
A BILL FOR AN ACT

RELATING TO PENALTIES FOR VIOLATIONS ON CERTAIN STATE LANDS.

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

1 SECTION 1. The purpose of this Act is to make resolution
2 of traffic infractions as simple as possible for the average
3 citizen and to ensure that police, prosecutor, and judicial
4 resources are focused on the most serious criminal offenses.
5 This Act decriminalizes traffic infractions within the
6 department of land and natural resources' natural area reserves,
7 game management areas, wildlife sanctuaries, and public hunting
8 areas so that they are consistent with the penalties for similar
9 infractions established for the state park system by Act 101,
10 Session Laws of Hawaii 2008.

11 SECTION 2. Section 183D-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§183D-5 Penalties. (a) Any person violating section
14 183D-21, 183D-25, 183D-33, or 183D-63 or any rule adopted under
15 this chapter shall be guilty of a petty misdemeanor, and upon
16 conviction thereof, shall be punished as follows:



- 1 (1) For a first conviction, by a mandatory fine of not
2 less than \$100, or imprisonment of not more than
3 thirty days, or both;
- 4 (2) For a second conviction within five years of a
5 previous conviction, by a mandatory fine of not less
6 than \$500, or by imprisonment of not more than thirty
7 days, or both, and all firearms used in the commission
8 of the violations shall be considered contraband to be
9 forfeited to and disposed of by the State; and
- 10 (3) For a third or subsequent conviction within five years
11 of the first two or more convictions, by a mandatory
12 fine of not less than \$1,000, or by imprisonment of
13 not more than thirty days, or both, and all firearms
14 used in the commission of the violations shall be
15 considered contraband to be forfeited to and disposed
16 of by the State.
- 17 (b) Any person violating section [~~183D-66~~] 183D-25.5,
18 183D-26, 183D-27, 183D-32, 183D-62, [~~or~~] 183D-64, or 183D-66
19 shall be guilty of a misdemeanor, and upon conviction thereof,
20 shall be punished as follows:



- 1 (1) For a first conviction, by a mandatory fine of not
2 less than \$200, or by imprisonment of not more than
3 one year, or both;
- 4 (2) For a second conviction within five years of a
5 previous conviction, by a mandatory fine of not less
6 than \$1,000, or by imprisonment of not more than one
7 year, or both, and all firearms, animal parts,
8 products, or items containing prohibited animal parts
9 or products used in the commission of the violations
10 shall be considered contraband to be forfeited to and
11 disposed of by the State; and
- 12 (3) For a third or subsequent conviction within five years
13 of the first two or more convictions, by a mandatory
14 fine of not less than \$2,000, or by imprisonment of
15 not more than one year, or both, and all firearms,
16 animal parts, products, or items containing prohibited
17 animal parts or products used in the commission of the
18 violations shall be considered contraband to be
19 forfeited to and disposed of by the State.



1 (c) Any person who violates section 183D-52 shall be
2 guilty of a misdemeanor, and upon conviction thereof, shall be
3 punished as follows:

4 (1) For a first conviction, by a mandatory fine of not
5 less than \$10,000 and payment of any costs incurred in
6 the eradication of any deer and the deer's progeny
7 that has been possessed, transferred, transported, or
8 released after transport, or by imprisonment of not
9 more than one year, or both;

10 (2) For a second conviction within five years of a
11 previous conviction, by a mandatory fine of not less
12 than \$15,000 and payment of any costs incurred in the
13 eradication of any deer and the deer's progeny that
14 has been possessed, transferred, transported, or
15 released after transport, or by imprisonment of not
16 more than one year, or both; and

17 (3) For a third or subsequent conviction within five years
18 of the first two or more convictions, by a mandatory
19 fine of not less than \$25,000 and payment of any costs
20 incurred in the eradication of any deer and the deer's
21 progeny that has been possessed, transferred,



1 transported, or released after transport, or by
2 imprisonment of not more than one year, or both.

3 (d) Any person who violates section 183D-35, 183D-36,
4 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be guilty
5 of a petty misdemeanor, and upon conviction thereof, shall be
6 fined not less than \$100 or imprisoned not more than thirty
7 days, or both.

