A bill to be entitled
An act relating to environmental enforcement; amending
ss. 161.054, 258.397, 258.46, 373.129, 373.209,
373.430, 376.065, 376.071, 376.16, 376.25, 377.37,
378.211, 403.086, 403.121, 403.141, 403.161, 403.413,
403.7234, 403.726, 403.727, and 403.93345, F.S.;
increasing the civil penalties for violations of
certain provisions relating to beach and shore
construction, the Biscayne Bay Aquatic Preserve,
aquatic preserves, the state water resource plan,
artesian wells, pollution, operating a terminal
facility without discharge prevention and response
certificates, discharge contingency plans for vessels,
the Pollutant Discharge Prevention and Control Act,
the Clean Ocean Act, the pollution of surface and
ground waters, the regulation of oil and gas
resources, the Phosphate Land Reclamation Act, sewage
disposal facilities, pollution control, reasonable
costs and expenses for pollution releases, necessary
permits, dumping litter, small quantity generators,
the abatement of imminent hazards caused by hazardous
substances, hazardous waste generators, transporters,
or facilities, and coral reef protection,
respectively; providing that each day that certain
violations are not remediated constitutes a separate
Be It Enacted by the Legislature of the State of Florida:

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

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person, firm, corporation, or governmental agency, or agent thereof, refusing to comply with or willfully violating any of the provisions of s. 161.041, s.
Section 1. Subsection (7) of section 161.052, or s. 161.053, or any rule or order prescribed by the department thereunder, shall incur a fine for each offense in an amount up to $15,000 to be fixed, imposed, and collected by the department. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

Section 2. Subsection (7) of section 258.397, Florida Statutes, is amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(7) ENFORCEMENT. The provisions of this section may be enforced in accordance with the provisions of s. 403.412. In addition, the Department of Legal Affairs may be authorized to bring an action for civil penalties of $7,500 per day against any person, natural or corporate, who violates the provisions of this section or any rule or regulation issued hereunder. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. Enforcement of applicable state regulations shall be supplemented by the Miami-Dade County Department of Environmental Resources Management through the creation of a full-time enforcement presence along the Miami River.

Section 3. Section 258.46, Florida Statutes, is amended to read:

258.46 Enforcement; violations; penalty. The provisions of

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This act may be enforced by the Board of Trustees of the Internal Improvement Trust Fund or in accordance with the provisions of s. 403.412. However, any violation by any person, natural or corporate, of the provisions of this act or any rule or regulation issued hereunder is shall be further punishable by a civil penalty of not less than $750 $500 per day or more than $7,500 $5,000 per day of such violation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

Section 4. Subsections (5) and (7) of section 373.129, Florida Statutes, are amended, to read:

373.129 Maintenance of actions.—The department, the governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. 373.103(8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(5) To recover a civil penalty for each offense in an amount not to exceed $15,000 $10,000 per offense. Until a violation is resolved by order or judgment, each date during any portion of which such violation occurs or is not remediated constitutes a separate offense.

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

(b) A local government that is delegated authority pursuant to s. 373.103(8) may deposit a civil penalty recovered pursuant to this subsection into a local water pollution control program trust fund, notwithstanding the provisions of paragraph (a). However, civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violations of state water quality standards may be used only to restore water quality in the area that was the subject of the action, and civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violation of requirements relating to water quantity may be used only to purchase lands and make capital improvements associated with surface water management, or other purposes consistent with the requirements of this chapter for the management and storage of surface water.

(7) To enforce the provisions of part IV of this chapter in the same manner and to the same extent as provided in ss. 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.
Artesian wells; penalties for violation.—

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

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

(b) A civil penalty of $150 $100 a day for each and every day of such violation and for each and every act of violation. The civil penalty may be recovered by the water management board of the water management district in which the well is located or by the department in a suit in a court of competent jurisdiction in the county where the defendant resides, in the county of residence of any defendant if there is more than one defendant, or in the county where the violation took place. The place of suit shall be selected by the board or department, and the suit, by direction of the board or department, shall be instituted and conducted in the name of the board or department by appropriate counsel. The payment of any such damages does not impair or abridge any cause of action which any person may have against the person violating any provision of this section.

