

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WITHDRAWN	_____	(Y/N)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: Agriculture & Natural
 2 Resources Subcommittee

3 Representative Fine offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 161.054 Administrative fines; liability for damage;
 10 liens.—

11 (1) In addition to the penalties provided for in ss.
 12 161.052, 161.053, and 161.121, any person, firm, corporation, or
 13 governmental agency, or agent thereof, refusing to comply with
 14 or willfully violating ~~any of the provisions of~~ s. 161.041, s.
 15 161.052, or s. 161.053, or any rule or order prescribed by the
 16 department thereunder, shall incur a fine for each offense in an

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17 amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected
18 by the department. Until a violation is resolved by order or
19 judgment, each day during any portion of which such violation
20 occurs or is not remediated constitutes a separate offense.

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

23 258.397 Biscayne Bay Aquatic Preserve.—

24 (7) ENFORCEMENT.—~~The provisions of~~ This section may be
25 enforced in accordance with ~~the provisions of~~ s. 403.412. In
26 addition, the Department of Legal Affairs may ~~is authorized to~~
27 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day
28 against any person, natural or corporate, who violates ~~the~~
29 ~~provisions of~~ this section or any rule or regulation issued
30 hereunder. Until a violation is resolved by order or judgment,
31 each day during any portion of which such violation occurs or is
32 not remediated constitutes a separate offense. Enforcement of
33 applicable state regulations shall be supplemented by the Miami-
34 Dade County Department of Environmental Resources Management
35 through the creation of a full-time enforcement presence along
36 the Miami River.

37 Section 3. Section 258.46, Florida Statutes, is amended to
38 read:

39 258.46 Enforcement; violations; penalty.—~~The provisions of~~
40 This act may be enforced by the Board of Trustees of the
41 Internal Improvement Trust Fund or in accordance with ~~the~~

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42 ~~provisions of s. 403.412. However, any violation by any person,~~
43 ~~natural or corporate, of the provisions of this act or any rule~~
44 ~~or regulation issued hereunder is shall be further punishable by~~
45 ~~a civil penalty of not less than \$750 ~~\$500~~ per day or more than~~
46 ~~\$7,500 ~~\$5,000~~ per day of such violation. Until a violation is~~
47 ~~resolved by order or judgment, each day during any portion of~~
48 ~~which such violation occurs or is not remediated constitutes a~~
49 ~~separate offense.~~

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

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

59 (5) To recover a civil penalty for each offense in an
60 amount not to exceed \$15,000 ~~\$10,000~~ per offense. Until a
61 violation is resolved by order or judgment, each date during any
62 portion of which such violation occurs or is not remediated
63 constitutes a separate offense.

64 (a) A civil penalty recovered by a water management
65 district pursuant to this subsection shall be retained and used
66 exclusively by the water management district that collected the

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67 money. A civil penalty recovered by the department pursuant to
68 this subsection must be deposited into the Water Quality
69 Assurance Trust Fund established under s. 376.307.

70 (b) A local government that is delegated authority
71 pursuant to s. 373.103(8) may deposit a civil penalty recovered
72 pursuant to this subsection into a local water pollution control
73 program trust fund, notwithstanding ~~the provisions of~~ paragraph
74 (a). However, civil penalties that are deposited in a local
75 water pollution control program trust fund and that are
76 recovered for violations of state water quality standards may be
77 used only to restore water quality in the area that was the
78 subject of the action, and civil penalties that are deposited in
79 a local water pollution control program trust fund and that are
80 recovered for violation of requirements relating to water
81 quantity may be used only to purchase lands and make capital
82 improvements associated with surface water management, or other
83 purposes consistent with the requirements of this chapter for
84 the management and storage of surface water.

85 (7) To enforce ~~the provisions of~~ part IV of this chapter
86 in the same manner and to the same extent as provided in ss.
87 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

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

90 373.209 Artesian wells; penalties for violation.—

91 (3) Any person who violates ~~any provision of~~ this section

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92 is shall be subject to either:

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

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

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

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

110 373.430 Prohibitions, violation, penalty, intent.—

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

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

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

121 (4) A ~~Any~~ person who commits a violation specified in
122 paragraph (1)(a) or paragraph (1)(b) due to reckless
123 indifference or gross careless disregard commits ~~is guilty of~~ a
124 misdemeanor of the second degree, punishable as provided in ss.
125 775.082(4)(b) and 775.083(1)(g), by a fine of not more than
126 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

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

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

135 376.065 Operation of terminal facility without discharge
136 prevention and response certificate prohibited; penalty.—

137 (5)(a) A person who violates this section or the terms and
138 requirements of such certification commits a noncriminal
139 infraction. The civil penalty for any such infraction shall be
140 \$750 ~~\$500~~, except as otherwise provided in this section.

