

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

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**Action:** Do Pass as Amended and Be Printed Engrossed

**Vote:** 3 - 1 - 1

**Yeas:** Hass, Prozanski, Dingfelder

**Nays:** Atkinson

**Exc.:** Boquist

**Prepared By:** Beth Herzog, Administrator

**Meeting Dates:** 3/19, 3/31

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**WHAT THE MEASURE DOES:** Increases maximum administrative and criminal penalties for violations of pollution control laws that could be imposed from \$10,000 to \$25,000 per day. Requires that the Environmental Quality Commission (EQC) and Regional Air Quality Control Authorities consider whether the violator gained an economic benefit and if there were prior violations when imposing a penalty. Modifies penalties for wildlife damage to be consistent with penalties instituted by the State Fish and Wildlife Commission. Increases the maximum penalty from \$10,000 to \$25,000, per violation, for the 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 a corporation pay the same fine that an individual person would pay. Adds bilge water violations to the 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 the state or negligently cleaning up the 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 an extreme hazard to public health or which causes extensive damage to the environment from \$100,000 to \$250,000. Requires that the EQC set a schedule and criteria by rule for extreme violations.

**ISSUES DISCUSSED:**

- Comparison to other states
- Penalty last increased in 1973
- Increasing fines given current economic climate

**EFFECT OF COMMITTEE AMENDMENT:** Clarifies that any prior violations of pollutant control laws may be considered a factor in calculating a penalty. Extends operative date of the Act to January 1, 2011. Authorizes the Environmental Quality Commission to adopt rules before January 1, 2011.

**BACKGROUND:** The Oregon Department of Environmental Quality operates primarily by informing the regulated community about its legal obligations, verifying compliance through inspection, and enforcing the laws against those that do not comply. To be effective in encouraging compliance and deterring future violation, penalties for violation must be sufficiently large to be taken seriously. Oregon statutes set maximum penalty amounts. The maximum administrative penalty applicable to most pollution control laws, set in 1973, is currently \$10,000 per violation per day.

4/6/2009 10:27:00 AM

*This summary has not been adopted or officially endorsed by action of the committee.*