

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

---

1 Committee/Subcommittee hearing bill: State Affairs Committee  
 2 Representative Fine offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

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

161.054 Administrative fines; liability for damage; liens.-

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person, firm, corporation, or governmental agency, or agent thereof, refusing to comply with or willfully violating ~~any of the provisions of~~ s. 161.041, s. 161.052, or s. 161.053, or any rule or order prescribed by the department thereunder, shall incur a fine for each offense in an amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected

Amendment No.

17 by the department. Each day during any portion of which such  
18 violation occurs constitutes a separate offense.

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

21 258.397 Biscayne Bay Aquatic Preserve.—

22 (7) ENFORCEMENT.—~~The provisions of~~ This section may be  
23 enforced in accordance with ~~the provisions of~~ s. 403.412. In  
24 addition, the Department of Legal Affairs may ~~is authorized to~~  
25 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day  
26 against any person, natural or corporate, who violates ~~the~~  
27 ~~provisions of~~ this section or any rule or regulation issued  
28 hereunder. Each day during any portion of which such violation  
29 occurs constitutes a separate offense. Enforcement of applicable  
30 state regulations shall be supplemented by the Miami-Dade County  
31 Department of Environmental Resources Management through the  
32 creation of a full-time enforcement presence along the Miami  
33 River.

34 Section 3. Section 258.46, Florida Statutes, is amended to  
35 read:

36 258.46 Enforcement; violations; penalty.—~~The provisions of~~  
37 This act may be enforced by the Board of Trustees of the  
38 Internal Improvement Trust Fund or in accordance with ~~the~~  
39 ~~provisions of~~ s. 403.412. However, any violation by any person,  
40 natural or corporate, of ~~the provisions of~~ this act or any rule  
41 or regulation issued hereunder is ~~shall be~~ further punishable by

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

42 a civil penalty of not less than \$750 ~~\$500~~ per day or more than  
43 \$7,500 ~~\$5,000~~ per day of such violation. Each day during any  
44 portion of which such violation occurs constitutes a separate  
45 offense.

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

48 373.129 Maintenance of actions.—The department, the  
49 governing board of any water management district, any local  
50 board, or a local government to which authority has been  
51 delegated pursuant to s. 373.103(8), is authorized to commence  
52 and maintain proper and necessary actions and proceedings in any  
53 court of competent jurisdiction for any of the following  
54 purposes:

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

59 (a) A civil penalty recovered by a water management  
60 district pursuant to this subsection shall be retained and used  
61 exclusively by the water management district that collected the  
62 money. A civil penalty recovered by the department pursuant to  
63 this subsection must be deposited into the Water Quality  
64 Assurance Trust Fund established under s. 376.307.

65 (b) A local government that is delegated authority  
66 pursuant to s. 373.103(8) may deposit a civil penalty recovered

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

67 pursuant to this subsection into a local water pollution control  
68 program trust fund, notwithstanding ~~the provisions of~~ paragraph  
69 (a). However, civil penalties that are deposited in a local  
70 water pollution control program trust fund and that are  
71 recovered for violations of state water quality standards may be  
72 used only to restore water quality in the area that was the  
73 subject of the action, and civil penalties that are deposited in  
74 a local water pollution control program trust fund and that are  
75 recovered for violation of requirements relating to water  
76 quantity may be used only to purchase lands and make capital  
77 improvements associated with surface water management, or other  
78 purposes consistent with the requirements of this chapter for  
79 the management and storage of surface water.

80 (7) To enforce ~~the provisions of~~ part IV of this chapter  
81 in the same manner and to the same extent as provided in ss.  
82 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

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

85 373.209 Artesian wells; penalties for violation.—

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

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

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

91 The civil penalty may be recovered by the water management board

Amendment No.

92 of the water management district in which the well is located or  
93 by the department in a suit in a court of competent jurisdiction  
94 in the county where the defendant resides, in the county of  
95 residence of any defendant if there is more than one defendant,  
96 or in the county where the violation took place. The place of  
97 suit shall be selected by the board or department, and the suit,  
98 by direction of the board or department, shall be instituted and  
99 conducted in the name of the board or department by appropriate  
100 counsel. The payment of any such damages does not impair or  
101 abridge any cause of action which any person may have against  
102 the person violating ~~any provision of~~ this section.

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

105 373.430 Prohibitions, violation, penalty, intent.—

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

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

Amendment No.

116 (4) A ~~Any~~ person who commits a violation specified in  
117 paragraph (1)(a) or paragraph (1)(b) due to reckless  
118 indifference or gross careless disregard commits ~~is guilty of~~ a  
119 misdemeanor of the second degree, punishable as provided in ss.  
120 775.082(4)(b) and 775.083(1)(g), by a fine of not more than  
121 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

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

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

130 376.065 Operation of terminal facility without discharge  
131 prevention and response certificate prohibited; penalty.-

132 (5) (a) A person who violates this section or the terms and  
133 requirements of such certification commits a noncriminal  
134 infraction. The civil penalty for any such infraction shall be  
135 \$750 ~~\$500~~, except as otherwise provided in this section.

136 (e) A person who elects to appear before the county court  
137 or who is required to so appear waives the limitations of the  
138 civil penalty specified in paragraph (a). The court, after a  
139 hearing, shall make a determination as to whether an infraction

Amendment No.