141 (e) A person who elects to appear before the county court

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142 or who is required to so appear waives the limitations of the
143 civil penalty specified in paragraph (a). The court, after a
144 hearing, shall make a determination as to whether an infraction
145 has been committed. If the commission of the infraction is
146 proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

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

149 376.071 Discharge contingency plan for vessels.—

150 (2) (a) A master of a vessel that violates subsection (1)
151 commits a noncriminal infraction and shall be cited for such
152 infraction. The civil penalty for such an infraction shall be
153 \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

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

160 Section 9. Section 376.16, Florida Statutes, is amended to
161 read:

162 376.16 Enforcement and penalties.—

163 (1) It is unlawful for any person to violate ~~any provision~~
164 ~~of~~ ss. 376.011-376.21 or any rule or order of the department
165 made pursuant to this act. A violation is ~~shall be~~ punishable by
166 a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day

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167 to be assessed by the department. Until a violation is resolved
168 by order or judgment, each day during any portion of which the
169 violation occurs or is not remediated constitutes a separate
170 offense. The penalty provisions of this subsection do ~~shall~~ not
171 apply to any discharge promptly reported and removed by a person
172 responsible, in accordance with the rules and orders of the
173 department, or to any discharge of pollutants equal to or less
174 than 5 gallons.

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

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

186 (b) For discharges of any pollutant other than gasoline or
187 diesel, the civil penalty for a second discharge shall be \$3,750
188 ~~\$2,500~~ and the civil penalty for each subsequent discharge
189 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as
190 otherwise provided in this section.

191 (3) A person responsible for two or more discharges of any

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192 pollutant reported pursuant to s. 376.12 within a 12-month
193 period at the same facility commits a noncriminal infraction and
194 shall be cited by the department for such infraction.

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

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

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

203 (a) Pay the civil penalty;

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

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

208

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

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

215 (6) After compliance with paragraph (4) (b) or paragraph
216 (4) (c), any person charged with a noncriminal infraction under

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217 subsection (2) or subsection (3) may:

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

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

222

223 A person cited for an infraction under this section who pays the
224 civil penalty or forfeits the bond has admitted the infraction
225 and waives the right to a hearing on the issue of commission of
226 the infraction. Such admission may not be used as evidence in
227 any other proceeding.

228 (7) Any person who elects to appear before the county
229 court or who is required to appear waives the limitations of the
230 civil penalties specified in subsection (2). The court, after a
231 hearing, shall make a determination as to whether an infraction
232 has been committed. If the commission of an infraction is
233 proved, the court may impose a civil penalty up to, but not
234 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or
235 diesel and a civil penalty up to, but not exceeding, \$1,500
236 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel
237 within a 12-month period.

238 (8) Any person who elects to appear before the county
239 court or who is required to appear waives the limitations of the
240 civil penalties specified in subsection (2) or subsection (3).
241 The court, after a hearing, shall make a determination as to

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242 whether an infraction has been committed. If the commission of
243 an infraction is proved, the court may impose a civil penalty up
244 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of
245 pollutants other than gasoline or diesel and a civil penalty up
246 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent
247 discharge of pollutants other than gasoline or diesel within a
248 12-month period.

249 (9) At a hearing under this section, the commission of a
250 charged offense must be proved by the greater weight of the
251 evidence.

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

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

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

265 Section 10. Paragraph (a) of subsection (6) of section
266 376.25, Florida Statutes, is amended to read:

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267 376.25 Gambling vessels; registration; required and
268 prohibited releases.—

269 (6) PENALTIES.—

270 (a) A person who violates this section is subject to a
271 civil penalty of not more than \$75,000 ~~\$50,000~~ for each
272 violation. Until a violation is resolved by order or judgment,
273 each day during any portion of which such violation occurs or is
274 not remediated constitutes a separate offense.

275 Section 11. Paragraph (a) of subsection (1) of section
276 377.37, Florida Statutes, is amended to read:

277 377.37 Penalties.—

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

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292 pollutants, and in restoring the air, waters, and property,
293 including animal, plant, and aquatic life, of the state.
294 Furthermore, such person, lessee, permitholder, or operator is
295 subject to the judicial imposition of a civil penalty in an
296 amount of not more than \$15,000 ~~\$10,000~~ for each offense.
297 However, the court may receive evidence in mitigation. Until a
298 violation is resolved by order or judgment, each day during any
299 portion of which such violation occurs or is not remediated
300 constitutes a separate offense. This section does not ~~Nothing~~
301 ~~herein shall~~ give the department the right to bring an action on
302 behalf of any private person.

