

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass
Vote:	5 - 3 - 0
Yeas:	Bailey, Barnhart, Boone, Smith J., Cannon
Nays:	Bentz, Gilliam, Jenson
Exc.:	0
Prepared By:	Beth Patrino, Administrator
Meeting Dates:	4/30, 5/12

WHAT THE MEASURE DOES: Increases maximum administrative and criminal penalties for violations of pollution control laws from \$10,000 to \$25,000 per day. Requires that Environmental Quality Commission (EQC) and Regional Air Quality Control Authorities consider whether violator gained an economic benefit and if there were prior violations when imposing penalty. Modifies penalties for wildlife damage to be consistent with penalties by State Fish and Wildlife Commission. Increases maximum penalty from \$10,000 to \$25,000, per violation, for following items: violations of laws governing solid waste, waste tires, and novelty items containing mercury; violations of laws governing hazardous substance removal or remedial action; violation of the hazardous waste laws; hazardous material spill and clean up laws; oil storage tank violations; misdemeanor fines related to air quality laws and permits, asbestos abatement, cleanup, hazardous waste, on-site sewage, solid waste, and underground storage tanks. Eliminates lower penalties for environmental crimes caused by corporations by requiring that corporation pay same fine that individual person would pay. Adds bilge water violations to list of generally applicable penalties with a maximum of \$25,000. Increases maximum penalty for negligently or intentionally spilling oil or hazardous materials into waters of state or negligently cleaning up spill from \$20,000 to \$100,000. Increases maximum penalty for distributing cleaning agents containing phosphorous from \$500 to \$1,000. Increases maximum civil penalty for violation that results in imminent likelihood of extreme hazard to public health or that causes extensive damage to environment from \$100,000 to \$250,000. Requires that EQC set schedule and criteria by rule for extreme violations. Provides operative date of January 1, 2011 for new penalty levels.

ISSUES DISCUSSED:

- Most violations addressed through informal means including warnings, advisories, and education
- More serious violations addressed through formal enforcement actions
- Agency penalty calculation formula
- Deterrence effect of higher penalties

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: The current statutory maximum penalty for violations of environmental laws was set in 1973. The Department of Environmental Quality uses a variety of tools to help ensure that businesses and individuals comply with state and federal environmental laws. These tools include technical assistance, compliance inspections, investigation of complaints, warning letters, assessment of civil penalties and compliance orders. Senate Bill 105A raises the maximum penalty levels for violations of environmental laws effective January 1, 2011.