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2020 Legislature

1  
2 An act relating to environmental accountability;  
3 creating ss. 125.569 and 166.0481, F.S.; defining the  
4 term "sanitary sewer lateral"; encouraging counties  
5 and municipalities, respectively, to establish a  
6 sanitary sewer lateral inspection program by a  
7 specified date; providing parameters for such a  
8 program; creating s. 689.301, F.S.; requiring a seller  
9 of real property to disclose any known defects in the  
10 property's sanitary sewer lateral; defining the term  
11 "sanitary sewer lateral"; amending s. 161.054, F.S.;  
12 revising administrative penalties for violations of  
13 certain provisions relating to beach and shore  
14 construction and activities; making technical changes;  
15 amending ss. 258.397, 258.46, 373.129, 376.16, 376.25,  
16 377.37, 378.211, and 403.141, F.S.; revising civil  
17 penalties for violations of certain provisions  
18 relating to the Biscayne Bay Aquatic Preserve, aquatic  
19 preserves, water resources, the Pollutant Discharge  
20 Prevention and Control Act, the Clean Ocean Act,  
21 regulation of oil and gas resources, the Phosphate  
22 Land Reclamation Act, and other provisions relating to  
23 pollution and the environment, respectively; providing  
24 that each day that certain violations occur  
25 constitutes a separate offense; making technical

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

26 | changes; amending ss. 373.209, 376.065, 376.071,  
27 | 403.086, 403.413, 403.7234, and 403.93345, F.S.;  
28 | revising civil penalties for violations of certain  
29 | provisions relating to artesian wells, terminal  
30 | facilities, discharge contingency plans for vessels,  
31 | sewage disposal facilities, dumping litter, small  
32 | quantity generators, and coral reef protection,  
33 | respectively; making technical changes; amending ss.  
34 | 373.430 and 403.161, F.S.; revising criminal penalties  
35 | for violations of certain provisions relating to  
36 | pollution and the environment; providing that each day  
37 | that the cause of unauthorized discharges of domestic  
38 | wastewater is not addressed constitutes a separate  
39 | offense; making technical changes; amending s.  
40 | 403.121, F.S.; revising civil and administrative  
41 | penalties for violations of certain provisions  
42 | relating to pollution and the environment; providing  
43 | that each day that the cause of unauthorized  
44 | discharges of domestic wastewater is not addressed  
45 | constitutes a separate offense; increasing the amount  
46 | of penalties that can be assessed administratively;  
47 | making technical changes; amending ss. 403.726 and  
48 | 403.727, F.S.; revising civil penalties for violations  
49 | of certain provisions relating to hazardous waste;  
50 | making technical changes; reenacting s. 823.11(5),

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

51 F.S., to incorporate the amendment made to s. 376.16,  
 52 F.S., in a reference thereto; reenacting ss.  
 53 403.077(5), 403.131(2), 403.4154(3)(d), and  
 54 403.860(5), F.S., to incorporate the amendment made to  
 55 s. 403.121, F.S., in a reference thereto; reenacting  
 56 ss. 403.708(10), 403.7191(7), and 403.811, F.S., to  
 57 incorporate the amendment made to s. 403.141, F.S., in  
 58 a reference thereto; reenacting s. 403.7186(8), F.S.,  
 59 to incorporate the amendment made to ss. 403.141 and  
 60 403.161, F.S., in references thereto; reenacting s.  
 61 403.7255(2), F.S., to incorporate the amendment made  
 62 to s. 403.161, F.S., in a reference thereto; providing  
 63 an effective date.

64  
 65 Be It Enacted by the Legislature of the State of Florida:

66  
 67 Section 1. Section 125.569, Florida Statutes, is created  
 68 to read:

69 125.569 Sanitary sewer lateral inspection programs for  
 70 counties.—

71 (1) As used in this section, the term "sanitary sewer  
 72 lateral" means a privately owned pipeline connecting a property  
 73 to the main sewer line which is maintained and repaired by the  
 74 property owner.

75 (2) By July 1, 2022, each county is encouraged to

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

76 establish an evaluation and rehabilitation program for sanitary  
 77 sewer laterals on residential and commercial properties within  
 78 the county's jurisdiction to identify and reduce extraneous flow  
 79 from leaking sanitary sewer laterals. At a minimum, the program  
 80 may do all of the following:

81 (a) Establish a system to identify defective, damaged, or  
 82 deteriorated sanitary sewer laterals on residential and  
 83 commercial properties within the jurisdiction of the county.

84 (b) Consider economical methods for a property owner to  
 85 repair or replace a defective, damaged, or deteriorated sanitary  
 86 sewer lateral.

87 (c) Establish and maintain a publicly accessible database  
 88 to store information concerning properties where a defective,  
 89 damaged, or deteriorated sanitary sewer lateral has been  
 90 identified. For each property, the database must include, but is  
 91 not limited to, the address of the property, the names of any  
 92 persons the county notified concerning the faulty sanitary sewer  
 93 lateral, and the date and method of such notification.

94 Section 2. Section 166.0481, Florida Statutes, is created  
 95 to read:

96 166.0481 Sanitary sewer lateral inspection programs for  
 97 municipalities.—

98 (1) As used in this section, the term "sanitary sewer  
 99 lateral" means a privately owned pipeline connecting a property  
 100 to the main sewer line which is maintained and repaired by the

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

101 property owner.

102 (2) By July 1, 2022, each municipality is encouraged to  
103 establish an evaluation and rehabilitation program for sanitary  
104 sewer laterals on residential and commercial properties within  
105 the municipality's jurisdiction to identify and reduce  
106 extraneous flow from leaking sanitary sewer laterals. At a  
107 minimum, the program may do all of the following:

108 (a) Establish a system to identify defective, damaged, or  
109 deteriorated sanitary sewer laterals on residential and  
110 commercial properties within the jurisdiction of the  
111 municipality.

112 (b) Consider economical methods for a property owner to  
113 repair or replace a defective, damaged, or deteriorated sanitary  
114 sewer lateral.

115 (c) Establish and maintain a publicly accessible database  
116 to store information concerning properties where a defective,  
117 damaged, or deteriorated sanitary sewer lateral has been  
118 identified. For each property, the database must include, but is  
119 not limited to, the address of the property, the names of any  
120 persons the municipality notified concerning the faulty sanitary  
121 sewer lateral, and the date and method of such notification.

