

CHAPTER 2020-158

Committee Substitute for Committee Substitute for House Bill No. 1091

An act relating to environmental accountability; creating ss. 125.569 and 166.0481, F.S.; defining the term “sanitary sewer lateral”; encouraging counties and municipalities, respectively, to establish a sanitary sewer lateral inspection program by a specified date; providing parameters for such a program; creating s. 689.301, F.S.; requiring a seller of real property to disclose any known defects in the property’s sanitary sewer lateral; defining the term “sanitary sewer lateral”; amending s. 161.054, F.S.; revising administrative penalties for violations of certain provisions relating to beach and shore construction and activities; making technical changes; amending ss. 258.397, 258.46, 373.129, 376.16, 376.25, 377.37, 378.211, and 403.141, F.S.; revising civil penalties for violations of certain provisions relating to the Biscayne Bay Aquatic Preserve, aquatic preserves, water resources, the Pollutant Discharge Prevention and Control Act, the Clean Ocean Act, regulation of oil and gas resources, the Phosphate Land Reclamation Act, and other provisions relating to pollution and the environment, respectively; providing that each day that certain violations occur constitutes a separate offense; making technical changes; amending ss. 373.209, 376.065, 376.071, 403.086, 403.413, 403.7234, and 403.93345, F.S.; revising civil penalties for violations of certain provisions relating to artesian wells, terminal facilities, discharge contingency plans for vessels, sewage disposal facilities, dumping litter, small quantity generators, and coral reef protection, respectively; making technical changes; amending ss. 373.430 and 403.161, F.S.; revising criminal penalties for violations of certain provisions relating to pollution and the environment; providing that each day that the cause of unauthorized discharges of domestic wastewater is not addressed constitutes a separate offense; making technical changes; amending s. 403.121, F.S.; revising civil and administrative penalties for violations of certain provisions relating to pollution and the environment; providing that each day that the cause of unauthorized discharges of domestic wastewater is not addressed constitutes a separate offense; increasing the amount of penalties that can be assessed administratively; making technical changes; amending ss. 403.726 and 403.727, F.S.; revising civil penalties for violations of certain provisions relating to hazardous waste; making technical changes; reenacting s. 823.11(5), F.S., to incorporate the amendment made to s. 376.16, F.S., in a reference thereto; reenacting ss. 403.077(5), 403.131(2), 403.4154(3)(d), and 403.860(5), F.S., to incorporate the amendment made to s. 403.121, F.S., in a reference thereto; reenacting ss. 403.708(10), 403.7191(7), and 403.811, F.S., to incorporate the amendment made to s. 403.141, F.S., in a reference thereto; reenacting s. 403.7186(8), F.S., to incorporate the amendment made to ss. 403.141 and 403.161, F.S., in references thereto; reenacting s.

403.7255(2), F.S., to incorporate the amendment made to s. 403.161, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 125.569, Florida Statutes, is created to read:

125.569 Sanitary sewer lateral inspection programs for counties.—

(1) As used in this section, the term “sanitary sewer lateral” means a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.

(2) By July 1, 2022, each county is encouraged to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

(a) Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the county.

(b) Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.

(c) Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the county notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 2. Section 166.0481, Florida Statutes, is created to read:

166.0481 Sanitary sewer lateral inspection programs for municipalities.

(1) As used in this section, the term “sanitary sewer lateral” means a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.

(2) By July 1, 2022, each municipality is encouraged to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

(a) Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the municipality.

(b) Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.

(c) Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the municipality notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 3. Section 689.301, Florida Statutes, is created to read:

689.301 Disclosure of known defects in sanitary sewer laterals to prospective purchaser.—Before executing a contract for sale, a seller of real property shall disclose to a prospective purchaser any defects in the property’s sanitary sewer lateral which are known to the seller. As used in this section, the term “sanitary sewer lateral” means the privately owned pipeline connecting a property to the main sewer line.

Section 4. 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. 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 ~~\$10,000~~ to be fixed, imposed, and collected by the department. Each day during any portion of which such violation occurs constitutes a separate offense.

Section 5. 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 ~~is authorized to~~ bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day against any person, natural or corporate, who violates ~~the provisions of~~ this section or any rule or regulation issued hereunder. Each day during any portion of which such violation occurs 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 6. Section 258.46, Florida Statutes, is amended to read:

258.46 Enforcement; violations; penalty.—~~The provisions of~~ 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. Each day during any portion of which such violation occurs constitutes a separate offense.

Section 7. 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. Each date during which such violation occurs 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.