Section 6. Subsections (2) through (5) of section 373.430, Florida Statutes, are amended to read:

Prohibitions, violation, penalty, intent.—

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

(3) A person who willfully commits a violation

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specified in paragraph (1)(a) commits is guilty of a felony of the third degree, punishable as provided in ss. 775.082(3)(e) and 775.083(1)(g), by a fine of not more than $50,000 or by imprisonment for 5 years, or by both, for each offense. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

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

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

Section 7. Paragraphs (a) and (e) of subsection (5) of section 376.065, Florida Statutes, are amended to read:

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

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

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

Section 8. Paragraphs (a) and (e) of subsection (2) of section 376.071, Florida Statutes, are amended to read:

376.071 Discharge contingency plan for vessels.—

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

(e) A person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of $7,500 $5,000.

Section 9. Section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

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

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

(a) For discharges of gasoline or diesel over 5 gallons, the civil penalty for the second discharge shall be $750 $500 and the civil penalty for each subsequent discharge within a 12-month period shall be $1,500 $1,000, except as otherwise provided in this section.

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

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

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

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

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

(a) Pay the civil penalty;

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

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

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

(8) 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) or subsection (3).
The court, after a hearing, shall make a determination as to
whether an infraction has been committed. If the commission of
an infraction is proved, the court may impose a civil penalty up
to, but not exceeding, $7,500 $5,000 for the second discharge of
pollutants other than gasoline or diesel and a civil penalty up
to, but not exceeding, $15,000 $10,000 for each subsequent
discharge of pollutants other than gasoline or diesel within a
12-month period.

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

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

(11) Any person who has not posted bond and who neither
pays the applicable civil penalty, as specified in subsection
(2) or subsection (3) within 30 days of receipt of the citation
nor appears before the court commits a misdemeanor of the second
degree, punishable as provided in s. 775.082 or s. 775.083.

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

Section 10. Paragraph (a) of subsection (6) of section 376.25, Florida Statutes, is amended to read:

(6) PENALTIES.—

(a) A person who violates this section is subject to a civil penalty of not more than $75,000 for each violation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

Section 11. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

(1)(a) Any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property,
including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than $15,000 $10,000 for each offense. However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. This section does not Nothing herein shall give the department the right to bring an action on behalf of any private person.

Section 12. Subsection (2) of section 378.211, Florida Statutes, is amended to read:

378.211 Violations; damages; penalties.—
(2) The department may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for violation of this part or of any rule adopted or order issued pursuant to this part. The penalty shall not exceed the following amounts, and the court shall consider evidence in mitigation:
(a) For violations of a minor or technical nature, $150 $100 per violation.
(b) For major violations by an operator on which a penalty has not been imposed under this paragraph during the previous 5 years, $1,500 $1,000 per violation.

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

Subject to the provisions of subsection (4), until a violation is resolved by order or judgment, each day or any portion thereof in which the violation continues or is not remediated shall constitute a separate violation.

Section 13. Subsection (2) of section 403.086, Florida Statutes, is amended to read:

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

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

Section 14. Section 403.121, Florida Statutes, is amended to read:

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

(1) Judicial remedies:

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

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $15,000 per offense. However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

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

(2) Administrative remedies:

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

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $50,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than $1,000 per day per violation. The department may not impose administrative penalties in excess of $50,000 per notice of violation. The department may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were
discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the provision of the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an order is not shall become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period constitutes shall constitute a waiver thereof, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process
initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. No Administrative penalties should not be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions.
that do not request the imposition of administrative penalties.

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

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and
such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An award of attorney's fees as provided by this subsection may not exceed $15,000.

(g) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $10,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $10,000. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued.
The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 $10,000 in penalties may be settled in the court action for less than $50,000 $10,000.

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

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

(a) For a drinking water contamination violation, the department shall assess a penalty of $3,000 $2,000 for a Maximum Containment Level (MCL) violation; plus $1,500 $1,000 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,500 $1,000 if the violation occurs at a community water system; and plus $1,500 $1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of $4,500 $3,000.
(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $1,500 $1,000. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of $3,000 $2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $7,500 $5,000.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,500 $1,000 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus $3,000 $2,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus $1,500 $1,000 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus $1,500 $1,000 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does not apply to a dredge.
and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $4,500 $3,000 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of $3,000 $2,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $7,500 $5,000 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $7,500 $5,000 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the
preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

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

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

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $7,500 $5,000 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $4,500 $3,000 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $3,000 $2,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,500 $1,000 for failure to properly operate, maintain, or close a storage tank system.
(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

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

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

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

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

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

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, $750 $500.

