

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO EMERGENCY RULES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the coronavirus  
2 disease 2019 (COVID-19) pandemic has created great challenges to  
3 global health, economy, and way of life. The governor and  
4 county mayors have had to exercise their emergency powers under  
5 chapter 127A, Hawaii Revised Statutes, to impose rules aimed to  
6 control the spread of COVID-19. The enforcement of these rules  
7 is critical to efforts to limit the spread of COVID-19, protect  
8 the health and safety of the community, manage medical  
9 resources, and restart the economy. To allow for more  
10 meaningful and effective enforcement of emergency orders, the  
11 governor and mayors need flexibility to promulgate a range of  
12 lesser penalties for emergency rules.

13           Accordingly, the purposes of this measure are to:

14           (1) Allow for lesser emergency period penalties to be  
15           adopted and promulgated by the governor or a mayor;  
16           and



1           (2) Authorize the county prosecutors to exercise  
 2           discretion with the offense charged and the penalty  
 3           sought for certain first-time violations of COVID-19  
 4           emergency orders incurred since March 4, 2019.

5           SECTION 2. Section 127A-29, Hawaii Revised Statutes, is  
 6           amended to read as follows:

7           " ~~[+] §127A-29 []- Misdemeanors-~~ Emergency period  
 8           infractions, violations, petty misdemeanors, and misdemeanors.

9           (a) Any person violating any rule of the governor or mayor  
 10           prescribed and promulgated pursuant to this chapter and having  
 11           the force and effect of law[7] shall, if it shall be so stated  
 12           and designated in the rule, be guilty of [a] an infraction,  
 13           violation, petty misdemeanor, or misdemeanor. [Upen] If a  
 14           penalty is not stated and designated in the rule, the person  
 15           shall be guilty of a misdemeanor and upon conviction, the person  
 16           shall be fined not more than \$5,000, [e] imprisoned not more  
 17           than one year, or both.

18           (b) [Any] Notwithstanding subsection (a), any person who  
 19           intentionally, knowingly, or recklessly destroys, damages, or  
 20           loses any shelter, protective device, or warning or signal  
 21           device, shall if the same was installed or constructed by the



1 United States, the State, or a county, or is the property of the  
2 United States, the State, or a county, be fined the cost of  
3 replacement, or imprisoned not more than one year, or both. The  
4 governor or mayor, may, by rule, make further provisions for the  
5 protection from misuse of shelters, protective devices, or  
6 warning and signal devices."

7 SECTION 3. For any misdemeanor incurred since March 4,  
8 2019, through the promulgation of a superseding emergency order  
9 regarding the violation of any rule prescribed and promulgated  
10 by the governor or mayor pursuant to chapter 127A, Hawaii  
11 Revised Statutes, and having the force and effect of law that  
12 requires the person to:

- 13 (1) Wear a mask or face covering;
- 14 (2) Socially distance from others;
- 15 (3) Abstain from gathering;
- 16 (4) Follow shelter-in-place or stay-at-home orders or  
17 adhere to a curfew; or
- 18 (5) Refrain from entering or remaining in designated  
19 public places or facilities such as parks and beaches,  
20 the county prosecutor, at the prosecutor's discretion, may  
21 charge and prosecute the misdemeanor as a lesser offense



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1 including an infraction; provided that the offense is the first  
2 occurrence of noncompliance with any rule prescribed and  
3 promulgated by the governor or mayor pursuant to chapter 127A.

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

*Karl Rhoads*



# S.B. NO. 540

**Report Title:**

Emergency Period Infractions; Violations; Petty Misdemeanors;  
Misdemeanors

**Description:**

Allows for lesser emergency period penalties to be adopted and promulgated by the governor or a mayor. Authorizes the county prosecutors to exercise discretion with the offense charged and the penalty sought for certain first-time violations of COVID-19 emergency orders incurred since March 4, 2019.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

