
A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 321-20, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~+~~§321-20~~+~~ **Remedies.** Notwithstanding other penalties,
4 the director may enforce this chapter in either administrative
5 or judicial proceedings:

6 (1) Administrative. If the director determines that any
7 person is violating any provision of this chapter, any
8 rule adopted thereunder, or any variance or exemption
9 or waiver issued pursuant thereto, the director may
10 have that person served with a notice of violation and
11 an order. The notice shall specify the alleged
12 violation. The order may require that the alleged
13 violator do any or all of the following: cease and
14 desist from the violation, pay an administrative
15 penalty not to exceed [~~\$1,000~~] \$3,000 for each day of
16 violation, correct the violation at the alleged
17 violator's own expense, or appear before the director
18 at a time and place specified in the order and answer



1 the charges complained of. The order shall become
2 final twenty days after service unless within those
3 twenty days the alleged violator requests in writing a
4 hearing before the director. Upon such request the
5 director shall specify a time and place for the
6 alleged violator to appear. When the director issues
7 an order for immediate action to protect the public
8 health from an imminent and substantial danger, the
9 department shall provide an opportunity for a hearing
10 within twenty-four hours after service of the order.
11 After a hearing pursuant to this subsection, the
12 director may affirm, modify, or rescind the order as
13 appropriate. The director may institute a civil
14 action in any court of appropriate jurisdiction for
15 the enforcement of any order issued pursuant to this
16 subsection.

17 Factors to be considered in imposing the
18 administrative penalty include the nature and history
19 of the violation and any prior violation and the
20 opportunity, difficulty, and history of corrective
21 action. It is presumed that the violator's economic
22 and financial conditions allow payment of the penalty



1 and the burden of proof to the contrary is on the
2 violator. In any judicial proceeding to enforce the
3 administrative penalty imposed pursuant to this
4 chapter, the director need only show that notice was
5 given, a hearing was held or the time granted for
6 requesting a hearing had expired without such a
7 request, the administrative penalty imposed, and that
8 the penalty imposed remains unsatisfied.

9 Beginning on July 1, 2014, and no later than July
10 1 in each year thereafter, the director shall adjust
11 for inflation the maximum amount for administrative
12 penalties under this paragraph. The director shall
13 use \$3,000 as the base figure for the first year and
14 apply the United States Department of Labor Consumer
15 Price Index for All Urban Consumers (CPI-U) for the
16 previous year to determine the new base figure, and
17 use the resulting figure as the new base figure each
18 year thereafter.

19 This section does not supersede specific
20 administrative penalties provided elsewhere.

21 (2) Judicial. The director may institute a civil action
22 in any court of appropriate jurisdiction for



1 injunctive relief to prevent violation of any order
2 issued or rule adopted pursuant to this chapter, in
3 addition to any other remedy or penalty provided for
4 under this chapter."

5 SECTION 2. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Administrative Penalties; Department of Health

Description:

Annually increases the maximum amount of the daily administrative penalty for violations of Department of Health laws and rules. Effective July 1, 2050. (HB2309 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