122 Section 3. Section 689.301, Florida Statutes, is created  
123 to read:

124 689.301 Disclosure of known defects in sanitary sewer  
125 laterals to prospective purchaser.—Before executing a contract

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

126 for sale, a seller of real property shall disclose to a  
 127 prospective purchaser any defects in the property's sanitary  
 128 sewer lateral which are known to the seller. As used in this  
 129 section, the term "sanitary sewer lateral" means the privately  
 130 owned pipeline connecting a property to the main sewer line.

131 Section 4. Subsection (1) of section 161.054, Florida  
 132 Statutes, is amended to read:

133 161.054 Administrative fines; liability for damage;  
 134 liens.—

135 (1) In addition to the penalties provided for in ss.  
 136 161.052, 161.053, and 161.121, any person, firm, corporation, or  
 137 governmental agency, or agent thereof, refusing to comply with  
 138 or willfully violating ~~any of the provisions of~~ s. 161.041, s.  
 139 161.052, or s. 161.053, or any rule or order prescribed by the  
 140 department thereunder, shall incur a fine for each offense in an  
 141 amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected  
 142 by the department. Each day during any portion of which such  
 143 violation occurs constitutes a separate offense.

144 Section 5. Subsection (7) of section 258.397, Florida  
 145 Statutes, is amended to read:

146 258.397 Biscayne Bay Aquatic Preserve.—

147 (7) ENFORCEMENT.—~~The provisions of~~ This section may be  
 148 enforced in accordance with ~~the provisions of~~ s. 403.412. In  
 149 addition, the Department of Legal Affairs may ~~is authorized to~~  
 150 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

151 against any person, natural or corporate, who violates ~~the~~  
 152 ~~provisions of~~ this section or any rule or regulation issued  
 153 hereunder. Each day during any portion of which such violation  
 154 occurs constitutes a separate offense. Enforcement of applicable  
 155 state regulations shall be supplemented by the Miami-Dade County  
 156 Department of Environmental Resources Management through the  
 157 creation of a full-time enforcement presence along the Miami  
 158 River.

159 Section 6. Section 258.46, Florida Statutes, is amended to  
 160 read:

161 258.46 Enforcement; violations; penalty. ~~The provisions of~~  
 162 This act may be enforced by the Board of Trustees of the  
 163 Internal Improvement Trust Fund or in accordance with ~~the~~  
 164 ~~provisions of~~ s. 403.412. However, any violation by any person,  
 165 natural or corporate, of ~~the provisions of~~ this act or any rule  
 166 or regulation issued hereunder is ~~shall be~~ further punishable by  
 167 a civil penalty of not less than \$750 ~~\$500~~ per day or more than  
 168 \$7,500 ~~\$5,000~~ per day of such violation. Each day during any  
 169 portion of which such violation occurs constitutes a separate  
 170 offense.

171 Section 7. Subsections (5) and (7) of section 373.129,  
 172 Florida Statutes, are amended to read:

173 373.129 Maintenance of actions.—The department, the  
 174 governing board of any water management district, any local  
 175 board, or a local government to which authority has been

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

176 delegated pursuant to s. 373.103(8), is authorized to commence  
177 and maintain proper and necessary actions and proceedings in any  
178 court of competent jurisdiction for any of the following  
179 purposes:

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

184 (a) A civil penalty recovered by a water management  
185 district pursuant to this subsection shall be retained and used  
186 exclusively by the water management district that collected the  
187 money. A civil penalty recovered by the department pursuant to  
188 this subsection must be deposited into the Water Quality  
189 Assurance Trust Fund established under s. 376.307.

190 (b) A local government that is delegated authority  
191 pursuant to s. 373.103(8) may deposit a civil penalty recovered  
192 pursuant to this subsection into a local water pollution control  
193 program trust fund, notwithstanding ~~the provisions of~~ paragraph  
194 (a). However, civil penalties that are deposited in a local  
195 water pollution control program trust fund and that are  
196 recovered for violations of state water quality standards may be  
197 used only to restore water quality in the area that was the  
198 subject of the action, and civil penalties that are deposited in  
199 a local water pollution control program trust fund and that are  
200 recovered for violation of requirements relating to water



ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

201 quantity may be used only to purchase lands and make capital  
 202 improvements associated with surface water management, or other  
 203 purposes consistent with the requirements of this chapter for  
 204 the management and storage of surface water.

205 (7) To enforce ~~the provisions of~~ part IV of this chapter  
 206 in the same manner and to the same extent as provided in ss.  
 207 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

208 Section 8. Subsection (3) of section 373.209, Florida  
 209 Statutes, is amended to read:

210 373.209 Artesian wells; penalties for violation.—

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

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

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

216 The civil penalty may be recovered by the water management board  
 217 of the water management district in which the well is located or  
 218 by the department in a suit in a court of competent jurisdiction  
 219 in the county where the defendant resides, in the county of  
 220 residence of any defendant if there is more than one defendant,  
 221 or in the county where the violation took place. The place of  
 222 suit shall be selected by the board or department, and the suit,  
 223 by direction of the board or department, shall be instituted and  
 224 conducted in the name of the board or department by appropriate  
 225 counsel. The payment of any such damages does not impair or

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

226 abridge any cause of action which any person may have against  
 227 the person violating ~~any provision of~~ this section.

228 Section 9. Subsections (2) through (5) of section 373.430,  
 229 Florida Statutes, are amended to read:

230 373.430 Prohibitions, violation, penalty, intent.—

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

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

241 (4) A ~~Any~~ person who commits a violation specified in  
 242 paragraph (1)(a) or paragraph (1)(b) due to reckless  
 243 indifference or gross careless disregard commits ~~is guilty of~~ a  
 244 misdemeanor of the second degree, punishable as provided in ss.  
 245 775.082(4)(b) and 775.083(1)(g), by a fine of not more than  
 246 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

247 (5) A ~~Any~~ person who willfully commits a violation  
 248 specified in paragraph (1)(b) or who commits a violation  
 249 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor  
 250 of the first degree, punishable as provided in ss. 775.082(4)(a)

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

251 and 775.083(1)(g), by a fine of not more than \$10,000 or by 6  
 252 months in jail, or by both, for each offense.

253 Section 10. Paragraphs (a) and (e) of subsection (5) of  
 254 section 376.065, Florida Statutes, are amended to read:

255 376.065 Operation of terminal facility without discharge  
 256 prevention and response certificate prohibited; penalty.—

257 (5) (a) A person who violates this section or the terms and  
 258 requirements of such certification commits a noncriminal  
 259 infraction. The civil penalty for any such infraction shall be  
 260 \$750 ~~\$500~~, except as otherwise provided in this section.