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

305 378.211 Violations; damages; penalties.—

306 (2) The department may institute a civil action in a court
307 of competent jurisdiction to impose and recover a civil penalty
308 for violation of this part or of any rule adopted or order
309 issued pursuant to this part. The penalty may ~~shall~~ not exceed
310 the following amounts, and the court shall consider evidence in
311 mitigation:

312 (a) For violations of a minor or technical nature, \$150
313 ~~\$100~~ per violation.

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

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317 (c) For major violations not covered by paragraph (b),
318 \$7,500 ~~\$5,000~~ per violation.

319
320 Subject to ~~the provisions of~~ subsection (4), until a violation
321 is resolved by order or judgment, each day or any portion
322 thereof in which the violation continues or is not remediated
323 shall constitute a separate violation.

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

326 403.086 Sewage disposal facilities; advanced and secondary
327 waste treatment.—

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

335 Section 14. Section 403.121, Florida Statutes, is amended
336 to read:

337 403.121 Enforcement; procedure; remedies.—The department
338 shall have the following judicial and administrative remedies
339 available to it for violations of this chapter, as specified in
340 s. 403.161(1).

341 (1) Judicial remedies:

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342 (a) The department may institute a civil action in a court
343 of competent jurisdiction to establish liability and to recover
344 damages for any injury to the air, waters, or property,
345 including animal, plant, and aquatic life, of the state caused
346 by any violation.

347 (b) The department may institute a civil action in a court
348 of competent jurisdiction to impose and to recover a civil
349 penalty for each violation in an amount of not more than \$15,000
350 ~~\$10,000~~ per offense. However, the court may receive evidence in
351 mitigation. Until a violation is resolved by order or judgment,
352 each day during any portion of which such violation occurs or is
353 not remediated constitutes a separate offense.

354 (c) Except as provided in paragraph (2)(c), it is ~~shall~~
355 not ~~be~~ a defense to, or ground for dismissal of, these judicial
356 remedies for damages and civil penalties that the department has
357 failed to exhaust its administrative remedies, has failed to
358 serve a notice of violation, or has failed to hold an
359 administrative hearing prior to the institution of a civil
360 action.

361 (2) Administrative remedies:

362 (a) The department may institute an administrative
363 proceeding to establish liability and to recover damages for any
364 injury to the air, waters, or property, including animal, plant,
365 or aquatic life, of the state caused by any violation. The
366 department may order that the violator pay a specified sum as

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367 damages to the state. Judgment for the amount of damages
368 determined by the department may be entered in any court having
369 jurisdiction thereof and may be enforced as any other judgment.

370 (b) If the department has reason to believe a violation
371 has occurred, it may institute an administrative proceeding to
372 order the prevention, abatement, or control of the conditions
373 creating the violation or other appropriate corrective action.
374 Except for violations involving hazardous wastes, asbestos, or
375 underground injection, the department shall proceed
376 administratively in all cases in which the department seeks
377 administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per
378 assessment as calculated in accordance with subsections (3),
379 (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the
380 administrative penalty assessed pursuant to subsection (3),
381 subsection (4), or subsection (5) against a public water system
382 serving a population of more than 10,000 shall be not less than
383 \$1,000 per day per violation. The department may ~~shall~~ not
384 impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in
385 a notice of violation. The department may ~~shall~~ not have more
386 than one notice of violation seeking administrative penalties
387 pending against the same party at the same time unless the
388 violations occurred at a different site or the violations were
389 discovered by the department subsequent to the filing of a
390 previous notice of violation.

391 (c) An administrative proceeding shall be instituted by

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392 the department's serving of a written notice of violation upon
393 the alleged violator by certified mail. If the department is
394 unable to effect service by certified mail, the notice of
395 violation may be hand delivered or personally served in
396 accordance with chapter 48. The notice shall specify the
397 ~~provision of the~~ law, rule, regulation, permit, certification,
398 or order of the department alleged to be violated and the facts
399 alleged to constitute a violation thereof. An order for
400 corrective action, penalty assessment, or damages may be
401 included with the notice. When the department is seeking to
402 impose an administrative penalty for any violation by issuing a
403 notice of violation, any corrective action needed to correct the
404 violation or damages caused by the violation must be pursued in
405 the notice of violation or they are waived. However, an ~~an~~ order
406 is not ~~shall become~~ effective until after service and an
407 administrative hearing, if requested within 20 days after
408 service. Failure to request an administrative hearing within
409 this time period constitutes ~~shall constitute~~ a waiver thereof,
410 unless the respondent files a written notice with the department
411 within this time period opting out of the administrative process
412 initiated by the department to impose administrative penalties.
413 Any respondent choosing to opt out of the administrative process
414 initiated by the department in an action that seeks the
415 imposition of administrative penalties must file a written
416 notice with the department within 20 days after service of the

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417 notice of violation opting out of the administrative process. A
418 respondent's decision to opt out of the administrative process
419 does not preclude the department from initiating a state court
420 action seeking injunctive relief, damages, and the judicial
421 imposition of civil penalties.