140 has been committed. If the commission of the infraction is  
141 proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

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

144 376.071 Discharge contingency plan for vessels.—

145 (2) (a) A master of a vessel that violates subsection (1)  
146 commits a noncriminal infraction and shall be cited for such  
147 infraction. The civil penalty for such an infraction shall be  
148 \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

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

155 Section 9. Section 376.16, Florida Statutes, is amended to  
156 read:

157 376.16 Enforcement and penalties.—

158 (1) It is unlawful for any person to violate ~~any provision~~  
159 ~~of~~ ss. 376.011-376.21 or any rule or order of the department  
160 made pursuant to this act. A violation is ~~shall be~~ punishable by  
161 a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day  
162 to be assessed by the department. Each day during any portion of  
163 which the violation occurs constitutes a separate offense. The  
164 penalty provisions of this subsection do ~~shall~~ not apply to any

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

165 discharge promptly reported and removed by a person responsible,  
166 in accordance with the rules and orders of the department, or to  
167 any discharge of pollutants equal to or less than 5 gallons.

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

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

179 (b) For discharges of any pollutant other than gasoline or  
180 diesel, the civil penalty for a second discharge shall be \$3,750  
181 ~~\$2,500~~ and the civil penalty for each subsequent discharge  
182 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as  
183 otherwise provided in this section.

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



Amendment No.

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

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

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

196 (a) Pay the civil penalty;

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

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

201

202 The department employee authorized to issue these citations may  
203 indicate on the citation the time and location of the scheduled  
204 hearing and shall indicate the applicable civil penalty.

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

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

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

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

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

215  
216 A person cited for an infraction under this section who pays the  
217 civil penalty or forfeits the bond has admitted the infraction  
218 and waives the right to a hearing on the issue of commission of  
219 the infraction. Such admission may not be used as evidence in  
220 any other proceeding.

221 (7) Any person who elects to appear before the county  
222 court or who is required to appear waives the limitations of the  
223 civil penalties specified in subsection (2). The court, after a  
224 hearing, shall make a determination as to whether an infraction  
225 has been committed. If the commission of an infraction is  
226 proved, the court may impose a civil penalty up to, but not  
227 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or  
228 diesel and a civil penalty up to, but not exceeding, \$1,500  
229 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel  
230 within a 12-month period.

231 (8) Any person who elects to appear before the county  
232 court or who is required to appear waives the limitations of the  
233 civil penalties specified in subsection (2) or subsection (3).  
234 The court, after a hearing, shall make a determination as to  
235 whether an infraction has been committed. If the commission of  
236 an infraction is proved, the court may impose a civil penalty up  
237 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

238 pollutants other than gasoline or diesel and a civil penalty up  
239 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent  
240 discharge of pollutants other than gasoline or diesel within a  
241 12-month period.

242 (9) At a hearing under this section, the commission of a  
243 charged offense must be proved by the greater weight of the  
244 evidence.

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

248 (11) Any person who has not posted bond and who neither  
249 pays the applicable civil penalty, as specified in subsection  
250 (2) or subsection (3) within 30 days of receipt of the citation  
251 nor appears before the court commits a misdemeanor of the second  
252 degree, punishable as provided in s. 775.082 or s. 775.083.

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

258 Section 10. Paragraph (a) of subsection (6) of section  
259 376.25, Florida Statutes, is amended to read:

260 376.25 Gambling vessels; registration; required and  
261 prohibited releases.-

262 (6) PENALTIES.-

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

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

267 Section 11. Paragraph (a) of subsection (1) of section  
268 377.37, Florida Statutes, is amended to read:

269 377.37 Penalties.—

270 (1) (a) Any person who violates ~~any provision of~~ this law  
271 or any rule, regulation, or order of the division made under  
272 this chapter or who violates the terms of any permit to drill  
273 for or produce oil, gas, or other petroleum products referred to  
274 in s. 377.242(1) or to store gas in a natural gas storage  
275 facility, or any lessee, permitholder, or operator of equipment  
276 or facilities used in the exploration for, drilling for, or  
277 production of oil, gas, or other petroleum products, or storage  
278 of gas in a natural gas storage facility, who refuses inspection  
279 by the division as provided in this chapter, is liable to the  
280 state for any damage caused to the air, waters, or property,  
281 including animal, plant, or aquatic life, of the state and for  
282 reasonable costs and expenses of the state in tracing the source  
283 of the discharge, in controlling and abating the source and the  
284 pollutants, and in restoring the air, waters, and property,  
285 including animal, plant, and aquatic life, of the state.  
286 Furthermore, such person, lessee, permitholder, or operator is  
287 subject to the judicial imposition of a civil penalty in an

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

288 amount of not more than \$15,000 ~~\$10,000~~ for each offense.  
289 However, the court may receive evidence in mitigation. Each day  
290 during any portion of which such violation occurs constitutes a  
291 separate offense. This section does not ~~Nothing herein shall~~  
292 give the department the right to bring an action on behalf of  
293 any private person.

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

296 378.211 Violations; damages; penalties.—

297 (2) The department may institute a civil action in a court  
298 of competent jurisdiction to impose and recover a civil penalty  
299 for violation of this part or of any rule adopted or order  
300 issued pursuant to this part. The penalty may ~~shall~~ not exceed  
301 the following amounts, and the court shall consider evidence in  
302 mitigation:

303 (a) For violations of a minor or technical nature, \$150  
304 ~~\$100~~ per violation.

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

308 (c) For major violations not covered by paragraph (b),  
309 \$7,500 ~~\$5,000~~ per violation.

310

Amendment No.

311 Subject to ~~the provisions of~~ subsection (4), each day or any  
312 portion thereof in which the violation continues shall  
313 constitute a separate violation.

