

2020 Regular Session

SENATE BILL NO. 400

BY SENATOR FIELDS AND REPRESENTATIVE JORDAN

ENVIRONMENT QUALITY DEPT. Provides for penalties for violation of the Environmental Quality Act. (2/3-CA7s2.1(A)) (8/1/20)

1 AN ACT

2 To amend and reenact R.S. 30:2025(E)(1)(a) and (2) and (F)(1)(a) and (2)(a), relative to

3 civil and criminal penalties for violations of the Environmental Quality Act; to

4 increase civil penalties; to increase criminal penalties; and to provide for related

5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 30:2025(E)(1)(a) and (2) and (F)(1)(a) and (2)(a) are hereby

8 amended and reenacted to read as follows:

9 §2025. Enforcement

10 \* \* \*

11 E. Civil penalties.

12 (1)(a) Any person found to be in violation of any requirement of this Subtitle

13 may be liable for a civil penalty, to be assessed by the secretary, the assistant

14 secretary of the office of environmental compliance, or the court, of not more than

15 the cost to the state of any response action made necessary by such violation which

16 is not voluntarily paid by the violator, and a penalty of not more than ~~thirty-two~~

17 sixty-five thousand ~~five hundred~~ dollars for each day of violation. However, when

1 any such violation is done intentionally, willfully, or knowingly, or results in a  
2 discharge or disposal which causes irreparable or severe damage to the environment  
3 or if the substance discharged is one which endangers human life or health, such  
4 person may be liable for an additional penalty of not more than ~~one~~ **two** million  
5 dollars.

6 \* \* \*

7 (2) Any person to whom a compliance order or a cease and desist order is  
8 issued pursuant to Subsection C of this Section who fails to take corrective action  
9 within the time specified in said order shall be liable for a civil penalty to be assessed  
10 by the secretary, the assistant secretary of the office of environmental compliance,  
11 or the court of not more than ~~fifty~~ **one hundred** thousand dollars for each day of  
12 continued violation or noncompliance.

13 \* \* \*

14 F. Criminal penalties.

15 Except as otherwise provided by law:

16 (1)(a) Any person who willfully or knowingly discharges, emits, or disposes  
17 of any substance in contravention of any provision of this Subtitle, of the regulations,  
18 or of the permit or license terms and conditions in pursuance thereof, when the  
19 substance is one that endangers or that could endanger human life or health, shall be  
20 guilty of a felony and shall be fined not more than ~~one~~ **two** million dollars or the cost  
21 of any cleanup made necessary by such violation and in addition may be fined not  
22 more than ~~one~~ **two** hundred thousand dollars per violation, which may be assessed  
23 for each day the violation continues, and costs of prosecution, or imprisoned at hard  
24 labor for not more than ~~ten~~ **twenty** years, or both, provided that a continuous  
25 violation extending beyond a single day shall be considered a single violation.

26 \* \* \*

27 (2)(a) Any person who willfully or knowingly discharges, emits, or disposes  
28 of any substance in contravention of any provision of this Subtitle of the regulations,  
29 or of the permit or license terms and conditions in pursuance thereof, when the

1 substance does not endanger or could not endanger human life or health, or who  
 2 willfully or knowingly violates any fee or filing requirement, or who willfully or  
 3 knowingly makes any false statement, representation, or certification in any form,  
 4 application, record, label, manifest, report, plan, or other document filed or required  
 5 to be maintained under this Subtitle, or under any permit, rule, or regulation issued  
 6 under this Subtitle, or who willfully or knowingly falsifies, intentionally tampers  
 7 with, or knowingly renders inaccurate any monitoring device or method required to  
 8 be maintained under this Subtitle, or under any permit, rule, or regulation issued  
 9 under this Subtitle, shall be guilty of a misdemeanor and may be fined not more than  
 10 ~~twenty-five~~ **fifty** thousand dollars per violation, which may be assessed for each day  
 11 the violation continues, and costs of prosecution, or imprisoned for not more than  
 12 ~~one year~~ **two years**, or both, provided that a continuous violation extending beyond  
 13 a single day shall be considered a single violation. A finding that this Paragraph has  
 14 been violated shall be a responsive verdict when the defendant has been charged with  
 15 a violation of Paragraph (1) of this Subsection.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Tyler S. McCloud.

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	DIGEST	
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Present law provides for civil penalties for any violation of the Environmental Quality Act, assessed by the secretary, the assistant secretary of the office of environmental compliance, or the court, of not more than the cost to the state of any response action made necessary by such violation which is not voluntarily paid by the violator, and a penalty of not more than \$32,500 for each day of violation. Proposed law increases such civil penalty from \$32,500 per day to \$65,000 per day.

Present law provides that when any such violation is done intentionally, willfully, or knowingly, or results in a discharge or disposal which causes irreparable or severe damage to the environment or if the substance discharged is one which endangers human life or health, such person may be liable for an additional penalty of not more than \$1,000,000. Proposed law increase such additional penalty from not more than \$1,000,000 to \$2,000,000.

Present law subjects any person to whom a compliance order or a cease and desist order is issued and fails to take corrective action within the time specified in said order to a civil penalty to be assessed by the secretary, the assistant secretary of the office of environmental compliance, or the court of not more than \$50,000 for each day of continued violation or noncompliance. Proposed law increases the civil penalty from not more than \$50,000 per day to not more than \$100,000 per day.

Present law provides for felony criminal penalties for any person who willfully or knowingly discharges, emits, or disposes of any substance in violation of present law, of the regulations, or of the permit or license terms and conditions, when the substance is one that endangers or that could endanger human life or health. Present law provides for a fine of not more than \$1,000,000 or the cost of any cleanup made necessary by such violation and provides for an additional fine of not more than \$100,000 per violation, which may be assessed for each day the violation continues, and costs of prosecution, or imprisoned at hard labor for not more than 10 years, or both, provided that a continuous violation extending beyond a single day shall be considered a single violation.

Proposed law increases the fine from \$1,000,000 to \$2,000,000, the additional fine from \$100,000 per violation to \$200,000 per violation, and the imprisonment from not more than 10 years at hard labor to 20 years at hard labor.

Present law provides for misdemeanor criminal penalties for any person who willfully or knowingly discharges, emits, or disposes of any substance in contravention of present law, of the regulations, or of the permit or license terms and conditions in pursuance thereof, when the substance does not endanger or could not endanger human life or health, or who willfully or knowingly violates any fee or filing requirement, or who willfully or knowingly makes any false statement, representation, or certification in any form, application, record, label, manifest, report, plan, or other document filed or required to be maintained or who willfully or knowingly falsifies, intentionally tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained. Present law provides for a fine of not more than \$25,000 per violation, which may be assessed for each day the violation continues, and costs of prosecution, or imprisoned for not more than one year or both, provided that a continuous violation extending beyond a single day shall be considered a single violation.

Proposed law increases the fine from \$25,000 per violation to \$50,000 per violation and imprisonment from not more than one year to two years, or both.

Effective August 1, 2020.

(Amends R.S. 30:2025(E)(1)(a) and (2) and (F)(1)(a) and (2)(a))