8 (e) In addition to any other penalty imposed under this
9 section, a mandatory fine of \$100 shall be levied for each bird
10 illegally taken under this chapter and a mandatory fine of \$500
11 shall be levied for each mammal illegally taken under this
12 chapter.

13 (f) Any person who violates any rule adopted by the
14 department under this chapter regulating vehicular parking or
15 traffic movement shall have committed a traffic infraction as
16 set forth in chapter 291D, the adjudication of which shall be
17 subject to the provisions contained in chapter 291D. A person
18 found to have committed such a traffic infraction shall be fined
19 not more than:

20 (1) \$100 for a first violation;

21 (2) \$200 for a second violation; and



1 (3) \$500 for a third or subsequent violation.

2 [~~(f)~~] (g) Any person who is convicted of violating any of
3 the game laws of the State, except as provided in subsection
4 (f), shall immediately have the person's hunting license
5 forfeited and any person convicted for a second offense shall
6 not be granted a license to hunt for a period of three years
7 after the date of the second conviction.

8 [~~(g)~~] (h) The environmental court, in lieu of the actual
9 cash payment of any mandatory fine, may allow the defendant to
10 perform the community service as directed by the department of
11 land and natural resources at the rate of one hour of service
12 for every \$10 of mandatory fine imposed.

13 [~~(h)~~] (i) Any criminal action against a person for any
14 violation of this chapter or any rule adopted under this chapter
15 shall not be deemed to preclude the State from pursuing civil
16 legal action to recover administrative fines and costs, or
17 monetary assessments, against that person. Any civil legal
18 action against a person to recover administrative fines and
19 costs, or monetary assessments, for any violation of subtitle 4
20 of title 12 or any rule adopted thereto, or the conditions and
21 restrictions of any license, permit, or check station thereunder



1 shall not be deemed to preclude the State from pursuing any
2 criminal action against that person."

3 SECTION 3. Section 195-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§195-8 Penalty. (a) [Any] Except as provided in
6 subsection (b), any person who violates any of the laws and
7 rules applicable to the reserves system, upon conviction
8 thereof, shall be guilty of a misdemeanor and shall be fined not
9 less than \$1,000 or imprisoned not more than one year, or both,
10 for each offense.

11 (b) Any person who violates this chapter or rules adopted
12 by the department under this chapter regulating vehicular
13 parking or traffic movement shall have committed a traffic
14 infraction as set forth in chapter 291D, the adjudication of
15 which shall be subject to the provisions contained in chapter
16 291D. A person found to have committed such a traffic
17 infraction shall be fined not more than:

- 18 (1) \$100 for a first violation;
- 19 (2) \$200 for a second violation; and
- 20 (3) \$500 for a third or subsequent violation.



1 ~~[(b)]~~ (c) Except as otherwise provided by law, the board
2 or its authorized representative by proper delegation is
3 authorized to set, charge, and collect administrative fines or
4 bring legal action to recover administrative fees and costs as
5 documented by receipts or affidavit, including ~~[attorneys']~~
6 attorney's fees and costs; or bring legal action to recover
7 administrative fines, fees, and costs, including ~~[attorneys']~~
8 attorney's fees and costs, or payment for damages or for the
9 cost to correct damages resulting from a violation of this
10 chapter or any rule adopted thereunder. The administrative
11 fines shall be as follows:

- 12 (1) For a first violation, a fine of not more than \$2,500;
13 (2) For a second violation within five years of a previous
14 violation, a fine of not more than \$5,000; and
15 (3) For a third or subsequent violation within five years
16 of the last violation, a fine of not more than
17 \$10,000.

18 ~~[(e)]~~ (d) Any criminal action against a person for any
19 violation of this chapter or any rule adopted thereunder shall
20 not be deemed to preclude the State from pursuing civil legal
21 action to recover administrative fines and costs, or monetary



1 assessments, against that person. Any civil legal action
2 against a person to recover administrative fines and costs, or
3 monetary assessments, for any violation of this chapter or any
4 rule adopted thereunder shall not be deemed to preclude the
5 State from pursuing any criminal action against that person."

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

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

9



Report Title:

Traffic Infractions; Decriminalization

Description:

Decriminalizes traffic infractions within natural area reserves, game management areas, wildlife sanctuaries, and public hunting areas. (SD1)

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