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

316 403.086 Sewage disposal facilities; advanced and secondary  
317 waste treatment.—

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

325 Section 14. Section 403.121, Florida Statutes, is amended  
326 to read:

327 403.121 Enforcement; procedure; remedies.—The department  
328 shall have the following judicial and administrative remedies  
329 available to it for violations of this chapter, as specified in  
330 s. 403.161(1).

331 (1) Judicial remedies:

332 (a) The department may institute a civil action in a court  
333 of competent jurisdiction to establish liability and to recover  
334 damages for any injury to the air, waters, or property,

Amendment No.

335 including animal, plant, and aquatic life, of the state caused  
336 by any violation.

337 (b) The department may institute a civil action in a court  
338 of competent jurisdiction to impose and to recover a civil  
339 penalty for each violation in an amount of not more than \$15,000  
340 ~~\$10,000~~ per offense. However, the court may receive evidence in  
341 mitigation. Each day during any portion of which such violation  
342 occurs constitutes a separate offense.

343 (c) Except as provided in paragraph (2)(c), it is ~~shall~~  
344 not ~~be~~ a defense to, or ground for dismissal of, these judicial  
345 remedies for damages and civil penalties that the department has  
346 failed to exhaust its administrative remedies, has failed to  
347 serve a notice of violation, or has failed to hold an  
348 administrative hearing prior to the institution of a civil  
349 action.

350 (2) Administrative remedies:

351 (a) The department may institute an administrative  
352 proceeding to establish liability and to recover damages for any  
353 injury to the air, waters, or property, including animal, plant,  
354 or aquatic life, of the state caused by any violation. The  
355 department may order that the violator pay a specified sum as  
356 damages to the state. Judgment for the amount of damages  
357 determined by the department may be entered in any court having  
358 jurisdiction thereof and may be enforced as any other judgment.

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

359 (b) If the department has reason to believe a violation  
360 has occurred, it may institute an administrative proceeding to  
361 order the prevention, abatement, or control of the conditions  
362 creating the violation or other appropriate corrective action.  
363 Except for violations involving hazardous wastes, asbestos, or  
364 underground injection, the department shall proceed  
365 administratively in all cases in which the department seeks  
366 administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per  
367 assessment as calculated in accordance with subsections (3),  
368 (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the  
369 administrative penalty assessed pursuant to subsection (3),  
370 subsection (4), or subsection (5) against a public water system  
371 serving a population of more than 10,000 shall be not less than  
372 \$1,000 per day per violation. The department may ~~shall~~ not  
373 impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in  
374 a notice of violation. The department may ~~shall~~ not have more  
375 than one notice of violation seeking administrative penalties  
376 pending against the same party at the same time unless the  
377 violations occurred at a different site or the violations were  
378 discovered by the department subsequent to the filing of a  
379 previous notice of violation.

380 (c) An administrative proceeding shall be instituted by  
381 the department's serving of a written notice of violation upon  
382 the alleged violator by certified mail. If the department is  
383 unable to effect service by certified mail, the notice of



Amendment No.

384 violation may be hand delivered or personally served in  
385 accordance with chapter 48. The notice shall specify the  
386 ~~provision of the~~ law, rule, regulation, permit, certification,  
387 or order of the department alleged to be violated and the facts  
388 alleged to constitute a violation thereof. An order for  
389 corrective action, penalty assessment, or damages may be  
390 included with the notice. When the department is seeking to  
391 impose an administrative penalty for any violation by issuing a  
392 notice of violation, any corrective action needed to correct the  
393 violation or damages caused by the violation must be pursued in  
394 the notice of violation or they are waived. However, an ~~no~~ order  
395 is not ~~shall become~~ effective until after service and an  
396 administrative hearing, if requested within 20 days after  
397 service. Failure to request an administrative hearing within  
398 this time period constitutes ~~shall constitute~~ a waiver thereof,  
399 unless the respondent files a written notice with the department  
400 within this time period opting out of the administrative process  
401 initiated by the department to impose administrative penalties.  
402 Any respondent choosing to opt out of the administrative process  
403 initiated by the department in an action that seeks the  
404 imposition of administrative penalties must file a written  
405 notice with the department within 20 days after service of the  
406 notice of violation opting out of the administrative process. A  
407 respondent's decision to opt out of the administrative process  
408 does not preclude the department from initiating a state court

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

409 action seeking injunctive relief, damages, and the judicial  
410 imposition of civil penalties.

411 (d) If a person timely files a petition challenging a  
412 notice of violation, that person will thereafter be referred to  
413 as the respondent. The hearing requested by the respondent shall  
414 be held within 180 days after the department has referred the  
415 initial petition to the Division of Administrative Hearings  
416 unless the parties agree to a later date. The department has the  
417 burden of proving with the preponderance of the evidence that  
418 the respondent is responsible for the violation. ~~No~~

419 Administrative penalties should not be imposed unless the  
420 department satisfies that burden. Following the close of the  
421 hearing, the administrative law judge shall issue a final order  
422 on all matters, including the imposition of an administrative  
423 penalty. When the department seeks to enforce that portion of a  
424 final order imposing administrative penalties pursuant to s.  
425 120.69, the respondent may ~~shall~~ not assert as a defense the  
426 inappropriateness of the administrative remedy. The department  
427 retains its final-order authority in all administrative actions  
428 that do not request the imposition of administrative penalties.

429 (e) After filing a petition requesting a formal hearing in  
430 response to a notice of violation in which the department  
431 imposes an administrative penalty, a respondent may request that  
432 a private mediator be appointed to mediate the dispute by  
433 contacting the Florida Conflict Resolution Consortium within 10

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Published On: 2/26/2020 7:19:20 PM

Amendment No.