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

267 Section 11. Paragraphs (a) and (e) of subsection (2) of  
 268 section 376.071, Florida Statutes, are amended to read:

269 376.071 Discharge contingency plan for vessels.—

270 (2) (a) A master of a vessel that violates subsection (1)  
 271 commits a noncriminal infraction and shall be cited for such  
 272 infraction. The civil penalty for such an infraction shall be  
 273 \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

274 (e) A person who elects to appear before the county court  
 275 or who is required to appear waives the limitations of the civil

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

276 penalty specified in paragraph (a). The court, after a hearing,  
 277 shall make a determination as to whether an infraction has been  
 278 committed. If the commission of the infraction is proved, the  
 279 court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

280 Section 12. Section 376.16, Florida Statutes, is amended  
 281 to read:

282 376.16 Enforcement and penalties.—

283 (1) It is unlawful for any person to violate ~~any provision~~  
 284 ~~of~~ ss. 376.011-376.21 or any rule or order of the department  
 285 made pursuant to this act. A violation is ~~shall be~~ punishable by  
 286 a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day  
 287 to be assessed by the department. Each day during any portion of  
 288 which the violation occurs constitutes a separate offense. The  
 289 penalty provisions of this subsection do ~~shall~~ not apply to any  
 290 discharge promptly reported and removed by a person responsible,  
 291 in accordance with the rules and orders of the department, or to  
 292 any discharge of pollutants equal to or less than 5 gallons.

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

299 (a) For discharges of gasoline or diesel over 5 gallons,  
 300 the civil penalty for the second discharge shall be \$750 ~~\$500~~

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

301 and the civil penalty for each subsequent discharge within a 12-  
 302 month period shall be \$1,500 ~~\$1,000~~, except as otherwise  
 303 provided in this section.

304 (b) For discharges of any pollutant other than gasoline or  
 305 diesel, the civil penalty for a second discharge shall be \$3,750  
 306 ~~\$2,500~~ and the civil penalty for each subsequent discharge  
 307 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as  
 308 otherwise provided in this section.

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

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

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

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

321 (a) Pay the civil penalty;

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

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

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

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

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

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

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

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

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

(7) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

351 proved, the court may impose a civil penalty up to, but not  
352 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or  
353 diesel and a civil penalty up to, but not exceeding, \$1,500  
354 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel  
355 within a 12-month period.

356 (8) Any person who elects to appear before the county  
357 court or who is required to appear waives the limitations of the  
358 civil penalties specified in subsection (2) or subsection (3).  
359 The court, after a hearing, shall make a determination as to  
360 whether an infraction has been committed. If the commission of  
361 an infraction is proved, the court may impose a civil penalty up  
362 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of  
363 pollutants other than gasoline or diesel and a civil penalty up  
364 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent  
365 discharge of pollutants other than gasoline or diesel within a  
366 12-month period.

367 (9) At a hearing under this section, the commission of a  
368 charged offense must be proved by the greater weight of the  
369 evidence.

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

373 (11) Any person who has not posted bond and who neither  
374 pays the applicable civil penalty, as specified in subsection  
375 (2) or subsection (3) within 30 days of receipt of the citation

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

376 nor appears before the court commits a misdemeanor of the second  
 377 degree, punishable as provided in s. 775.082 or s. 775.083.

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

383 Section 13. Paragraph (a) of subsection (6) of section  
 384 376.25, Florida Statutes, is amended to read:

385 376.25 Gambling vessels; registration; required and  
 386 prohibited releases.—

387 (6) PENALTIES.—

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

392 Section 14. Paragraph (a) of subsection (1) of section  
 393 377.37, Florida Statutes, is amended to read:

394 377.37 Penalties.—

395 (1) (a) Any person who violates ~~any provision of~~ this law  
 396 or any rule, regulation, or order of the division made under  
 397 this chapter or who violates the terms of any permit to drill  
 398 for or produce oil, gas, or other petroleum products referred to  
 399 in s. 377.242(1) or to store gas in a natural gas storage  
 400 facility, or any lessee, permitholder, or operator of equipment



ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

401 or facilities used in the exploration for, drilling for, or  
 402 production of oil, gas, or other petroleum products, or storage  
 403 of gas in a natural gas storage facility, who refuses inspection  
 404 by the division as provided in this chapter, is liable to the  
 405 state for any damage caused to the air, waters, or property,  
 406 including animal, plant, or aquatic life, of the state and for  
 407 reasonable costs and expenses of the state in tracing the source  
 408 of the discharge, in controlling and abating the source and the  
 409 pollutants, and in restoring the air, waters, and property,  
 410 including animal, plant, and aquatic life, of the state.  
 411 Furthermore, such person, lessee, permitholder, or operator is  
 412 subject to the judicial imposition of a civil penalty in an  
 413 amount of not more than \$15,000 ~~\$10,000~~ for each offense.  
 414 However, the court may receive evidence in mitigation. Each day  
 415 during any portion of which such violation occurs constitutes a  
 416 separate offense. This section does not ~~Nothing herein shall~~  
 417 give the department the right to bring an action on behalf of  
 418 any private person.

419 Section 15. Subsection (2) of section 378.211, Florida  
 420 Statutes, is amended to read:

421 378.211 Violations; damages; penalties.—

422 (2) The department may institute a civil action in a court  
 423 of competent jurisdiction to impose and recover a civil penalty  
 424 for violation of this part or of any rule adopted or order  
 425 issued pursuant to this part. The penalty may ~~shall~~ not exceed

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

426 the following amounts, and the court shall consider evidence in  
427 mitigation:

428 (a) For violations of a minor or technical nature, \$150  
429 ~~\$100~~ per violation.

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

433 (c) For major violations not covered by paragraph (b),  
434 \$7,500 ~~\$5,000~~ per violation.

435

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

439 Section 16. Subsection (2) of section 403.086, Florida  
440 Statutes, is amended to read:

441 403.086 Sewage disposal facilities; advanced and secondary  
442 waste treatment.—

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

450 Section 17. Section 403.121, Florida Statutes, is amended

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

451 to read:

452 403.121 Enforcement; procedure; remedies.—The department  
 453 shall have the following judicial and administrative remedies  
 454 available to it for violations of this chapter, as specified in  
 455 s. 403.161(1).

456 (1) Judicial remedies:

457 (a) The department may institute a civil action in a court  
 458 of competent jurisdiction to establish liability and to recover  
 459 damages for any injury to the air, waters, or property,  
 460 including animal, plant, and aquatic life, of the state caused  
 461 by any violation.

