



333976

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 564 - 725

and insert:

department shall assess a penalty of \$2,000 ~~\$1,000~~. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation



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11 exceedance that resulted in a surface water or groundwater
12 quality violation, the department shall assess a penalty of
13 \$10,000 ~~\$5,000~~. Each day the cause of an unauthorized discharge
14 of domestic wastewater is not addressed constitutes a separate
15 offense.

16 (c) For a dredge and fill or stormwater violation, the
17 department shall assess a penalty of \$1,500 ~~\$1,000~~ for
18 unpermitted or unauthorized dredging or filling or unauthorized
19 construction of a stormwater management system against the
20 person or persons responsible for the illegal dredging or
21 filling, or unauthorized construction of a stormwater management
22 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in
23 an aquatic preserve, an Outstanding Florida Water, a
24 conservation easement, or a Class I or Class II surface water,
25 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
26 one-quarter acre but less than or equal to one-half acre, and
27 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
28 one-half acre but less than or equal to one acre. The
29 administrative penalty schedule does ~~shall~~ not apply to a dredge
30 and fill violation if the area dredged or filled exceeds one
31 acre. The department retains the authority to seek the judicial
32 imposition of civil penalties for all dredge and fill violations
33 involving more than one acre. The department shall assess a
34 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required
35 mitigation, failure to record a required conservation easement,
36 or for a water quality violation resulting from dredging or
37 filling activities, stormwater construction activities or
38 failure of a stormwater treatment facility. For stormwater
39 management systems serving less than 5 acres, the department



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40 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to
41 properly or timely construct a stormwater management system. In
42 addition to the penalties authorized in this subsection, the
43 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
44 against the contractor or agent of the owner or tenant that
45 conducts unpermitted or unauthorized dredging or filling. For
46 purposes of this paragraph, the preparation or signing of a
47 permit application by a person currently licensed under chapter
48 471 to practice as a professional engineer does ~~shall~~ not make
49 that person an agent of the owner or tenant.

50 (d) For mangrove trimming or alteration violations, the
51 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
52 against the contractor or agent of the owner or tenant that
53 conducts mangrove trimming or alteration without a permit as
54 required by s. 403.9328. For purposes of this paragraph, the
55 preparation or signing of a permit application by a person
56 currently licensed under chapter 471 to practice as a
57 professional engineer does ~~shall~~ not make that person an agent
58 of the owner or tenant.

59 (e) For solid waste violations, the department shall assess
60 a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized
61 disposal or storage of solid waste; plus \$1,000 if the solid
62 waste is Class I or Class III (excluding yard trash) or if the
63 solid waste is construction and demolition debris in excess of
64 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of
65 or stored in any natural or artificial body of water or within
66 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the
67 waste contains PCB at a concentration of 50 parts per million or
68 greater; untreated biomedical waste; friable asbestos greater



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69 than 1 cubic meter which is not wetted, bagged, and covered;
70 used oil greater than 25 gallons; or 10 or more lead acid
71 batteries. The department shall assess a penalty of \$4,500
72 ~~\$3,000~~ for failure to properly maintain leachate control;
73 unauthorized burning; failure to have a trained spotter on duty
74 at the working face when accepting waste; or failure to provide
75 access control for three consecutive inspections. The department
76 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct
77 or maintain a required stormwater management system.

78 (f) For an air emission violation, the department shall
79 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or
80 unauthorized air emission or an air-emission-permit exceedance,
81 ~~plus \$1,000 if the emission results in an air quality violation,~~
82 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and
83 the source was major for the pollutant in violation; plus \$1,500
84 ~~\$1,000~~ if the emission was more than 150 percent of the
85 allowable level.

86 (g) For storage tank system and petroleum contamination
87 violations, the department shall assess a penalty of \$7,500
88 ~~\$5,000~~ for failure to empty a damaged storage system as
89 necessary to ensure that a release does not occur until repairs
90 to the storage system are completed; when a release has occurred
91 from that storage tank system; for failure to timely recover
92 free product; or for failure to conduct remediation or
93 monitoring activities until a no-further-action or site-
94 rehabilitation completion order has been issued. The department
95 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely
96 upgrade a storage tank system. The department shall assess a
97 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain



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98 required release detection; failure to timely investigate a
99 suspected release from a storage system; depositing motor fuel
100 into an unregistered storage tank system; failure to timely
101 assess or remediate petroleum contamination; or failure to
102 properly install a storage tank system. The department shall
103 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly
104 operate, maintain, or close a storage tank system.

105 (a) In an administrative proceeding, in addition to the
106 penalties that may be assessed under subsection (3), the
107 department shall assess administrative penalties according to
108 the following schedule:

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

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

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

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

118 (e) For failure to maintain required staff to respond to
119 emergencies; failure to conduct required training; failure to
120 prepare, maintain, or update required contingency plans; failure
121 to adequately respond to emergencies to bring an emergency
122 situation under control; or failure to submit required
123 notification to the department, \$1,500 ~~\$1,000~~.

124 (f) Except as provided in subsection (2) with respect to
125 public water systems serving a population of more than 10,000,
126 for failure to prepare, submit, maintain, or use required



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127 reports or other required documentation, \$750 ~~\$500~~.

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

133 (6) For each additional day during which a violation
134 occurs, the administrative penalties in subsections ~~subsection~~
135 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day
136 per violation.

137 (7) The history of noncompliance of the violator for any
138 previous violation resulting in an executed consent order, but
139 not including a consent order entered into without a finding of
140 violation, or resulting in a final order or judgment after the
141 effective date of this law involving the imposition of \$3,000
142 ~~\$2,000~~ or more in penalties shall be taken into consideration in
143 the following manner:

144 (a) One previous such violation within 5 years prior to the
145 filing of the notice of violation will result in a 25-percent
146 per day increase in the scheduled administrative penalty.

147 (b) Two previous such violations within 5 years prior to
148 the filing of the notice of violation will result in a 50-
149 percent per day increase in the scheduled administrative
150 penalty.

151 (c) Three or more previous such violations within 5 years
152 prior to the filing of the notice of violation will result in a
153 100-percent per day increase in the scheduled administrative
154 penalty.

155 (8) The direct economic benefit gained by the violator from



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156 the violation, where consideration of economic benefit is
157 provided by Florida law or required by federal law as part of a
158 federally delegated or approved program, shall be added to the
159 scheduled administrative penalty. The total administrative
160 penalty, including any economic benefit added to the scheduled
161 administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

162 (9) The administrative penalties assessed for any
163 particular violation may ~~shall~~ not exceed \$10,000 ~~\$5,000~~ against
164 any one violator, unless the violator has a history of
165 noncompliance, the economic benefit of the violation as
166 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are

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168 ===== T I T L E A M E N D M E N T =====

169 And the title is amended as follows:

170 Delete line 2

171 and insert:

172 An act relating to environmental accountability;
173 amending