434 days after receipt of the initial order from the administrative  
435 law judge. The Florida Conflict Resolution Consortium shall pay  
436 all of the costs of the mediator and for up to 8 hours of the  
437 mediator's time per case at \$150 per hour. Upon notice from the  
438 respondent, the Florida Conflict Resolution Consortium shall  
439 provide to the respondent a panel of possible mediators from the  
440 area in which the hearing on the petition would be heard. The  
441 respondent shall select the mediator and notify the Florida  
442 Conflict Resolution Consortium of the selection within 15 days  
443 of receipt of the proposed panel of mediators. The Florida  
444 Conflict Resolution Consortium shall provide all of the  
445 administrative support for the mediation process. The mediation  
446 must be completed at least 15 days before the final hearing date  
447 set by the administrative law judge.

448 (f) In any administrative proceeding brought by the  
449 department, the prevailing party shall recover all costs as  
450 provided in ss. 57.041 and 57.071. The costs must be included in  
451 the final order. The respondent is the prevailing party when an  
452 order is entered awarding no penalties to the department and  
453 such order has not been reversed on appeal or the time for  
454 seeking judicial review has expired. The respondent is ~~shall be~~  
455 entitled to an award of attorney's fees if the administrative  
456 law judge determines that the notice of violation issued by the  
457 department seeking the imposition of administrative penalties  
458 was not substantially justified as defined in s. 57.111(3)(e).

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

459 An ~~No~~ award of attorney's fees as provided by this subsection  
460 may not ~~shall~~ exceed \$15,000.

461 (g) Nothing herein shall be construed as preventing any  
462 other legal or administrative action in accordance with law.  
463 Nothing in this subsection shall limit the department's  
464 authority provided in ss. 403.131, 403.141, and this section to  
465 judicially pursue injunctive relief. When the department  
466 exercises its authority to judicially pursue injunctive relief,  
467 penalties in any amount up to the statutory maximum sought by  
468 the department must be pursued as part of the state court action  
469 and not by initiating a separate administrative proceeding. The  
470 department retains the authority to judicially pursue penalties  
471 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
472 included in the administrative penalty schedule, or for multiple  
473 or multiday violations alleged to exceed a total of \$50,000  
474 ~~\$10,000~~. The department also retains the authority provided in  
475 ss. 403.131, 403.141, and this section to judicially pursue  
476 injunctive relief and damages, if a notice of violation seeking  
477 the imposition of administrative penalties has not been issued.  
478 The department has the authority to enter into a settlement,  
479 either before or after initiating a notice of violation, and the  
480 settlement may include a penalty amount different from the  
481 administrative penalty schedule. Any case filed in state court  
482 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

483 penalties may be settled in the court action for less than  
484 \$50,000 ~~\$10,000~~.

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

488 (3) Except for violations involving hazardous wastes,  
489 asbestos, or underground injection, administrative penalties  
490 must be calculated according to the following schedule:

491 (a) For a drinking water contamination violation, the  
492 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum  
493 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the  
494 violation is for a primary inorganic, organic, or radiological  
495 Maximum Contaminant Level or it is a fecal coliform bacteria  
496 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a  
497 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum  
498 Contaminant Level is exceeded by more than 100 percent. For  
499 failure to obtain a clearance letter prior to placing a drinking  
500 water system into service when the system would not have been  
501 eligible for clearance, the department shall assess a penalty of  
502 \$4,500 ~~\$3,000~~.

503 (b) For failure to obtain a required wastewater permit,  
504 other than a permit required for surface water discharge, the  
505 department shall assess a penalty of \$2,000 ~~\$1,000~~. For a  
506 domestic or industrial wastewater violation not involving a  
507 surface water or groundwater quality violation, the department

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

508 shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or  
509 unauthorized discharge or effluent-limitation exceedance. For an  
510 unpermitted or unauthorized discharge or effluent-limitation  
511 exceedance that resulted in a surface water or groundwater  
512 quality violation, the department shall assess a penalty of  
513 \$10,000 ~~\$5,000~~. Each day the cause of an unauthorized discharge  
514 of domestic wastewater is not addressed constitutes a separate  
515 offense.

516 (c) For a dredge and fill or stormwater violation, the  
517 department shall assess a penalty of \$1,500 ~~\$1,000~~ for  
518 unpermitted or unauthorized dredging or filling or unauthorized  
519 construction of a stormwater management system against the  
520 person or persons responsible for the illegal dredging or  
521 filling, or unauthorized construction of a stormwater management  
522 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in  
523 an aquatic preserve, an Outstanding Florida Water, a  
524 conservation easement, or a Class I or Class II surface water,  
525 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
526 one-quarter acre but less than or equal to one-half acre, and  
527 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
528 one-half acre but less than or equal to one acre. The  
529 administrative penalty schedule does ~~shall~~ not apply to a dredge  
530 and fill violation if the area dredged or filled exceeds one  
531 acre. The department retains the authority to seek the judicial  
532 imposition of civil penalties for all dredge and fill violations

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

533 involving more than one acre. The department shall assess a  
534 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required  
535 mitigation, failure to record a required conservation easement,  
536 or for a water quality violation resulting from dredging or  
537 filling activities, stormwater construction activities or  
538 failure of a stormwater treatment facility. For stormwater  
539 management systems serving less than 5 acres, the department  
540 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to  
541 properly or timely construct a stormwater management system. In  
542 addition to the penalties authorized in this subsection, the  
543 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
544 against the contractor or agent of the owner or tenant that  
545 conducts unpermitted or unauthorized dredging or filling. For  
546 purposes of this paragraph, the preparation or signing of a  
547 permit application by a person currently licensed under chapter  
548 471 to practice as a professional engineer does ~~shall~~ not make  
549 that person an agent of the owner or tenant.