422 (d) If a person timely files a petition challenging a
423 notice of violation, that person will thereafter be referred to
424 as the respondent. The hearing requested by the respondent shall
425 be held within 180 days after the department has referred the
426 initial petition to the Division of Administrative Hearings
427 unless the parties agree to a later date. The department has the
428 burden of proving with the preponderance of the evidence that
429 the respondent is responsible for the violation. ~~No~~
430 Administrative penalties should not be imposed unless the
431 department satisfies that burden. Following the close of the
432 hearing, the administrative law judge shall issue a final order
433 on all matters, including the imposition of an administrative
434 penalty. When the department seeks to enforce that portion of a
435 final order imposing administrative penalties pursuant to s.
436 120.69, the respondent may ~~shall~~ not assert as a defense the
437 inappropriateness of the administrative remedy. The department
438 retains its final-order authority in all administrative actions
439 that do not request the imposition of administrative penalties.

440 (e) After filing a petition requesting a formal hearing in
441 response to a notice of violation in which the department

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442 imposes an administrative penalty, a respondent may request that
443 a private mediator be appointed to mediate the dispute by
444 contacting the Florida Conflict Resolution Consortium within 10
445 days after receipt of the initial order from the administrative
446 law judge. The Florida Conflict Resolution Consortium shall pay
447 all of the costs of the mediator and for up to 8 hours of the
448 mediator's time per case at \$150 per hour. Upon notice from the
449 respondent, the Florida Conflict Resolution Consortium shall
450 provide to the respondent a panel of possible mediators from the
451 area in which the hearing on the petition would be heard. The
452 respondent shall select the mediator and notify the Florida
453 Conflict Resolution Consortium of the selection within 15 days
454 of receipt of the proposed panel of mediators. The Florida
455 Conflict Resolution Consortium shall provide all of the
456 administrative support for the mediation process. The mediation
457 must be completed at least 15 days before the final hearing date
458 set by the administrative law judge.

459 (f) In any administrative proceeding brought by the
460 department, the prevailing party shall recover all costs as
461 provided in ss. 57.041 and 57.071. The costs must be included in
462 the final order. The respondent is the prevailing party when an
463 order is entered awarding no penalties to the department and
464 such order has not been reversed on appeal or the time for
465 seeking judicial review has expired. The respondent is ~~shall be~~
466 entitled to an award of attorney's fees if the administrative

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467 law judge determines that the notice of violation issued by the
468 department seeking the imposition of administrative penalties
469 was not substantially justified as defined in s. 57.111(3)(e).
470 An ~~Ne~~ award of attorney's fees as provided by this subsection
471 may not ~~shall~~ exceed \$15,000.

472 (g) Nothing herein shall be construed as preventing any
473 other legal or administrative action in accordance with law.
474 Nothing in this subsection shall limit the department's
475 authority provided in ss. 403.131, 403.141, and this section to
476 judicially pursue injunctive relief. When the department
477 exercises its authority to judicially pursue injunctive relief,
478 penalties in any amount up to the statutory maximum sought by
479 the department must be pursued as part of the state court action
480 and not by initiating a separate administrative proceeding. The
481 department retains the authority to judicially pursue penalties
482 in excess of \$50,000 ~~\$10,000~~ for violations not specifically
483 included in the administrative penalty schedule, or for multiple
484 or multiday violations alleged to exceed a total of \$50,000
485 ~~\$10,000~~. The department also retains the authority provided in
486 ss. 403.131, 403.141, and this section to judicially pursue
487 injunctive relief and damages, if a notice of violation seeking
488 the imposition of administrative penalties has not been issued.
489 The department has the authority to enter into a settlement,
490 either before or after initiating a notice of violation, and the
491 settlement may include a penalty amount different from the

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492 administrative penalty schedule. Any case filed in state court
493 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in
494 penalties may be settled in the court action for less than
495 \$50,000 ~~\$10,000~~.

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

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

502 (a) For a drinking water contamination violation, the
503 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum
504 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the
505 violation is for a primary inorganic, organic, or radiological
506 Maximum Contaminant Level or it is a fecal coliform bacteria
507 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a
508 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum
509 Contaminant Level is exceeded by more than 100 percent. For
510 failure to obtain a clearance letter prior to placing a drinking
511 water system into service when the system would not have been
512 eligible for clearance, the department shall assess a penalty of
513 \$4,500 ~~\$3,000~~.

514 (b) For failure to obtain a required wastewater permit,
515 other than a permit required for surface water discharge, the
516 department shall assess a penalty of \$1,500 ~~\$1,000~~. For a

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517 domestic or industrial wastewater violation not involving a
518 surface water or groundwater quality violation, the department
519 shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or
520 unauthorized discharge or effluent-limitation exceedance. For an
521 unpermitted or unauthorized discharge or effluent-limitation
522 exceedance that resulted in a surface water or groundwater
523 quality violation, the department shall assess a penalty of
524 \$7,500 ~~\$5,000~~.