462 (b) The department may institute a civil action in a court  
 463 of competent jurisdiction to impose and to recover a civil  
 464 penalty for each violation in an amount of not more than \$15,000  
 465 ~~\$10,000~~ per offense. However, the court may receive evidence in  
 466 mitigation. Each day during any portion of which such violation  
 467 occurs constitutes a separate offense.

468 (c) Except as provided in paragraph (2)(c), it is ~~shall~~  
 469 not ~~be~~ a defense to, or ground for dismissal of, these judicial  
 470 remedies for damages and civil penalties that the department has  
 471 failed to exhaust its administrative remedies, has failed to  
 472 serve a notice of violation, or has failed to hold an  
 473 administrative hearing before ~~prior to~~ the institution of a  
 474 civil action.

475 (2) Administrative remedies:

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

476 (a) The department may institute an administrative  
477 proceeding to establish liability and to recover damages for any  
478 injury to the air, waters, or property, including animal, plant,  
479 or aquatic life, of the state caused by any violation. The  
480 department may order that the violator pay a specified sum as  
481 damages to the state. Judgment for the amount of damages  
482 determined by the department may be entered in any court having  
483 jurisdiction thereof and may be enforced as any other judgment.

484 (b) If the department has reason to believe a violation  
485 has occurred, it may institute an administrative proceeding to  
486 order the prevention, abatement, or control of the conditions  
487 creating the violation or other appropriate corrective action.  
488 Except for violations involving hazardous wastes, asbestos, or  
489 underground injection, the department shall proceed  
490 administratively in all cases in which the department seeks  
491 administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per  
492 assessment as calculated in accordance with subsections (3),  
493 (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the  
494 administrative penalty assessed pursuant to subsection (3),  
495 subsection (4), or subsection (5) against a public water system  
496 serving a population of more than 10,000 shall be not less than  
497 \$1,000 per day per violation. The department may ~~shall~~ not  
498 impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in  
499 a notice of violation. The department may ~~shall~~ not have more  
500 than one notice of violation seeking administrative penalties

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

501 pending against the same party at the same time unless the  
502 violations occurred at a different site or the violations were  
503 discovered by the department subsequent to the filing of a  
504 previous notice of violation.

505 (c) An administrative proceeding shall be instituted by  
506 the department's serving of a written notice of violation upon  
507 the alleged violator by certified mail. If the department is  
508 unable to effect service by certified mail, the notice of  
509 violation may be hand delivered or personally served in  
510 accordance with chapter 48. The notice shall specify the  
511 ~~provision of the~~ law, rule, regulation, permit, certification,  
512 or order of the department alleged to be violated and the facts  
513 alleged to constitute a violation thereof. An order for  
514 corrective action, penalty assessment, or damages may be  
515 included with the notice. When the department is seeking to  
516 impose an administrative penalty for any violation by issuing a  
517 notice of violation, any corrective action needed to correct the  
518 violation or damages caused by the violation must be pursued in  
519 the notice of violation or they are waived. However, an ~~an~~ order  
520 is not ~~shall become~~ effective until after service and an  
521 administrative hearing, if requested within 20 days after  
522 service. Failure to request an administrative hearing within  
523 this time period constitutes ~~shall constitute~~ a waiver thereof,  
524 unless the respondent files a written notice with the department  
525 within this time period opting out of the administrative process

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

526 initiated by the department to impose administrative penalties.  
527 Any respondent choosing to opt out of the administrative process  
528 initiated by the department in an action that seeks the  
529 imposition of administrative penalties must file a written  
530 notice with the department within 20 days after service of the  
531 notice of violation opting out of the administrative process. A  
532 respondent's decision to opt out of the administrative process  
533 does not preclude the department from initiating a state court  
534 action seeking injunctive relief, damages, and the judicial  
535 imposition of civil penalties.

536 (d) If a person timely files a petition challenging a  
537 notice of violation, that person will thereafter be referred to  
538 as the respondent. The hearing requested by the respondent shall  
539 be held within 180 days after the department has referred the  
540 initial petition to the Division of Administrative Hearings  
541 unless the parties agree to a later date. The department has the  
542 burden of proving with the preponderance of the evidence that  
543 the respondent is responsible for the violation. ~~No~~  
544 Administrative penalties should not be imposed unless the  
545 department satisfies that burden. Following the close of the  
546 hearing, the administrative law judge shall issue a final order  
547 on all matters, including the imposition of an administrative  
548 penalty. When the department seeks to enforce that portion of a  
549 final order imposing administrative penalties pursuant to s.  
550 120.69, the respondent may ~~shall~~ not assert as a defense the

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

551 inappropriateness of the administrative remedy. The department  
552 retains its final-order authority in all administrative actions  
553 that do not request the imposition of administrative penalties.

554 (e) After filing a petition requesting a formal hearing in  
555 response to a notice of violation in which the department  
556 imposes an administrative penalty, a respondent may request that  
557 a private mediator be appointed to mediate the dispute by  
558 contacting the Florida Conflict Resolution Consortium within 10  
559 days after receipt of the initial order from the administrative  
560 law judge. The Florida Conflict Resolution Consortium shall pay  
561 all of the costs of the mediator and for up to 8 hours of the  
562 mediator's time per case at \$150 per hour. Upon notice from the  
563 respondent, the Florida Conflict Resolution Consortium shall  
564 provide to the respondent a panel of possible mediators from the  
565 area in which the hearing on the petition would be heard. The  
566 respondent shall select the mediator and notify the Florida  
567 Conflict Resolution Consortium of the selection within 15 days  
568 of receipt of the proposed panel of mediators. The Florida  
569 Conflict Resolution Consortium shall provide all of the  
570 administrative support for the mediation process. The mediation  
571 must be completed at least 15 days before the final hearing date  
572 set by the administrative law judge.

573 (f) In any administrative proceeding brought by the  
574 department, the prevailing party shall recover all costs as  
575 provided in ss. 57.041 and 57.071. The costs must be included in

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

576 the final order. The respondent is the prevailing party when an  
 577 order is entered awarding no penalties to the department and  
 578 such order has not been reversed on appeal or the time for  
 579 seeking judicial review has expired. The respondent is ~~shall be~~  
 580 entitled to an award of attorney's fees if the administrative  
 581 law judge determines that the notice of violation issued by the  
 582 department seeking the imposition of administrative penalties  
 583 was not substantially justified as defined in s. 57.111(3)(e).  
 584 An ~~No~~ award of attorney's fees as provided by this subsection  
 585 may not ~~shall~~ exceed \$15,000.