550 (d) For mangrove trimming or alteration violations, the  
551 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
552 against the contractor or agent of the owner or tenant that  
553 conducts mangrove trimming or alteration without a permit as  
554 required by s. 403.9328. For purposes of this paragraph, the  
555 preparation or signing of a permit application by a person  
556 currently licensed under chapter 471 to practice as a

Amendment No.

557 professional engineer does ~~shall~~ not make that person an agent  
558 of the owner or tenant.

559 (e) For solid waste violations, the department shall  
560 assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or  
561 unauthorized disposal or storage of solid waste; plus \$1,000 if  
562 the solid waste is Class I or Class III (excluding yard trash)  
563 or if the solid waste is construction and demolition debris in  
564 excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is  
565 disposed of or stored in any natural or artificial body of water  
566 or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~  
567 if the waste contains PCB at a concentration of 50 parts per  
568 million or greater; untreated biomedical waste; friable asbestos  
569 greater than 1 cubic meter which is not wetted, bagged, and  
570 covered; used oil greater than 25 gallons; or 10 or more lead  
571 acid batteries. The department shall assess a penalty of \$4,500  
572 ~~\$3,000~~ for failure to properly maintain leachate control;  
573 unauthorized burning; failure to have a trained spotter on duty  
574 at the working face when accepting waste; or failure to provide  
575 access control for three consecutive inspections. The department  
576 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct  
577 or maintain a required stormwater management system.

578 (f) For an air emission violation, the department shall  
579 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or  
580 unauthorized air emission or an air-emission-permit exceedance,  
581 ~~plus \$1,000 if the emission results in an air quality violation,~~

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM



Amendment No.

582 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and  
583 the source was major for the pollutant in violation; plus \$1,500  
584 ~~\$1,000~~ if the emission was more than 150 percent of the  
585 allowable level.

586 (g) For storage tank system and petroleum contamination  
587 violations, the department shall assess a penalty of \$7,500  
588 ~~\$5,000~~ for failure to empty a damaged storage system as  
589 necessary to ensure that a release does not occur until repairs  
590 to the storage system are completed; when a release has occurred  
591 from that storage tank system; for failure to timely recover  
592 free product; or for failure to conduct remediation or  
593 monitoring activities until a no-further-action or site-  
594 rehabilitation completion order has been issued. The department  
595 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely  
596 upgrade a storage tank system. The department shall assess a  
597 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain  
598 required release detection; failure to timely investigate a  
599 suspected release from a storage system; depositing motor fuel  
600 into an unregistered storage tank system; failure to timely  
601 assess or remediate petroleum contamination; or failure to  
602 properly install a storage tank system. The department shall  
603 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly  
604 operate, maintain, or close a storage tank system.

605 (4) In an administrative proceeding, in addition to the  
606 penalties that may be assessed under subsection (3), the

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

607 department shall assess administrative penalties according to  
608 the following schedule:

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

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

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

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

618 (e) For failure to maintain required staff to respond to  
619 emergencies; failure to conduct required training; failure to  
620 prepare, maintain, or update required contingency plans; failure  
621 to adequately respond to emergencies to bring an emergency  
622 situation under control; or failure to submit required  
623 notification to the department, \$1,500 ~~\$1,000~~.

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

628 (5) Except as provided in subsection (2) with respect to  
629 public water systems serving a population of more than 10,000,  
630 for failure to comply with any other departmental regulatory

Amendment No.

631 statute or rule requirement not otherwise identified in this  
632 section, the department may assess a penalty of \$1,000 ~~\$500~~.

633 (6) For each additional day during which a violation  
634 occurs, the administrative penalties in subsections ~~subsection~~  
635 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day  
636 per violation.

637 (7) The history of noncompliance of the violator for any  
638 previous violation resulting in an executed consent order, but  
639 not including a consent order entered into without a finding of  
640 violation, or resulting in a final order or judgment after the  
641 effective date of this law involving the imposition of \$3,000  
642 ~~\$2,000~~ or more in penalties shall be taken into consideration in  
643 the following manner:

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

648 (b) Two previous such violations within 5 years prior to  
649 the filing of the notice of violation will result in a 50-  
650 percent per day increase in the scheduled administrative  
651 penalty.

652 (c) Three or more previous such violations within 5 years  
653 prior to the filing of the notice of violation will result in a  
654 100-percent per day increase in the scheduled administrative  
655 penalty.

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1091 (2020)

Amendment No.

656 (8) The direct economic benefit gained by the violator  
657 from the violation, where consideration of economic benefit is  
658 provided by Florida law or required by federal law as part of a  
659 federally delegated or approved program, shall be added to the  
660 scheduled administrative penalty. The total administrative  
661 penalty, including any economic benefit added to the scheduled  
662 administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

663 (9) The administrative penalties assessed for any  
664 particular violation may ~~shall~~ not exceed \$10,000 ~~\$5,000~~ against  
665 any one violator, unless the violator has a history of  
666 noncompliance, the economic benefit of the violation as  
667 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are  
668 multiday violations. The total administrative penalties may  
669 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all  
670 violations attributable to a specific person in the notice of  
671 violation.