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

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542 involving more than one acre. The department shall assess a
543 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required
544 mitigation, failure to record a required conservation easement,
545 or for a water quality violation resulting from dredging or
546 filling activities, stormwater construction activities or
547 failure of a stormwater treatment facility. For stormwater
548 management systems serving less than 5 acres, the department
549 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to
550 properly or timely construct a stormwater management system. In
551 addition to the penalties authorized in this subsection, the
552 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
553 against the contractor or agent of the owner or tenant that
554 conducts unpermitted or unauthorized dredging or filling. For
555 purposes of this paragraph, the preparation or signing of a
556 permit application by a person currently licensed under chapter
557 471 to practice as a professional engineer does ~~shall~~ not make
558 that person an agent of the owner or tenant.

559 (d) For mangrove trimming or alteration violations, the
560 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
561 against the contractor or agent of the owner or tenant that
562 conducts mangrove trimming or alteration without a permit as
563 required by s. 403.9328. For purposes of this paragraph, the
564 preparation or signing of a permit application by a person
565 currently licensed under chapter 471 to practice as a
566 professional engineer does ~~shall~~ not make that person an agent

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567 of the owner or tenant.

568 (e) For solid waste violations, the department shall
569 assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or
570 unauthorized disposal or storage of solid waste; plus \$1,000 if
571 the solid waste is Class I or Class III (excluding yard trash)
572 or if the solid waste is construction and demolition debris in
573 excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is
574 disposed of or stored in any natural or artificial body of water
575 or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~
576 if the waste contains PCB at a concentration of 50 parts per
577 million or greater; untreated biomedical waste; friable asbestos
578 greater than 1 cubic meter which is not wetted, bagged, and
579 covered; used oil greater than 25 gallons; or 10 or more lead
580 acid batteries. The department shall assess a penalty of \$4,500
581 ~~\$3,000~~ for failure to properly maintain leachate control;
582 unauthorized burning; failure to have a trained spotter on duty
583 at the working face when accepting waste; or failure to provide
584 access control for three consecutive inspections. The department
585 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct
586 or maintain a required stormwater management system.

587 (f) For an air emission violation, the department shall
588 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or
589 unauthorized air emission or an air-emission-permit exceedance,
590 ~~plus \$1,000 if the emission results in an air quality violation,~~
591 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and

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592 the source was major for the pollutant in violation; plus \$1,500
593 ~~\$1,000~~ if the emission was more than 150 percent of the
594 allowable level.

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

614 (4) In an administrative proceeding, in addition to the
615 penalties that may be assessed under subsection (3), the
616 department shall assess administrative penalties according to

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617 the following schedule:

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

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

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

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

627 (e) For failure to maintain required staff to respond to
628 emergencies; failure to conduct required training; failure to
629 prepare, maintain, or update required contingency plans; failure
630 to adequately respond to emergencies to bring an emergency
631 situation under control; or failure to submit required
632 notification to the department, \$1,500 ~~\$1,000~~.

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

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

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642 (6) For each additional day during which a violation
643 occurs, the administrative penalties in subsections ~~subsection~~
644 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day
645 per violation.

646 (7) The history of noncompliance of the violator for any
647 previous violation resulting in an executed consent order, but
648 not including a consent order entered into without a finding of
649 violation, or resulting in a final order or judgment after the
650 effective date of this law involving the imposition of \$3,000
651 ~~\$2,000~~ or more in penalties shall be taken into consideration in
652 the following manner:

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

657 (b) Two previous such violations within 5 years prior to
658 the filing of the notice of violation will result in a 50-
659 percent per day increase in the scheduled administrative
660 penalty.

661 (c) Three or more previous such violations within 5 years
662 prior to the filing of the notice of violation will result in a
663 100-percent per day increase in the scheduled administrative
664 penalty.

665 (8) The direct economic benefit gained by the violator
666 from the violation, where consideration of economic benefit is

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667 provided by Florida law or required by federal law as part of a
668 federally delegated or approved program, shall be added to the
669 scheduled administrative penalty. The total administrative
670 penalty, including any economic benefit added to the scheduled
671 administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

672 (9) The administrative penalties assessed for any
673 particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against
674 any one violator, unless the violator has a history of
675 noncompliance, the economic benefit of the violation as
676 described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are
677 multiday violations. The total administrative penalties may
678 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all
679 violations attributable to a specific person in the notice of
680 violation.