Section 8. Subsection (3) of section 373.209, Florida Statutes, is amended to read:

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

373.430 Prohibitions, violation, penalty, intent.—

(2) A person who ~~Whoever~~ 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 ~~Any~~ person who willfully commits a violation 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. Each day during any portion of which such violation occurs 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 ~~\$5,000~~ or 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 who commits a violation specified in 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 10. 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 11. 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 12. 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. Each day during any portion of which the violation occurs 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 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. Paragraph (a) of subsection (6) of section 376.25, Florida Statutes, is amended to read:

376.25 Gambling vessels; registration; required and prohibited releases.

(6) PENALTIES.—

(a) A person who violates this section is subject to a civil penalty of not more than ~~\$75,000~~ \$50,000 for each violation. Each day during any portion of which such violation occurs constitutes a separate offense.

Section 14. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(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. Each day during any portion of which such violation occurs 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 15. 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 ~~may~~ 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), each day or any portion thereof in which the violation continues shall constitute a separate violation.

Section 16. 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 17. 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 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it ~~is~~ shall not be 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 before ~~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 ~~\$10,000~~ 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~~ shall not impose administrative penalties in excess of ~~\$50,000~~ \$10,000 in a notice of violation. The department ~~may~~ shall 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~~ no 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~~ shall 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~~ shall be 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 ~~No~~ award of attorney's fees as provided by this subsection may not ~~shall~~ exceed \$15,000.

(g) This section does not prevent ~~Nothing herein shall be construed as preventing~~ any other legal or administrative action in accordance with law and does not. ~~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 \$50,000 \$10,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000 \$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 ~~before~~ 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 \$2,000 ~~\$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 \$4,000 ~~\$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 \$10,000 ~~\$5,000~~. Each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.

(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~~ shall 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 ~~shall~~ 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 ~~shall~~ 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 ~~\$2,000~~ 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 ~~\$1,000~~ 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 \$1,500 ~~\$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 ~~\$3,000~~ 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 ~~\$2,000~~ 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 ~~\$1,000~~ for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus \$4,500 ~~plus \$1,000 if the emission results in an air quality violation,~~ \$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 ~~subsections~~ 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 ~~before~~ 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 ~~before~~ 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 ~~before~~ 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 \$10,000 ~~\$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 \$10,000 ~~\$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 ~~subsections~~ 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 ~~before~~ 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 ~~Subsection (3), subsection (4), subsection (5), subsection (6), or subsection (7)~~ shall 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 18. Subsection (1) of section 403.141, Florida Statutes, is amended to read:

403.141 Civil liability; joint and several liability.—

(1) A person who ~~Whoever~~ 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 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. If a violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgment. This section does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of any private person.

Section 19. Subsections (2) through (5) of section 403.161, Florida Statutes, are amended to read:

403.161 Prohibitions, violation, penalty, intent.—

(2) A person who ~~Whoever~~ commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.

(3) A ~~Any~~ person who willfully commits a violation 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. Each day during any portion of which such violation occurs 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~~ \$5,000 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 who commits a violation specified in 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 20. 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~~ \$100, 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 21. 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~~ \$50 and ~~\$150~~ \$100 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 22. 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 ~~\$25,000~~ for each day of continued violation. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur ~~before~~ 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 ~~before~~ prior to the filing and service of process.

Section 23. 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 ~~\$50,000~~ for each day of continued violation, 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 24. 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 25. For the purpose of incorporating the amendment made by this act to s. 376.16, Florida Statutes, in a reference thereto, subsection (5) of s. 823.11, Florida Statutes, is reenacted to read:

823.11 Derelict vessels; relocation or removal; penalty.—

(5) A person, firm, or corporation violating this section commits a misdemeanor of the first degree and shall be punished as provided by law. A conviction under this section does not bar the assessment and collection of the civil penalty provided in s. 376.16 for violation of s. 376.15. The court having jurisdiction over the criminal offense, notwithstanding any jurisdictional limitations on the amount in controversy, may order the imposition of such civil penalty in addition to any sentence imposed for the first criminal offense.

Section 26. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (5) of section 403.077, Florida Statutes, is reenacted to read:

403.077 Public notification of pollution.—

(5) VIOLATIONS.—Failure to provide the notification required by subsection (2) shall subject the owner or operator to the civil penalties specified in s. 403.121.

Section 27. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (2) of section 403.131, Florida Statutes, is reenacted to read:

403.131 Injunctive relief, remedies.—

(2) All the judicial and administrative remedies to recover damages and penalties in this section and s. 403.121 are alternative and mutually exclusive.