586 (g) This section does not prevent ~~Nothing herein shall be~~  
 587 ~~construed as preventing~~ any other legal or administrative action  
 588 in accordance with law and does not. ~~Nothing in this subsection~~  
 589 ~~shall~~ limit the department's authority provided in ss. 403.131,  
 590 403.141, and this section to judicially pursue injunctive  
 591 relief. When the department exercises its authority to  
 592 judicially pursue injunctive relief, penalties in any amount up  
 593 to the statutory maximum sought by the department must be  
 594 pursued as part of the state court action and not by initiating  
 595 a separate administrative proceeding. The department retains the  
 596 authority to judicially pursue penalties in excess of \$50,000  
 597 ~~\$10,000~~ for violations not specifically included in the  
 598 administrative penalty schedule, or for multiple or multiday  
 599 violations alleged to exceed a total of \$50,000 ~~\$10,000~~. The  
 600 department also retains the authority provided in ss. 403.131,



ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

601 403.141, and this section to judicially pursue injunctive relief  
 602 and damages, if a notice of violation seeking the imposition of  
 603 administrative penalties has not been issued. The department has  
 604 the authority to enter into a settlement, either before or after  
 605 initiating a notice of violation, and the settlement may include  
 606 a penalty amount different from the administrative penalty  
 607 schedule. Any case filed in state court because it is alleged to  
 608 exceed a total of \$50,000 ~~\$10,000~~ in penalties may be settled in  
 609 the court action for less than \$50,000 ~~\$10,000~~.

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

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

616 (a) For a drinking water contamination violation, the  
 617 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum  
 618 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the  
 619 violation is for a primary inorganic, organic, or radiological  
 620 Maximum Contaminant Level or it is a fecal coliform bacteria  
 621 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a  
 622 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum  
 623 Contaminant Level is exceeded by more than 100 percent. For  
 624 failure to obtain a clearance letter before ~~prior to~~ placing a  
 625 drinking water system into service when the system would not

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

626 | have been eligible for clearance, the department shall assess a  
 627 | penalty of \$4,500 ~~\$3,000~~.

628 |       (b) For failure to obtain a required wastewater permit,  
 629 | other than a permit required for surface water discharge, the  
 630 | department shall assess a penalty of \$2,000 ~~\$1,000~~. For a  
 631 | domestic or industrial wastewater violation not involving a  
 632 | surface water or groundwater quality violation, the department  
 633 | shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or  
 634 | unauthorized discharge or effluent-limitation exceedance. For an  
 635 | unpermitted or unauthorized discharge or effluent-limitation  
 636 | exceedance that resulted in a surface water or groundwater  
 637 | quality violation, the department shall assess a penalty of  
 638 | \$10,000 ~~\$5,000~~. Each day the cause of an unauthorized discharge  
 639 | of domestic wastewater is not addressed constitutes a separate  
 640 | offense.

641 |       (c) For a dredge and fill or stormwater violation, the  
 642 | department shall assess a penalty of \$1,500 ~~\$1,000~~ for  
 643 | unpermitted or unauthorized dredging or filling or unauthorized  
 644 | construction of a stormwater management system against the  
 645 | person or persons responsible for the illegal dredging or  
 646 | filling, or unauthorized construction of a stormwater management  
 647 | system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in  
 648 | an aquatic preserve, an Outstanding Florida Water, a  
 649 | conservation easement, or a Class I or Class II surface water,  
 650 | plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

651 one-quarter acre but less than or equal to one-half acre, and  
652 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
653 one-half acre but less than or equal to one acre. The  
654 administrative penalty schedule does ~~shall~~ not apply to a dredge  
655 and fill violation if the area dredged or filled exceeds one  
656 acre. The department retains the authority to seek the judicial  
657 imposition of civil penalties for all dredge and fill violations  
658 involving more than one acre. The department shall assess a  
659 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required  
660 mitigation, failure to record a required conservation easement,  
661 or for a water quality violation resulting from dredging or  
662 filling activities, stormwater construction activities or  
663 failure of a stormwater treatment facility. For stormwater  
664 management systems serving less than 5 acres, the department  
665 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to  
666 properly or timely construct a stormwater management system. In  
667 addition to the penalties authorized in this subsection, the  
668 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
669 against the contractor or agent of the owner or tenant that  
670 conducts unpermitted or unauthorized dredging or filling. For  
671 purposes of this paragraph, the preparation or signing of a  
672 permit application by a person currently licensed under chapter  
673 471 to practice as a professional engineer does ~~shall~~ not make  
674 that person an agent of the owner or tenant.

675 (d) For mangrove trimming or alteration violations, the

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

676 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
 677 against the contractor or agent of the owner or tenant that  
 678 conducts mangrove trimming or alteration without a permit as  
 679 required by s. 403.9328. For purposes of this paragraph, the  
 680 preparation or signing of a permit application by a person  
 681 currently licensed under chapter 471 to practice as a  
 682 professional engineer does ~~shall~~ not make that person an agent  
 683 of the owner or tenant.

684 (e) For solid waste violations, the department shall  
 685 assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or  
 686 unauthorized disposal or storage of solid waste; plus \$1,000 if  
 687 the solid waste is Class I or Class III (excluding yard trash)  
 688 or if the solid waste is construction and demolition debris in  
 689 excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is  
 690 disposed of or stored in any natural or artificial body of water  
 691 or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~  
 692 if the waste contains PCB at a concentration of 50 parts per  
 693 million or greater; untreated biomedical waste; friable asbestos  
 694 greater than 1 cubic meter which is not wetted, bagged, and  
 695 covered; used oil greater than 25 gallons; or 10 or more lead  
 696 acid batteries. The department shall assess a penalty of \$4,500  
 697 ~~\$3,000~~ for failure to properly maintain leachate control;  
 698 unauthorized burning; failure to have a trained spotter on duty  
 699 at the working face when accepting waste; or failure to provide  
 700 access control for three consecutive inspections. The department

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

701 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct  
 702 or maintain a required stormwater management system.

703 (f) For an air emission violation, the department shall  
 704 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or  
 705 unauthorized air emission or an air-emission-permit exceedance,  
 706 ~~plus \$1,000 if the emission results in an air quality violation,~~  
 707 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and  
 708 the source was major for the pollutant in violation; plus \$1,500  
 709 ~~\$1,000~~ if the emission was more than 150 percent of the  
 710 allowable level.