681 (10) The administrative law judge may receive evidence in
682 mitigation. The penalties identified in subsections ~~subsection~~
683 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50
684 percent by the administrative law judge for mitigating
685 circumstances, including good faith efforts to comply prior to
686 or after discovery of the violations by the department. Upon an
687 affirmative finding that the violation was caused by
688 circumstances beyond the reasonable control of the respondent
689 and could not have been prevented by respondent's due diligence,
690 the administrative law judge may further reduce the penalty.

691 (11) Penalties collected pursuant to this section shall be

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692 deposited into the Water Quality Assurance Trust Fund or other
693 trust fund designated by statute and shall be used to fund the
694 restoration of ecosystems, or polluted areas of the state, as
695 defined by the department, to their condition before pollution
696 occurred. The Florida Conflict Resolution Consortium may use a
697 portion of the fund to administer the mediation process provided
698 in paragraph (2)(e) and to contract with private mediators for
699 administrative penalty cases.

700 (12) The purpose of the administrative penalty schedule
701 and process is to provide a more predictable and efficient
702 manner for individuals and businesses to resolve relatively
703 minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~
704 ~~(3), subsection (4), subsection (5), subsection (6), or~~
705 ~~subsection (7) shall~~ not be construed as limiting a state court
706 in the assessment of damages. The administrative penalty
707 schedule does not apply to the judicial imposition of civil
708 penalties in state court as provided in this section.

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

711 403.141 Civil liability; joint and several liability.—

712 (1) A person who ~~Whoever~~ commits a violation specified in
713 s. 403.161(1) is liable to the state for any damage caused to
714 the air, waters, or property, including animal, plant, or
715 aquatic life, of the state and for reasonable costs and expenses
716 of the state in tracing the source of the discharge, in

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717 controlling and abating the source and the pollutants, and in
718 restoring the air, waters, and property, including animal,
719 plant, and aquatic life, of the state to their former condition,
720 and furthermore is subject to the judicial imposition of a civil
721 penalty for each offense in an amount of not more than \$15,000
722 ~~\$10,000~~ per offense. However, the court may receive evidence in
723 mitigation. Until a violation is resolved by order or judgment,
724 each day during any portion of which such violation occurs or is
725 not remediated constitutes a separate offense. Nothing herein
726 gives ~~shall give~~ the department the right to bring an action on
727 behalf of any private person.

728 Section 16. Subsections (2) through (5) of section
729 403.161, Florida Statutes, are amended to read:

730 403.161 Prohibitions, violation, penalty, intent.—

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

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

741 (4) A ~~Any~~ person who commits a violation specified in

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742 paragraph (1) (a) or paragraph (1) (b) due to reckless
743 indifference or gross careless disregard commits ~~is guilty of~~ a
744 misdemeanor of the second degree, punishable as provided in ss.
745 775.082(4) (b) and 775.083(1) (g) by a fine of not more than
746 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each
747 offense.

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

754 Section 17. Paragraph (a) of subsection (6) of section
755 403.413, Florida Statutes, is amended to read:

756 403.413 Florida Litter Law.—

757 (6) PENALTIES; ENFORCEMENT.—

758 (a) Any person who dumps litter in violation of subsection
759 (4) in an amount not exceeding 15 pounds in weight or 27 cubic
760 feet in volume and not for commercial purposes commits ~~is guilty~~
761 ~~of~~ a noncriminal infraction, punishable by a civil penalty of
762 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid
763 Waste Management Trust Fund to be used for the solid waste
764 management grant program pursuant to s. 403.7095. In addition,
765 the court may require the violator to pick up litter or perform
766 other labor commensurate with the offense committed.

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

769 403.7234 Small quantity generator notification and
770 verification program.—

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

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

784 403.726 Abatement of imminent hazard caused by hazardous
785 substance.—

786 (3) An imminent hazard exists if any hazardous substance
787 creates an immediate and substantial danger to human health,
788 safety, or welfare or to the environment. The department may
789 institute action in its own name, using the procedures and
790 remedies of s. 403.121 or s. 403.131, to abate an imminent
791 hazard. However, the department is authorized to recover a civil

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792 penalty of not more than \$37,500 ~~\$25,000~~ for each day until a ~~of~~
793 ~~continued~~ violation is resolved by order or judgment. Whenever
794 serious harm to human health, safety, and welfare; the
795 environment; or private or public property may occur prior to
796 completion of an administrative hearing or other formal
797 proceeding that which might be initiated to abate the risk of
798 serious harm, the department may obtain, ex parte, an injunction
799 without paying filing and service fees prior to the filing and
800 service of process.

