 989 any package or packaging component which does not comply with
 990 the provisions of subsection (3).

991 (d) Provide a certificate of compliance that contains
 992 false information.

993

994 Violations shall be punishable by a civil penalty as provided in
 995 s. 403.141.

996 Section 29. For the purpose of incorporating the amendment
 997 made by this act to section 403.141, Florida Statutes, in a
 998 reference thereto, section 403.811, Florida Statutes, is
 999 reenacted to read:

1000 403.811 Dredge and fill permits issued pursuant to this

1001 chapter and s. 373.414.—Permits or other orders addressing
 1002 dredging and filling in, on, or over waters of the state issued
 1003 pursuant to this chapter or s. 373.414(9) before the effective
 1004 date of rules adopted under s. 373.414(9) and permits or other
 1005 orders issued in accordance with s. 373.414(13), (14), (15), or
 1006 (16) shall remain valid through the duration specified in the
 1007 permit or order, unless revoked by the agency issuing the
 1008 permit. The agency issuing the permit or other order may seek to
 1009 enjoin the violation of, or to enforce compliance with, the
 1010 permit or other order as provided in ss. 403.121, 403.131,
 1011 403.141, and 403.161. A violation of a permit or other order
 1012 addressing dredging or filling issued pursuant to this chapter
 1013 is punishable by a civil penalty as provided in s. 403.141 or a
 1014 criminal penalty as provided in s. 403.161.

1015 Section 30. For the purpose of incorporating the
 1016 amendments made by this act to sections 403.141 and 403.161,
 1017 Florida Statutes, in references thereto, subsection (8) of
 1018 section 403.7186, Florida Statutes, is reenacted to read:

1019 403.7186 Environmentally sound management of mercury-
 1020 containing devices and lamps.—

1021 (8) CIVIL PENALTY.—A person who engages in any act or
 1022 practice declared in this section to be prohibited or unlawful,
 1023 or who violates any of the rules of the department promulgated
 1024 under this section, is liable to the state for any damage caused
 1025 and for civil penalties in accordance with s. 403.141. The

1026 provisions of s. 403.161 are not applicable to this section. The
1027 penalty may be waived if the person previously has taken
1028 appropriate corrective action to remedy the actual damages, if
1029 any, caused by the unlawful act or practice or rule violation. A
1030 civil penalty so collected shall accrue to the state and shall
1031 be deposited as received into the Solid Waste Management Trust
1032 Fund for the purposes specified in paragraph (5) (a).

1033 Section 31. For the purpose of incorporating the amendment
1034 made by this act to section 403.161, Florida Statutes, in a
1035 reference thereto, subsection (2) of section 403.7255, Florida
1036 Statutes, is reenacted to read:

1037 403.7255 Placement of signs.—

1038 (2) Violations of this act are punishable as provided in
1039 s. 403.161(4).

1040 Section 32. This act shall take effect July 1, 2020.