Section 28. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto,

paragraph (d) of subsection (3) of section 403.4154, Florida Statutes, is reenacted to read:

403.4154 Phosphogypsum management program.—

(3) ABATEMENT OF IMMINENT HAZARD.—

(d) If the department determines that the failure of an owner or operator to comply with department rules requiring demonstration of financial responsibility or that the physical condition, maintenance, operation, or closure of a phosphogypsum stack system poses an imminent hazard, the department shall request access to the property on which such stack system is located from the owner or operator of the stack system for the purposes of taking action to abate or substantially reduce the imminent hazard. If the department, after reasonable effort, is unable to timely obtain the necessary access to abate or substantially reduce the imminent hazard, the department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate or substantially reduce an imminent hazard. Whenever serious harm to human health, safety, or welfare, to the environment, or to private or public property may occur before ~~prior to~~ completion of an administrative hearing or other formal proceeding that might be initiated to abate the risk of serious harm, the department may obtain from the court, ex parte, an injunction without paying filing and service fees before ~~prior to~~ the filing and service of process.

Section 29. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (5) of section 403.860, Florida Statutes, is reenacted to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county health department that has received approval by the department pursuant to s. 403.862(1)(c) shall assess administrative penalties for violations of this section in accordance with s. 403.121.

Section 30. For the purpose of incorporating the amendment made by this act to section 403.141, Florida Statutes, in a reference thereto, subsection (10) of section 403.708, Florida Statutes, is reenacted to read:

403.708 Prohibition; penalty.—

(10) Violations of this part or rules, regulations, permits, or orders issued thereunder by the department and violations of approved local programs of counties or municipalities or rules, regulations, or orders issued thereunder are punishable by a civil penalty as provided in s. 403.141.

Section 31. For the purpose of incorporating the amendment made by this act to section 403.141, Florida Statutes, in a reference thereto, subsection (7) of section 403.7191, Florida Statutes, is reenacted to read:

403.7191 Toxics in packaging.—

(7) ENFORCEMENT.—It is unlawful for any person to:

(a) Violate any provision of this section or any rule adopted or order issued thereunder by the department.

(b) Tender for sale to a purchaser any package, packaging component, or packaged product in violation of this section or any rule adopted or order issued thereunder.

(c) Furnish a certificate of compliance with respect to any package or packaging component which does not comply with the provisions of subsection (3).

(d) Provide a certificate of compliance that contains false information.

Violations shall be punishable by a civil penalty as provided in s. 403.141.

Section 32. For the purpose of incorporating the amendment made by this act to section 403.141, Florida Statutes, in a reference thereto, section 403.811, Florida Statutes, is reenacted to read:

403.811 Dredge and fill permits issued pursuant to this chapter and s. 373.414.—Permits or other orders addressing dredging and filling in, on, or over waters of the state issued pursuant to this chapter or s. 373.414(9) before the effective date of rules adopted under s. 373.414(9) and permits or other orders issued in accordance with s. 373.414(13), (14), (15), or (16) shall remain valid through the duration specified in the permit or order, unless revoked by the agency issuing the permit. The agency issuing the permit or other order may seek to enjoin the violation of, or to enforce compliance with, the permit or other order as provided in ss. 403.121, 403.131, 403.141, and 403.161. A violation of a permit or other order addressing dredging or filling issued pursuant to this chapter is punishable by a civil penalty as provided in s. 403.141 or a criminal penalty as provided in s. 403.161.

Section 33. For the purpose of incorporating the amendments made by this act to sections 403.141 and 403.161, Florida Statutes, in references thereto, subsection (8) of section 403.7186, Florida Statutes, is reenacted to read:

403.7186 Environmentally sound management of mercury-containing devices and lamps.—

(8) CIVIL PENALTY.—A person who engages in any act or practice declared in this section to be prohibited or unlawful, or who violates any of the rules of the department promulgated under this section, is liable to the state for any damage caused and for civil penalties in accordance with s. 403.141. The provisions of s. 403.161 are not applicable to this section. The penalty may be waived if the person previously has taken appropriate corrective action to remedy the actual damages, if any, caused by the

unlawful act or practice or rule violation. A civil penalty so collected shall accrue to the state and shall be deposited as received into the Solid Waste Management Trust Fund for the purposes specified in paragraph (5)(a).

Section 34. For the purpose of incorporating the amendment made by this act to section 403.161, Florida Statutes, in a reference thereto, subsection (2) of section 403.7255, Florida Statutes, is reenacted to read:

403.7255 Placement of signs.—

(2) Violations of this act are punishable as provided in s. 403.161(4).

Section 35. This act shall take effect July 1, 2020.

Approved by the Governor June 30, 2020.

Filed in Office Secretary of State June 30, 2020.