801 Section 20. Paragraph (a) of subsection (3) of section
802 403.727, Florida Statutes, is amended to read:

803 403.727 Violations; defenses, penalties, and remedies.—

804 (3) Violations of the provisions of this act are
805 punishable as follows:

806 (a) Any person who violates ~~the provisions of~~ this act,
807 the rules or orders of the department, or the conditions of a
808 permit is liable to the state for any damages specified in s.
809 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~
810 for each day of continued violation or until a violation is
811 resolved by order or judgment, except as otherwise provided
812 herein. The department may revoke any permit issued to the
813 violator. In any action by the department against a small
814 hazardous waste generator for the improper disposal of hazardous
815 wastes, a rebuttable presumption of improper disposal shall be
816 created if the generator was notified pursuant to s. 403.7234;

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817 the generator shall then have the burden of proving that the
818 disposal was proper. If the generator was not so notified, the
819 burden of proving improper disposal shall be placed upon the
820 department.

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

823 403.93345 Coral reef protection.—

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

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

836 (b) For damage totaling more than an area of 1 square
837 meter but less than or equal to an area of 10 square meters,
838 \$450 ~~\$300~~ per square meter; with aggravating circumstances, an
839 additional \$450 ~~\$300~~ per square meter; occurring within a state
840 park or aquatic preserve, an additional \$450 ~~\$300~~ per square
841 meter.

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842 (c) For damage exceeding an area of 10 square meters,
843 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,
844 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a
845 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per
846 square meter.

847 (d) For a second violation, the total penalty may be
848 doubled.

849 (e) For a third violation, the total penalty may be
850 tripled.

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

853 (g) The total of penalties levied may not exceed \$375,000
854 ~~\$250,000~~ per occurrence.

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

859 823.11 Derelict vessels; relocation or removal; penalty.-

860 (5) A person, firm, or corporation violating this section
861 commits a misdemeanor of the first degree and shall be punished
862 as provided by law. A conviction under this section does not bar
863 the assessment and collection of the civil penalty provided in
864 s. 376.16 for violation of s. 376.15. The court having
865 jurisdiction over the criminal offense, notwithstanding any
866 jurisdictional limitations on the amount in controversy, may

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867 order the imposition of such civil penalty in addition to any
868 sentence imposed for the first criminal offense.

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

873 403.077 Public notification of pollution.—

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

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

881 403.131 Injunctive relief, remedies.—

882 (2) All the judicial and administrative remedies to
883 recover damages and penalties in this section and s. 403.121 are
884 alternative and mutually exclusive.

885 Section 25. For the purpose of incorporating the amendment
886 made by this act to section 403.121, Florida Statutes, in a
887 reference thereto, paragraph (d) of subsection (3) of section
888 403.4154, Florida Statutes, is reenacted to read:

889 403.4154 Phosphogypsum management program.—

890 (3) ABATEMENT OF IMMINENT HAZARD.—

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891 (d) If the department determines that the failure of an
892 owner or operator to comply with department rules requiring
893 demonstration of financial responsibility or that the physical
894 condition, maintenance, operation, or closure of a phosphogypsum
895 stack system poses an imminent hazard, the department shall
896 request access to the property on which such stack system is
897 located from the owner or operator of the stack system for the
898 purposes of taking action to abate or substantially reduce the
899 imminent hazard. If the department, after reasonable effort, is
900 unable to timely obtain the necessary access to abate or
901 substantially reduce the imminent hazard, the department may
902 institute action in its own name, using the procedures and
903 remedies of s. 403.121 or s. 403.131, to abate or substantially
904 reduce an imminent hazard. Whenever serious harm to human
905 health, safety, or welfare, to the environment, or to private or
906 public property may occur prior to completion of an
907 administrative hearing or other formal proceeding that might be
908 initiated to abate the risk of serious harm, the department may
909 obtain from the court, ex parte, an injunction without paying
910 filing and service fees prior to the filing and service of
911 process.

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

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916 403.860 Penalties and remedies.—

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

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

926 403.708 Prohibition; penalty.—

927 (10) Violations of this part or rules, regulations,
928 permits, or orders issued thereunder by the department and
929 violations of approved local programs of counties or
930 municipalities or rules, regulations, or orders issued
931 thereunder are punishable by a civil penalty as provided in s.
932 403.141.

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

937 403.7191 Toxics in packaging.—

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

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

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

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

947 (d) Provide a certificate of compliance that contains
948 false information.

949
950 Violations shall be punishable by a civil penalty as provided in
951 s. 403.141.

952 Section 29. For the purpose of incorporating the amendment
953 made by this act to section 403.141, Florida Statutes, in a
954 reference thereto, section 403.811, Florida Statutes, is
955 reenacted to read:

956 403.811 Dredge and fill permits issued pursuant to this
957 chapter and s. 373.414.—Permits or other orders addressing
958 dredging and filling in, on, or over waters of the state issued
959 pursuant to this chapter or s. 373.414(9) before the effective
960 date of rules adopted under s. 373.414(9) and permits or other
961 orders issued in accordance with s. 373.414(13), (14), (15), or
962 (16) shall remain valid through the duration specified in the
963 permit or order, unless revoked by the agency issuing the
964 permit. The agency issuing the permit or other order may seek to
965 enjoin the violation of, or to enforce compliance with, the

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966 permit or other order as provided in ss. 403.121, 403.131,
967 403.141, and 403.161. A violation of a permit or other order
968 addressing dredging or filling issued pursuant to this chapter
969 is punishable by a civil penalty as provided in s. 403.141 or a
970 criminal penalty as provided in s. 403.161.