672 (10) The administrative law judge may receive evidence in  
673 mitigation. The penalties identified in subsections ~~subsection~~  
674 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50  
675 percent by the administrative law judge for mitigating  
676 circumstances, including good faith efforts to comply prior to  
677 or after discovery of the violations by the department. Upon an  
678 affirmative finding that the violation was caused by  
679 circumstances beyond the reasonable control of the respondent

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

680 and could not have been prevented by respondent's due diligence,  
681 the administrative law judge may further reduce the penalty.

682 (11) Penalties collected pursuant to this section shall be  
683 deposited into the Water Quality Assurance Trust Fund or other  
684 trust fund designated by statute and shall be used to fund the  
685 restoration of ecosystems, or polluted areas of the state, as  
686 defined by the department, to their condition before pollution  
687 occurred. The Florida Conflict Resolution Consortium may use a  
688 portion of the fund to administer the mediation process provided  
689 in paragraph (2)(e) and to contract with private mediators for  
690 administrative penalty cases.

691 (12) The purpose of the administrative penalty schedule  
692 and process is to provide a more predictable and efficient  
693 manner for individuals and businesses to resolve relatively  
694 minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~  
695 ~~(3), subsection (4), subsection (5), subsection (6), or~~  
696 ~~subsection (7) shall not be construed as limiting a state court~~  
697 in the assessment of damages. The administrative penalty  
698 schedule does not apply to the judicial imposition of civil  
699 penalties in state court as provided in this section.

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

702 403.141 Civil liability; joint and several liability.—

703 (1) A person who ~~Whoever~~ commits a violation specified in  
704 s. 403.161(1) is liable to the state for any damage caused to

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

705 the air, waters, or property, including animal, plant, or  
706 aquatic life, of the state and for reasonable costs and expenses  
707 of the state in tracing the source of the discharge, in  
708 controlling and abating the source and the pollutants, and in  
709 restoring the air, waters, and property, including animal,  
710 plant, and aquatic life, of the state to their former condition,  
711 and furthermore is subject to the judicial imposition of a civil  
712 penalty for each offense in an amount of not more than \$15,000  
713 ~~\$10,000~~ per offense. However, the court may receive evidence in  
714 mitigation. Each day during any portion of which such violation  
715 occurs constitutes a separate offense. If a violation is an  
716 unauthorized discharge of domestic wastewater, each day the  
717 cause of the violation is not addressed constitutes a separate  
718 offense until the violation is resolved by order or judgment.  
719 Nothing herein gives ~~shall give~~ the department the right to  
720 bring an action on behalf of any private person.

721 Section 16. Subsections (2) through (5) of section  
722 403.161, Florida Statutes, are amended to read:

723 403.161 Prohibitions, violation, penalty, intent.—

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

727 (3) A ~~Any~~ person who willfully commits a violation  
728 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of  
729 the third degree, punishable as provided in ss. 775.082(3)(e)

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

730 and 775.083(1)(g) by a fine of not more than \$50,000 or by  
731 imprisonment for 5 years, or by both, for each offense. Each day  
732 during any portion of which such violation occurs constitutes a  
733 separate offense.

734 (4) A ~~Any~~ person who commits a violation specified in  
735 paragraph (1)(a) or paragraph (1)(b) due to reckless  
736 indifference or gross careless disregard commits ~~is guilty of~~ a  
737 misdemeanor of the second degree, punishable as provided in ss.  
738 775.082(4)(b) and 775.083(1)(g) by a fine of not more than  
739 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each  
740 offense.

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

747 Section 17. Paragraph (a) of subsection (6) of section  
748 403.413, Florida Statutes, is amended to read:

749 403.413 Florida Litter Law.—

750 (6) PENALTIES; ENFORCEMENT.—

751 (a) Any person who dumps litter in violation of subsection  
752 (4) in an amount not exceeding 15 pounds in weight or 27 cubic  
753 feet in volume and not for commercial purposes commits ~~is guilty~~  
754 ~~of~~ a noncriminal infraction, punishable by a civil penalty of

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1091 (2020)

Amendment No.

755 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid  
756 Waste Management Trust Fund to be used for the solid waste  
757 management grant program pursuant to s. 403.7095. In addition,  
758 the court may require the violator to pick up litter or perform  
759 other labor commensurate with the offense committed.

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

762 403.7234 Small quantity generator notification and  
763 verification program.—

764 (5) Any small quantity generator who does not comply with  
765 the requirements of subsection (4) and who has received a  
766 notification and survey in person or through one certified  
767 letter from the county is subject to a fine of between \$75 ~~\$50~~  
768 and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may  
769 collect such fines and deposit them in its general revenue fund.  
770 Fines collected by the county shall be used to carry out the  
771 notification and verification procedure established in this  
772 section. If there are excess funds after the notification and  
773 verification procedures have been completed, such funds shall be  
774 used for hazardous and solid waste management purposes only.

775 Section 19. Subsection (3) of section 403.726, Florida  
776 Statutes, is amended to read:

777 403.726 Abatement of imminent hazard caused by hazardous  
778 substance.—

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM



Amendment No.

779 (3) An imminent hazard exists if any hazardous substance  
780 creates an immediate and substantial danger to human health,  
781 safety, or welfare or to the environment. The department may  
782 institute action in its own name, using the procedures and  
783 remedies of s. 403.121 or s. 403.131, to abate an imminent  
784 hazard. However, the department is authorized to recover a civil  
785 penalty of not more than \$37,500 ~~\$25,000~~ for each day of  
786 continued violation. Whenever serious harm to human health,  
787 safety, and welfare; the environment; or private or public  
788 property may occur prior to completion of an administrative  
789 hearing or other formal proceeding that which might be initiated  
790 to abate the risk of serious harm, the department may obtain, ex  
791 parte, an injunction without paying filing and service fees  
792 prior to the filing and service of process.

