

JAN 27 2016

A BILL FOR AN ACT

RELATING TO FOREST RESERVES VIOLATIONS.

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

1 SECTION 1. Section 183-18, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§183-18 Criminal penalties. [Any person who violates~~
4 ~~section 183-17, upon conviction thereof, is guilty of a~~
5 ~~misdemeanor and shall be fined not more than \$2,000 or~~
6 ~~imprisoned not more than one year, or both. In addition to any~~
7 ~~other penalty imposed under this section, a fine of up to \$2,000~~
8 ~~shall be levied for each tree illegally destroyed or harvested~~
9 ~~under section 183-17.]~~ (a) Any person violating any provision
10 of this part or any rule adopted pursuant thereto, unless
11 otherwise specified, shall be guilty of a petty misdemeanor and,
12 upon conviction thereof, shall be sentenced as follows without
13 possibility of probation or suspension of sentence:

14 (1) For a first offense, or any offense not preceded
15 within a five-year period by conviction for a prior
16 offense, a mandatory fine of not less than \$100, or
17 imprisonment of not more than thirty days, or both;

(2) For an offense that occurs within five years of a prior conviction for an offense, a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both; and

(3) For an offense that occurs within five years of two or more prior convictions for offenses, a mandatory fine of \$1,000, or by imprisonment of not more than thirty days, or both.

For purposes of this subsection, "offense" means a violation of any provisions of this part or any rules adopted pursuant thereto.

(b) Any person who violates section 183-17, upon conviction thereof, is guilty of a misdemeanor and shall be fined not more than \$2,000 or imprisoned not more than one year, or both."

SECTION 2. Section 183-4, Hawaii Revised Statutes, is repealed.

~~["§183-4 General penalty. Any person violating any of the provisions of chapters 183 to 185, for which violation a penalty is not otherwise provided, or violating any rule or regulation of the department of land and natural resources, and any master of any vessel which brings into the State any article which the~~

~~department shall at any time prohibit from being imported into the State, and the master of any vessel from which is landed any article required in chapters 183 to 185 to be inspected, before the master has received a permit to land the articles from the department or its officer or inspector, as in such chapters provided, shall be fined not more than \$500-."]~~

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

INTRODUCED BY:

Paul N. M.

BY REQUEST

S.B. NO. 2907

Report Title:

Penalties; Chapter 183; Repeal; Section 183-4

Description:

Clarifies that any person violating any provision of part II of chapter 183, Hawaii Revised Statutes, or any rule adopted pursuant thereto shall be guilty of a petty misdemeanor, except for any violation of section 183-17, Hawaii Revised Statutes, that shall be a misdemeanor and repeals section 183-4, Hawaii Revised Statutes.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO FOREST RESERVES VIOLATIONS.

PURPOSE: To clarify that any person violating any provision of part II of chapter 183, Hawaii Revised Statutes (HRS), or any rule adopted pursuant thereto shall be guilty of a petty misdemeanor, except for any violation of section 183-17, HRS, that shall be a misdemeanor; and to repeal section 183-4, HRS.

MEANS: Amend section 183-18 and repeal section 183-4, HRS.

JUSTIFICATION: Currently, section 183-18, HRS, only allows for criminal penalties for timber trespass offenses. The Department has determined that there are other types of offenses such as removing, injuring, or killing plant or animal life, or introducing plant or animal life except as approved by the Board of Land and Natural Resources, as examples that warrant the imposition of a stricter penalty. Establishing statutory authority for a criminal penalty to apply to any violation of part II of chapter 183, HRS, or any rules adopted pursuant thereto would strengthen the Department's enforcement capabilities and allow for greater protection of the State's natural resources within its forest reserves.

Presently, section 183-4, HRS, authorizes general (civil) penalties for violations of the provisions of chapters 183 to 185, HRS. The Department notes that civil penalties are already provided in sections 183-5 and 184-5.5, HRS. The Department further notes that while chapter 185, HRS, pertaining to land fire protection, does not include a civil penalty section, the chapter does

provide for criminal penalties under section 185-7, HRS. The Department feels that violations of chapter 185, HRS, because of the risk of serious harm to people and the environment, should carry only criminal penalties. Given the above, section 183-4, HRS, has been proposed for repeal.

Impact on the public: This bill will allow the Department to more consistently and effectively address certain conservation and resource violations for the protection, preservation, and enhancement of public resources.

Impact on the department and other agencies: This bill proposes to establish a criminal penalty for certain conservation and resource violations to ensure an effective mechanism for pursuing enforcement actions and providing a strong deterrent for unauthorized and illegal use of public resources.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LNR 172.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.