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

975 403.7186 Environmentally sound management of mercury-
976 containing devices and lamps.—

977 (8) CIVIL PENALTY.—A person who engages in any act or
978 practice declared in this section to be prohibited or unlawful,
979 or who violates any of the rules of the department promulgated
980 under this section, is liable to the state for any damage caused
981 and for civil penalties in accordance with s. 403.141. The
982 provisions of s. 403.161 are not applicable to this section. The
983 penalty may be waived if the person previously has taken
984 appropriate corrective action to remedy the actual damages, if
985 any, caused by the unlawful act or practice or rule violation. A
986 civil penalty so collected shall accrue to the state and shall
987 be deposited as received into the Solid Waste Management Trust
988 Fund for the purposes specified in paragraph (5) (a).

989 Section 31. For the purpose of incorporating the amendment
990 made by this act to section 403.161, Florida Statutes, in a

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991 reference thereto, subsection (2) of section 403.7255, Florida
992 Statutes, is reenacted to read:

993 403.7255 Placement of signs.—

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

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

997

998

999

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

1000

Remove everything before the enacting clause and insert:

1001

A bill to be entitled

1002

An act relating to environmental enforcement; amending

1003

s. 161.054, F.S.; revising administrative penalties

1004

for violations of certain provisions relating to beach

1005

and shore construction and activities; providing that

1006

each day that certain violations occur or are not

1007

remediated constitutes a separate offense until such

1008

violations are resolved by order or judgment; making

1009

technical changes; amending ss. 258.397, 258.46,

1010

373.129, 376.16, 376.25, 377.37, 378.211, and 403.141,

1011

F.S.; revising civil penalties for violations of

1012

certain provisions relating to the Biscayne Bay

1013

Aquatic Preserve, aquatic preserves, water resources,

1014

the Pollutant Discharge Prevention and Control Act,

1015

the Clean Ocean Act, regulation of oil and gas

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Amendment No.

1016 resources, the Phosphate Land Reclamation Act, and
1017 other provisions relating to pollution and the
1018 environment, respectively; providing that each day
1019 that certain violations occur or are not remediated
1020 constitutes a separate offense until such violations
1021 are resolved by order or judgment; making technical
1022 changes; amending ss. 373.209, 376.065, 376.071,
1023 403.086, 403.413, 403.7234, and 403.93345, F.S.;
1024 revising civil penalties for violations of certain
1025 provisions relating to artesian wells, terminal
1026 facilities, discharge contingency plans for vessels,
1027 sewage disposal facilities, dumping litter, small
1028 quantity generators, and coral reef protection,
1029 respectively; making technical changes; amending ss.
1030 373.430 and 403.161, F.S.; revising criminal penalties
1031 for violations of certain provisions relating to
1032 pollution and the environment; making technical
1033 changes; amending s. 403.121, F.S.; revising civil and
1034 administrative penalties for violations of certain
1035 provisions relating to pollution and the environment;
1036 providing that each day that certain violations occur
1037 or are not remediated constitutes a separate offense
1038 until such violations are resolved by order or
1039 judgment; increasing the amount of penalties that can
1040 be assessed administratively; making technical

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1091 (2020)

Amendment No.

1041 changes; amending ss. 403.726 and 403.727, F.S.;

1042 revising civil penalties for violations of certain

1043 provisions relating to hazardous waste for each day

1044 that certain violations occur and are not resolved by

1045 order or judgment; making technical changes;

1046 reenacting s. 823.11(5), F.S., to incorporate the

1047 amendment made to s. 376.16, F.S., in a reference

1048 thereto; reenacting ss. 403.077(5), 403.131(2),

1049 403.4154(3)(d), and 403.860(5), F.S., to incorporate

1050 the amendment made to s. 403.121, F.S., in a reference

1051 thereto; reenacting ss. 403.708(10), 403.7191(7), and

1052 403.811, F.S., to incorporate the amendment made to s.

1053 403.141, F.S., in a reference thereto; reenacting s.

1054 403.7255(2), F.S., to incorporate the amendment made

1055 to s. 403.161, F.S., in a reference thereto;

1056 reenacting s. 403.7186(8), F.S., to incorporate the

1057 amendment made to ss. 403.141 and 403.161, F.S., in

1058 references thereto; providing an effective date.

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