793 Section 20. Paragraph (a) of subsection (3) of section  
794 403.727, Florida Statutes, is amended to read:

795 403.727 Violations; defenses, penalties, and remedies.—

796 (3) Violations of the provisions of this act are  
797 punishable as follows:

798 (a) Any person who violates ~~the provisions of~~ this act,  
799 the rules or orders of the department, or the conditions of a  
800 permit is liable to the state for any damages specified in s.  
801 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~  
802 for each day of continued violation, except as otherwise  
803 provided herein. The department may revoke any permit issued to

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

804 the violator. In any action by the department against a small  
805 hazardous waste generator for the improper disposal of hazardous  
806 wastes, a rebuttable presumption of improper disposal shall be  
807 created if the generator was notified pursuant to s. 403.7234;  
808 the generator shall then have the burden of proving that the  
809 disposal was proper. If the generator was not so notified, the  
810 burden of proving improper disposal shall be placed upon the  
811 department.

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

814 403.93345 Coral reef protection.—

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

818 (a) For any anchoring of a vessel on a coral reef or for  
819 any other damage to a coral reef totaling less than or equal to  
820 an area of 1 square meter, \$225 ~~\$150~~, provided that a  
821 responsible party who has anchored a recreational vessel as  
822 defined in s. 327.02 which is lawfully registered or exempt from  
823 registration pursuant to chapter 328 is issued, at least once, a  
824 warning letter in lieu of penalty; with aggravating  
825 circumstances, an additional \$225 ~~\$150~~; occurring within a state  
826 park or aquatic preserve, an additional \$225 ~~\$150~~.

827 (b) For damage totaling more than an area of 1 square  
828 meter but less than or equal to an area of 10 square meters,

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

829 \$450 ~~\$300~~ per square meter; with aggravating circumstances, an  
830 additional \$450 ~~\$300~~ per square meter; occurring within a state  
831 park or aquatic preserve, an additional \$450 ~~\$300~~ per square  
832 meter.

833 (c) For damage exceeding an area of 10 square meters,  
834 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,  
835 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a  
836 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per  
837 square meter.

838 (d) For a second violation, the total penalty may be  
839 doubled.

840 (e) For a third violation, the total penalty may be  
841 tripled.

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

844 (g) The total of penalties levied may not exceed \$375,000  
845 ~~\$250,000~~ per occurrence.

846 Section 22. For the purpose of incorporating the amendment  
847 made by this act to s. 376.16, Florida Statutes, in a reference  
848 thereto, subsection (5) of s. 823.11, Florida Statutes, is  
849 reenacted to read:

850 823.11 Derelict vessels; relocation or removal; penalty.—

851 (5) A person, firm, or corporation violating this section  
852 commits a misdemeanor of the first degree and shall be punished  
853 as provided by law. A conviction under this section does not bar

Amendment No.

854 the assessment and collection of the civil penalty provided in  
855 s. 376.16 for violation of s. 376.15. The court having  
856 jurisdiction over the criminal offense, notwithstanding any  
857 jurisdictional limitations on the amount in controversy, may  
858 order the imposition of such civil penalty in addition to any  
859 sentence imposed for the first criminal offense.

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

864 403.077 Public notification of pollution.—

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

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

872 403.131 Injunctive relief, remedies.—

873 (2) All the judicial and administrative remedies to  
874 recover damages and penalties in this section and s. 403.121 are  
875 alternative and mutually exclusive.

876 Section 25. For the purpose of incorporating the amendment  
877 made by this act to section 403.121, Florida Statutes, in a

Amendment No.

878 reference thereto, paragraph (d) of subsection (3) of section  
879 403.4154, Florida Statutes, is reenacted to read:  
880 403.4154 Phosphogypsum management program.—  
881 (3) ABATEMENT OF IMMINENT HAZARD.—  
882 (d) If the department determines that the failure of an  
883 owner or operator to comply with department rules requiring  
884 demonstration of financial responsibility or that the physical  
885 condition, maintenance, operation, or closure of a phosphogypsum  
886 stack system poses an imminent hazard, the department shall  
887 request access to the property on which such stack system is  
888 located from the owner or operator of the stack system for the  
889 purposes of taking action to abate or substantially reduce the  
890 imminent hazard. If the department, after reasonable effort, is  
891 unable to timely obtain the necessary access to abate or  
892 substantially reduce the imminent hazard, the department may  
893 institute action in its own name, using the procedures and  
894 remedies of s. 403.121 or s. 403.131, to abate or substantially  
895 reduce an imminent hazard. Whenever serious harm to human  
896 health, safety, or welfare, to the environment, or to private or  
897 public property may occur prior to completion of an  
898 administrative hearing or other formal proceeding that might be  
899 initiated to abate the risk of serious harm, the department may  
900 obtain from the court, ex parte, an injunction without paying  
901 filing and service fees prior to the filing and service of  
902 process.

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

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

907 403.860 Penalties and remedies.—

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

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

917 403.708 Prohibition; penalty.—

918 (10) Violations of this part or rules, regulations,  
919 permits, or orders issued thereunder by the department and  
920 violations of approved local programs of counties or  
921 municipalities or rules, regulations, or orders issued  
922 thereunder are punishable by a civil penalty as provided in s.  
923 403.141.