711 (g) For storage tank system and petroleum contamination  
 712 violations, the department shall assess a penalty of \$7,500  
 713 ~~\$5,000~~ for failure to empty a damaged storage system as  
 714 necessary to ensure that a release does not occur until repairs  
 715 to the storage system are completed; when a release has occurred  
 716 from that storage tank system; for failure to timely recover  
 717 free product; or for failure to conduct remediation or  
 718 monitoring activities until a no-further-action or site-  
 719 rehabilitation completion order has been issued. The department  
 720 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely  
 721 upgrade a storage tank system. The department shall assess a  
 722 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain  
 723 required release detection; failure to timely investigate a  
 724 suspected release from a storage system; depositing motor fuel  
 725 into an unregistered storage tank system; failure to timely

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

726 assess or remediate petroleum contamination; or failure to  
 727 properly install a storage tank system. The department shall  
 728 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly  
 729 operate, maintain, or close a storage tank system.

730 (4) In an administrative proceeding, in addition to the  
 731 penalties that may be assessed under subsection (3), the  
 732 department shall assess administrative penalties according to  
 733 the following schedule:

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

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

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

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

743 (e) For failure to maintain required staff to respond to  
 744 emergencies; failure to conduct required training; failure to  
 745 prepare, maintain, or update required contingency plans; failure  
 746 to adequately respond to emergencies to bring an emergency  
 747 situation under control; or failure to submit required  
 748 notification to the department, \$1,500 ~~\$1,000~~.

749 (f) Except as provided in subsection (2) with respect to  
 750 public water systems serving a population of more than 10,000,

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

751 for failure to prepare, submit, maintain, or use required  
 752 reports or other required documentation, \$750 ~~\$500~~.

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

758 (6) For each additional day during which a violation  
 759 occurs, the administrative penalties in subsections ~~subsection~~  
 760 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day  
 761 per violation.

762 (7) The history of noncompliance of the violator for any  
 763 previous violation resulting in an executed consent order, but  
 764 not including a consent order entered into without a finding of  
 765 violation, or resulting in a final order or judgment after the  
 766 effective date of this law involving the imposition of \$3,000  
 767 ~~\$2,000~~ or more in penalties shall be taken into consideration in  
 768 the following manner:

769 (a) One previous such violation within 5 years before  
 770 ~~prior to~~ the filing of the notice of violation will result in a  
 771 25-percent per day increase in the scheduled administrative  
 772 penalty.

773 (b) Two previous such violations within 5 years before  
 774 ~~prior to~~ the filing of the notice of violation will result in a  
 775 50-percent per day increase in the scheduled administrative

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CS/CS/HB 1091, Engrossed 1

2020 Legislature

776 penalty.

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

781 (8) The direct economic benefit gained by the violator  
782 from the violation, where consideration of economic benefit is  
783 provided by Florida law or required by federal law as part of a  
784 federally delegated or approved program, shall be added to the  
785 scheduled administrative penalty. The total administrative  
786 penalty, including any economic benefit added to the scheduled  
787 administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

788 (9) The administrative penalties assessed for any  
789 particular violation may ~~shall~~ not exceed \$10,000 ~~\$5,000~~ against  
790 any one violator, unless the violator has a history of  
791 noncompliance, the economic benefit of the violation as  
792 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are  
793 multiday violations. The total administrative penalties may  
794 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all  
795 violations attributable to a specific person in the notice of  
796 violation.

797 (10) The administrative law judge may receive evidence in  
798 mitigation. The penalties identified in subsections ~~subsection~~  
799 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50  
800 percent by the administrative law judge for mitigating



ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

801 | circumstances, including good faith efforts to comply before  
802 | ~~prior to~~ or after discovery of the violations by the department.  
803 | Upon an affirmative finding that the violation was caused by  
804 | circumstances beyond the reasonable control of the respondent  
805 | and could not have been prevented by respondent's due diligence,  
806 | the administrative law judge may further reduce the penalty.

807 |       (11) Penalties collected pursuant to this section shall be  
808 | deposited into the Water Quality Assurance Trust Fund or other  
809 | trust fund designated by statute and shall be used to fund the  
810 | restoration of ecosystems, or polluted areas of the state, as  
811 | defined by the department, to their condition before pollution  
812 | occurred. The Florida Conflict Resolution Consortium may use a  
813 | portion of the fund to administer the mediation process provided  
814 | in paragraph (2)(e) and to contract with private mediators for  
815 | administrative penalty cases.

816 |       (12) The purpose of the administrative penalty schedule  
817 | and process is to provide a more predictable and efficient  
818 | manner for individuals and businesses to resolve relatively  
819 | minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~  
820 | ~~(3), subsection (4), subsection (5), subsection (6), or~~  
821 | ~~subsection (7) shall~~ not be construed as limiting a state court  
822 | in the assessment of damages. The administrative penalty  
823 | schedule does not apply to the judicial imposition of civil  
824 | penalties in state court as provided in this section.

825 |       Section 18. Subsection (1) of section 403.141, Florida

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

826 Statutes, is amended to read:

827 403.141 Civil liability; joint and several liability.—

828 (1) A person who ~~Whoever~~ commits a violation specified in  
 829 s. 403.161(1) is liable to the state for any damage caused to  
 830 the air, waters, or property, including animal, plant, or  
 831 aquatic life, of the state and for reasonable costs and expenses  
 832 of the state in tracing the source of the discharge, in  
 833 controlling and abating the source and the pollutants, and in  
 834 restoring the air, waters, and property, including animal,  
 835 plant, and aquatic life, of the state to their former condition,  
 836 and furthermore is subject to the judicial imposition of a civil  
 837 penalty for each offense in an amount of not more than \$15,000  
 838 ~~\$10,000~~ per offense. However, the court may receive evidence in  
 839 mitigation. Each day during any portion of which such violation  
 840 occurs constitutes a separate offense. If a violation is an  
 841 unauthorized discharge of domestic wastewater, each day the  
 842 cause of the violation is not addressed constitutes a separate  
 843 offense until the violation is resolved by order or judgment.  
 844 This section does not ~~Nothing herein shall~~ give the department  
 845 the right to bring an action on behalf of any private person.

846 Section 19. Subsections (2) through (5) of section  
 847 403.161, Florida Statutes, are amended to read:

848 403.161 Prohibitions, violation, penalty, intent.—

849 (2) A person who ~~Whoever~~ commits a violation specified in  
 850 subsection (1) is liable to the state for any damage caused and

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

851 for civil penalties as provided in s. 403.141.

