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**Introduced by Senator Sher**

February 22, 2001

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An act to amend Section 4601.1 of the Public Resources Code, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

SB 482, as introduced, Sher. Forest practices: penalties.

Existing law requires the Attorney General or district attorney, upon the request of the Director of Forestry and Fire Protection, to, as part of a misdemeanor action brought for a violation of the Z'berg-Nejedly Forest Practice Act of 1953 or any rules or regulations of the State Board of Forestry and Fire Protection, petition the superior court to impose, assess, and recover a civil penalty, as specified.

This bill would authorize the Attorney General or district attorney, upon his or her own motion, or upon the request of the director, as part of such a misdemeanor action, to petition the superior court to impose, assess, and recover a civil penalty, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4601.1 of the Public Resources Code is  
2 amended to read:  
3 4601.1. (a) (1) In addition to any other penalty, any person  
4 who intentionally, knowingly, or negligently violates this chapter  
5 or a rule or regulation adopted by the board pursuant to this chapter  
6 is subject to a civil penalty imposed by a court in an amount not  
7 to exceed ten thousand dollars (\$10,000) for each violation. For

1 purposes of this section, damage that occurs over multiple days  
2 that results from a single action shall not be considered a  
3 continuing violation. For purposes of this section, each specific act  
4 that results in a violation of this chapter or a rule or regulation  
5 adopted pursuant to this chapter, including an act that is repeated  
6 on separate days, shall be considered a separate violation.

7 (2) The Attorney General or District Attorney, *upon his or her*  
8 *own motion, or* upon request of the director, shall, as part of a  
9 misdemeanor action brought pursuant to Section 4601, petition the  
10 superior court to impose, assess, and recover a civil penalty  
11 pursuant to this subdivision. In determining the appropriate  
12 amount, the court shall consider all relevant circumstances,  
13 including, but not limited to, persistence, circumstances, extent  
14 and gravity of the violation, the length of the time over which the  
15 violation occurred, whether any substantial damage caused by the  
16 violation is susceptible to corrective action, whether the violation  
17 was willful or caused by negligence, and, with respect to the  
18 violator, the ability of the violator to pay any fines or penalties, the  
19 effect on the ability to continue in business, the corrective action,  
20 if any, taken by the violator, whether the violator has any prior  
21 history of violations, the degree of culpability, economic savings,  
22 if any, resulting from the violation, and such other matters as  
23 justice may require.

24 (b) A civil penalty may also be administratively imposed by the  
25 department in accordance with Section 4601.2 on any person who  
26 intentionally, knowingly, or negligently violates this chapter or a  
27 rule or regulation adopted by the board pursuant to this chapter in  
28 an amount not to exceed ten thousand dollars (\$10,000) for each  
29 violation of a separate provision. For purposes of this section,  
30 damage that occurs over multiple days that results from a single  
31 action shall not be considered a continuing violation. For purposes  
32 of this section, each specific act that results in a violation of this  
33 chapter or a rule or regulation adopted pursuant to this chapter,  
34 including an act that is repeated on separate days, shall be  
35 considered a separate violation.

36 (c) No person is subject to both a civil penalty imposed by the  
37 superior court under subdivision (a) and a civil penalty  
38 administratively imposed under subdivision (b) for the same act or  
39 failure to act.



1 (d) Any money recovered by the department pursuant to this  
2 section shall be deposited in the General Fund.

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