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

075531 - h1091-strike.docx

Published On: 2/26/2020 7:19:20 PM

Amendment No.

928 403.7191 Toxics in packaging.—

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

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

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

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

938 (d) Provide a certificate of compliance that contains  
939 false information.

940

941 Violations shall be punishable by a civil penalty as provided in  
942 s. 403.141.

943 Section 29. For the purpose of incorporating the amendment  
944 made by this act to section 403.141, Florida Statutes, in a  
945 reference thereto, section 403.811, Florida Statutes, is  
946 reenacted to read:

947 403.811 Dredge and fill permits issued pursuant to this  
948 chapter and s. 373.414.—Permits or other orders addressing  
949 dredging and filling in, on, or over waters of the state issued  
950 pursuant to this chapter or s. 373.414(9) before the effective  
951 date of rules adopted under s. 373.414(9) and permits or other  
952 orders issued in accordance with s. 373.414(13), (14), (15), or

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Amendment No.

953 (16) shall remain valid through the duration specified in the  
954 permit or order, unless revoked by the agency issuing the  
955 permit. The agency issuing the permit or other order may seek to  
956 enjoin the violation of, or to enforce compliance with, the  
957 permit or other order as provided in ss. 403.121, 403.131,  
958 403.141, and 403.161. A violation of a permit or other order  
959 addressing dredging or filling issued pursuant to this chapter  
960 is punishable by a civil penalty as provided in s. 403.141 or a  
961 criminal penalty as provided in s. 403.161.

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

966 403.7186 Environmentally sound management of mercury-  
967 containing devices and lamps.—

968 (8) CIVIL PENALTY.—A person who engages in any act or  
969 practice declared in this section to be prohibited or unlawful,  
970 or who violates any of the rules of the department promulgated  
971 under this section, is liable to the state for any damage caused  
972 and for civil penalties in accordance with s. 403.141. The  
973 provisions of s. 403.161 are not applicable to this section. The  
974 penalty may be waived if the person previously has taken  
975 appropriate corrective action to remedy the actual damages, if  
976 any, caused by the unlawful act or practice or rule violation. A  
977 civil penalty so collected shall accrue to the state and shall

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Published On: 2/26/2020 7:19:20 PM



Amendment No.

978 be deposited as received into the Solid Waste Management Trust  
979 Fund for the purposes specified in paragraph (5)(a).

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

984 403.7255 Placement of signs.—

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

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

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**T I T L E A M E N D M E N T**

991 Remove everything before the enacting clause and insert:  
992 An act relating to environmental enforcement; amending s.  
993 161.054, F.S.; revising administrative penalties for  
994 violations of certain provisions relating to beach and  
995 shore construction and activities; making technical  
996 changes; amending ss. 258.397, 258.46, and 376.25, F.S.;  
997 revising civil penalties for violations of certain  
998 provisions relating to the Biscayne Bay Aquatic Preserve,  
999 aquatic preserves, and the Clean Ocean Act, respectively;  
1000 providing that each day that certain violations occur  
1001 constitutes a separate offense; making technical changes;  
1002 amending ss. 373.129, 373.209, 376.065, 376.071, 376.16,

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1091 (2020)

Amendment No.

1003 377.37, 378.211, 403.086, 403.413, 403.7234, and 403.93345,  
1004 F.S.; revising civil penalties for violations of certain  
1005 provisions relating to water resources, artesian wells,  
1006 terminal facilities, discharge contingency plans for  
1007 vessels, the Pollutant Discharge Prevention and Control  
1008 Act, regulation of oil and gas resources, the Phosphate  
1009 Land Reclamation Act, sewage disposal facilities, dumping  
1010 litter, small quantity generators, and coral reef  
1011 protection, respectively; making technical changes;  
1012 amending ss. 373.430 and 403.161, F.S.; revising criminal  
1013 penalties for violations of certain provisions relating to  
1014 pollution and the environment; making technical changes;  
1015 amending s. 403.121, F.S.; revising civil and  
1016 administrative penalties for violations of certain  
1017 provisions relating to pollution and the environment;  
1018 providing that each day that certain violations occur  
1019 constitutes a separate offense; increasing the amount of  
1020 penalties that can be assessed administratively; making  
1021 technical changes; amending s. 403.141, F.S.; revising  
1022 civil penalties for violations of certain provisions  
1023 relating to pollution and the environment; providing that  
1024 each day that the cause of unauthorized discharges of  
1025 domestic wastewater is not addressed constitutes a separate  
1026 offense until the violation is resolved by order or  
1027 judgment; amending ss. 403.726 and 403.727, F.S.; revising

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1091 (2020)

Amendment No.

1028 civil penalties for violations of certain provisions  
1029 relating to hazardous waste; making technical changes;  
1030 reenacting s. 823.11(5), F.S., to incorporate the amendment  
1031 made to s. 376.16, F.S., in a reference thereto; reenacting  
1032 ss. 403.077(5), 403.131(2), 403.4154(3)(d), and 403.860(5),  
1033 F.S., to incorporate the amendment made to s. 403.121,  
1034 F.S., in references thereto; reenacting ss. 403.708(10),  
1035 403.7191(7), and 403.811, F.S., to incorporate the  
1036 amendment made to s. 403.141, F.S., in references thereto;  
1037 reenacting s. 403.7255(2), F.S., to incorporate the  
1038 amendment made to s. 403.161, F.S., in a reference thereto;  
1039 reenacting s. 403.7186(8), F.S., to incorporate the  
1040 amendments made to ss. 403.141 and 403.161, F.S., in  
1041 references thereto; providing an effective date.

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