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

859 (4) A ~~Any~~ person who commits a violation specified in  
 860 paragraph (1)(a) or paragraph (1)(b) due to reckless  
 861 indifference or gross careless disregard commits ~~is guilty of~~ a  
 862 misdemeanor of the second degree, punishable as provided in ss.  
 863 775.082(4)(b) and 775.083(1)(g) by a fine of not more than  
 864 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each  
 865 offense.

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

872 Section 20. Paragraph (a) of subsection (6) of section  
 873 403.413, Florida Statutes, is amended to read:

874 403.413 Florida Litter Law.—

875 (6) PENALTIES; ENFORCEMENT.—

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

876 (a) Any person who dumps litter in violation of subsection  
 877 (4) in an amount not exceeding 15 pounds in weight or 27 cubic  
 878 feet in volume and not for commercial purposes commits ~~is guilty~~  
 879 ~~of~~ a noncriminal infraction, punishable by a civil penalty of  
 880 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid  
 881 Waste Management Trust Fund to be used for the solid waste  
 882 management grant program pursuant to s. 403.7095. In addition,  
 883 the court may require the violator to pick up litter or perform  
 884 other labor commensurate with the offense committed.

885 Section 21. Subsection (5) of section 403.7234, Florida  
 886 Statutes, is amended to read:

887 403.7234 Small quantity generator notification and  
 888 verification program.—

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

900 Section 22. Subsection (3) of section 403.726, Florida

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

901 Statutes, is amended to read:

902 403.726 Abatement of imminent hazard caused by hazardous  
903 substance.—

904 (3) An imminent hazard exists if any hazardous substance  
905 creates an immediate and substantial danger to human health,  
906 safety, or welfare or to the environment. The department may  
907 institute action in its own name, using the procedures and  
908 remedies of s. 403.121 or s. 403.131, to abate an imminent  
909 hazard. However, the department is authorized to recover a civil  
910 penalty of not more than \$37,500 ~~\$25,000~~ for each day of  
911 continued violation. Whenever serious harm to human health,  
912 safety, and welfare; the environment; or private or public  
913 property may occur before ~~prior to~~ completion of an  
914 administrative hearing or other formal proceeding that which  
915 might be initiated to abate the risk of serious harm, the  
916 department may obtain, ex parte, an injunction without paying  
917 filing and service fees before ~~prior to~~ the filing and service  
918 of process.

919 Section 23. Paragraph (a) of subsection (3) of section  
920 403.727, Florida Statutes, is amended to read:

921 403.727 Violations; defenses, penalties, and remedies.—

922 (3) Violations of the provisions of this act are  
923 punishable as follows:

924 (a) Any person who violates ~~the provisions of~~ this act,  
925 the rules or orders of the department, or the conditions of a

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

926 permit is liable to the state for any damages specified in s.  
 927 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~  
 928 for each day of continued violation, except as otherwise  
 929 provided herein. The department may revoke any permit issued to  
 930 the violator. In any action by the department against a small  
 931 hazardous waste generator for the improper disposal of hazardous  
 932 wastes, a rebuttable presumption of improper disposal shall be  
 933 created if the generator was notified pursuant to s. 403.7234;  
 934 the generator shall then have the burden of proving that the  
 935 disposal was proper. If the generator was not so notified, the  
 936 burden of proving improper disposal shall be placed upon the  
 937 department.

938 Section 24. Subsection (8) of section 403.93345, Florida  
 939 Statutes, is amended to read:

940 403.93345 Coral reef protection.—

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

944 (a) For any anchoring of a vessel on a coral reef or for  
 945 any other damage to a coral reef totaling less than or equal to  
 946 an area of 1 square meter, \$225 ~~\$150~~, provided that a  
 947 responsible party who has anchored a recreational vessel as  
 948 defined in s. 327.02 which is lawfully registered or exempt from  
 949 registration pursuant to chapter 328 is issued, at least once, a  
 950 warning letter in lieu of penalty; with aggravating

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

951 | circumstances, an additional \$225 ~~\$150~~; occurring within a state  
 952 | park or aquatic preserve, an additional \$225 ~~\$150~~.

953 | (b) For damage totaling more than an area of 1 square  
 954 | meter but less than or equal to an area of 10 square meters,  
 955 | \$450 ~~\$300~~ per square meter; with aggravating circumstances, an  
 956 | additional \$450 ~~\$300~~ per square meter; occurring within a state  
 957 | park or aquatic preserve, an additional \$450 ~~\$300~~ per square  
 958 | meter.

959 | (c) For damage exceeding an area of 10 square meters,  
 960 | \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,  
 961 | an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a  
 962 | state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per  
 963 | square meter.

964 | (d) For a second violation, the total penalty may be  
 965 | doubled.

966 | (e) For a third violation, the total penalty may be  
 967 | tripled.

968 | (f) For any violation after a third violation, the total  
 969 | penalty may be quadrupled.

970 | (g) The total of penalties levied may not exceed \$375,000  
 971 | ~~\$250,000~~ per occurrence.

972 | Section 25. For the purpose of incorporating the amendment  
 973 | made by this act to s. 376.16, Florida Statutes, in a reference  
 974 | thereto, subsection (5) of s. 823.11, Florida Statutes, is  
 975 | reenacted to read:

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

976           823.11 Derelict vessels; relocation or removal; penalty.—  
 977           (5) A person, firm, or corporation violating this section  
 978 commits a misdemeanor of the first degree and shall be punished  
 979 as provided by law. A conviction under this section does not bar  
 980 the assessment and collection of the civil penalty provided in  
 981 s. 376.16 for violation of s. 376.15. The court having  
 982 jurisdiction over the criminal offense, notwithstanding any  
 983 jurisdictional limitations on the amount in controversy, may  
 984 order the imposition of such civil penalty in addition to any  
 985 sentence imposed for the first criminal offense.

986           Section 26. For the purpose of incorporating the amendment  
 987 made by this act to section 403.121, Florida Statutes, in a  
 988 reference thereto, subsection (5) of section 403.077, Florida  
 989 Statutes, is reenacted to read:

990           403.077 Public notification of pollution.—

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

994           Section 27. For the purpose of incorporating the amendment  
 995 made by this act to section 403.121, Florida Statutes, in a  
 996 reference thereto, subsection (2) of section 403.131, Florida  
 997 Statutes, is reenacted to read:

998           403.131 Injunctive relief, remedies.—

999           (2) All the judicial and administrative remedies to  
 1000 recover damages and penalties in this section and s. 403.121 are



ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

1001 alternative and mutually exclusive.