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

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

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

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

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

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

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

(9) The administrative penalties assessed for any particular violation may shall not exceed $7,500 $5,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $7,500 $5,000, or there are multiday violations. The total administrative penalties may shall not exceed $50,000 $10,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsection 3, subsection (4), and subsection (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent
and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

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

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.141, Florida Statutes, is amended to read:

403.141 Civil liability; joint and several liability.—

(1) A person who commits a violation specified in s. 403.161(1) is liable to the state for any damage caused to
the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than $15,000 per offense. However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person.
violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

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

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

Section 17. Paragraph (a) of subsection (6) of section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

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

Section 18. Subsection (5) of section 403.7234, Florida Statutes, is amended to read:

403.7234 Small quantity generator notification and verification program.—

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

Section 19. Subsection (3) of section 403.726, Florida Statutes, is amended to read:

403.726 Abatement of imminent hazard caused by hazardous substance.—

(3) An imminent hazard exists if any hazardous substance creates an immediate and substantial danger to human health,
safety, or welfare or to the environment. The department may
institute action in its own name, using the procedures and
remedies of s. 403.121 or s. 403.131, to abate an imminent
hazard. However, the department is authorized to recover a civil
penalty of not more than $37,500 for each day until a of
continued violation is resolved by order or judgment. Whenever
serious harm to human health, safety, and welfare; the
environment; or private or public property may occur prior to
completion of an administrative hearing or other formal
proceeding that which might be initiated to abate the risk of
serious harm, the department may obtain, ex parte, an injunction
without paying filing and service fees prior to the filing and
service of process.

Section 20. Paragraph (a) of subsection (3) of section
403.727, Florida Statutes, is amended to read:
403.727 Violations; defenses, penalties, and remedies.—
(3) Violations of the provisions of this act are
punishable as follows:
(a) Any person who violates the provisions of this act,
the rules or orders of the department, or the conditions of a
permit is liable to the state for any damages specified in s.
403.141 and for a civil penalty of not more than $75,000 for each day of continued violation or until a violation is
resolved by order or judgment, except as otherwise provided
herein. The department may revoke any permit issued to the
violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

Section 21. Subsection (8) of section 403.93345, Florida Statutes, is amended to read:

403.93345 Coral reef protection.—
(8) In addition to the compensation described in subsection (5), the department may assess, per occurrence, civil penalties according to the following schedule:

(a) For any anchoring of a vessel on a coral reef or for any other damage to a coral reef totaling less than or equal to an area of 1 square meter, $225 $150, provided that a responsible party who has anchored a recreational vessel as defined in s. 327.02 which is lawfully registered or exempt from registration pursuant to chapter 328 is issued, at least once, a warning letter in lieu of penalty; with aggravating circumstances, an additional $225 $150; occurring within a state park or aquatic preserve, an additional $225 $150.

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

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

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

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

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

(g) The total of penalties levied may not exceed $375,000 $250,000 per occurrence.

Section 22. Subsection (5) of s. 823.11, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 376.16, Florida Statutes, in a reference thereto.

Section 23. Subsection (5) of s. 403.077, subsection (2) of s. 403.131, paragraph (d) of subsection (3) of s. 403.4154, and subsection (5) of s. 403.860, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by
Section 24. Subsection (10) of s. 403.708, subsection (7) of s. 403.7191, and s. 403.811, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.141, Florida Statutes, in references thereto.

Section 25. Subsection (2) of s. 403.7255, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 403.161, Florida Statutes, in a reference thereto.

Section 26. Subsection (8) of s. 403.7186, Florida Statutes, is reenacted for the purpose of incorporating the amendments made by this act to ss. 403.141 and 403.161, Florida Statutes, in references thereto.

Section 27. This act shall take effect July 1, 2020.