1002 Section 28. For the purpose of incorporating the amendment  
 1003 made by this act to section 403.121, Florida Statutes, in a  
 1004 reference thereto, paragraph (d) of subsection (3) of section  
 1005 403.4154, Florida Statutes, is reenacted to read:

1006 403.4154 Phosphogypsum management program.—

1007 (3) ABATEMENT OF IMMINENT HAZARD.—

1008 (d) If the department determines that the failure of an  
 1009 owner or operator to comply with department rules requiring  
 1010 demonstration of financial responsibility or that the physical  
 1011 condition, maintenance, operation, or closure of a phosphogypsum  
 1012 stack system poses an imminent hazard, the department shall  
 1013 request access to the property on which such stack system is  
 1014 located from the owner or operator of the stack system for the  
 1015 purposes of taking action to abate or substantially reduce the  
 1016 imminent hazard. If the department, after reasonable effort, is  
 1017 unable to timely obtain the necessary access to abate or  
 1018 substantially reduce the imminent hazard, the department may  
 1019 institute action in its own name, using the procedures and  
 1020 remedies of s. 403.121 or s. 403.131, to abate or substantially  
 1021 reduce an imminent hazard. Whenever serious harm to human  
 1022 health, safety, or welfare, to the environment, or to private or  
 1023 public property may occur before ~~prior to~~ completion of an  
 1024 administrative hearing or other formal proceeding that might be  
 1025 initiated to abate the risk of serious harm, the department may

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

1026 obtain from the court, ex parte, an injunction without paying  
 1027 filing and service fees before ~~prior to~~ the filing and service  
 1028 of process.

1029 Section 29. For the purpose of incorporating the amendment  
 1030 made by this act to section 403.121, Florida Statutes, in a  
 1031 reference thereto, subsection (5) of section 403.860, Florida  
 1032 Statutes, is reenacted to read:

1033 403.860 Penalties and remedies.—

1034 (5) In addition to any judicial or administrative remedy  
 1035 authorized by this part, the department or a county health  
 1036 department that has received approval by the department pursuant  
 1037 to s. 403.862(1)(c) shall assess administrative penalties for  
 1038 violations of this section in accordance with s. 403.121.

1039 Section 30. For the purpose of incorporating the amendment  
 1040 made by this act to section 403.141, Florida Statutes, in a  
 1041 reference thereto, subsection (10) of section 403.708, Florida  
 1042 Statutes, is reenacted to read:

1043 403.708 Prohibition; penalty.—

1044 (10) Violations of this part or rules, regulations,  
 1045 permits, or orders issued thereunder by the department and  
 1046 violations of approved local programs of counties or  
 1047 municipalities or rules, regulations, or orders issued  
 1048 thereunder are punishable by a civil penalty as provided in s.  
 1049 403.141.

1050 Section 31. For the purpose of incorporating the amendment

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

1051 made by this act to section 403.141, Florida Statutes, in a  
 1052 reference thereto, subsection (7) of section 403.7191, Florida  
 1053 Statutes, is reenacted to read:

1054 403.7191 Toxics in packaging.—

1055 (7) ENFORCEMENT.—It is unlawful for any person to:

1056 (a) Violate any provision of this section or any rule  
 1057 adopted or order issued thereunder by the department.

1058 (b) Tender for sale to a purchaser any package, packaging  
 1059 component, or packaged product in violation of this section or  
 1060 any rule adopted or order issued thereunder.

1061 (c) Furnish a certificate of compliance with respect to  
 1062 any package or packaging component which does not comply with  
 1063 the provisions of subsection (3).

1064 (d) Provide a certificate of compliance that contains  
 1065 false information.

1066

1067 Violations shall be punishable by a civil penalty as provided in  
 1068 s. 403.141.

1069 Section 32. For the purpose of incorporating the amendment  
 1070 made by this act to section 403.141, Florida Statutes, in a  
 1071 reference thereto, section 403.811, Florida Statutes, is  
 1072 reenacted to read:

1073 403.811 Dredge and fill permits issued pursuant to this  
 1074 chapter and s. 373.414.—Permits or other orders addressing  
 1075 dredging and filling in, on, or over waters of the state issued

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

1076 | pursuant to this chapter or s. 373.414(9) before the effective  
 1077 | date of rules adopted under s. 373.414(9) and permits or other  
 1078 | orders issued in accordance with s. 373.414(13), (14), (15), or  
 1079 | (16) shall remain valid through the duration specified in the  
 1080 | permit or order, unless revoked by the agency issuing the  
 1081 | permit. The agency issuing the permit or other order may seek to  
 1082 | enjoin the violation of, or to enforce compliance with, the  
 1083 | permit or other order as provided in ss. 403.121, 403.131,  
 1084 | 403.141, and 403.161. A violation of a permit or other order  
 1085 | addressing dredging or filling issued pursuant to this chapter  
 1086 | is punishable by a civil penalty as provided in s. 403.141 or a  
 1087 | criminal penalty as provided in s. 403.161.

1088 |       Section 33. For the purpose of incorporating the  
 1089 | amendments made by this act to sections 403.141 and 403.161,  
 1090 | Florida Statutes, in references thereto, subsection (8) of  
 1091 | section 403.7186, Florida Statutes, is reenacted to read:

1092 |       403.7186 Environmentally sound management of mercury-  
 1093 | containing devices and lamps.—

1094 |       (8) CIVIL PENALTY.—A person who engages in any act or  
 1095 | practice declared in this section to be prohibited or unlawful,  
 1096 | or who violates any of the rules of the department promulgated  
 1097 | under this section, is liable to the state for any damage caused  
 1098 | and for civil penalties in accordance with s. 403.141. The  
 1099 | provisions of s. 403.161 are not applicable to this section. The  
 1100 | penalty may be waived if the person previously has taken

ENROLLED

CS/CS/HB 1091, Engrossed 1

2020 Legislature

1101 appropriate corrective action to remedy the actual damages, if  
1102 any, caused by the unlawful act or practice or rule violation. A  
1103 civil penalty so collected shall accrue to the state and shall  
1104 be deposited as received into the Solid Waste Management Trust  
1105 Fund for the purposes specified in paragraph (5)(a).

1106 Section 34. For the purpose of incorporating the amendment  
1107 made by this act to section 403.161, Florida Statutes, in a  
1108 reference thereto, subsection (2) of section 403.7255, Florida  
1109 Statutes, is reenacted to read:

1110 403.7255 Placement of signs.—

1111 (2) Violations of this act are punishable as provided in  
1112 s. 403.161(4).

1113 Section 35. This act shall take effect July 1, 2020.