
A BILL FOR AN ACT

RELATING TO CERTAIN PENALTIES FOR VIOLATIONS OF SUBTITLE 4 OF
TITLE 12, HAWAII REVISED STATUTES.

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

1 SECTION 1. Section 183-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~H~~]§183-5[~~H~~] General [~~administrative~~] penalties. (a)

4 Except as otherwise provided by law, the board or its authorized
5 representative may:

6 (1) Set, charge, and collect administrative fines;

7 (2) Bring legal action to recover administrative fines,
8 fees, and costs, including attorney's fees and costs
9 and costs associated with land or habitat restoration;
10 and

11 (3) Collect administrative fees and costs pursuant to
12 paragraph (2),

13 resulting from a violation of this chapter, any rule adopted, or
14 permit issued thereunder.

15 (b) The administrative fines for violation of this chapter
16 shall be as follows:



- 1 (1) For a first violation, or any violation not preceded
2 within a five-year period by a violation of this
3 chapter, a fine of [~~not~~] no more than \$2,500 per
4 violation;
- 5 (2) For a second violation within five years of a previous
6 violation of this chapter, a fine of [~~not~~] no more
7 than \$5,000 per violation; and
- 8 (3) For a third or subsequent violation within five years
9 of the last violation of this chapter, a fine of [~~not~~]
10 no more than \$10,000 per violation.
- 11 (c) In addition[~~+~~
- 12 ~~(1)~~ A], a fine of an amount up to \$10,000 or three times
13 the market value at the time and place of the
14 violation, as determined by the board, for each tree
15 or tree product, including koa, whichever is greater,
16 per violation of section 183-17 may be levied for each
17 destroyed, damaged, or harvested [~~koa~~] tree, or
18 portion thereof, larger than six inches in diameter at
19 ground level[~~+~~and
- 20 ~~(2)~~ A fine of up to \$2,000 per violation of section 183-17
21 may be levied for each destroyed or harvested tree or



1 ~~plant, other than kea, or portion thereof, larger than~~
2 ~~six inches in diameter at ground level.]~~, along with
3 any costs associated with restoration or replacement
4 of habitat and damages to public land or natural
5 resources, or any combination thereof.

6 (d) Any person who violates any rule adopted by the
7 department under this chapter regulating vehicular parking or
8 traffic movement shall have committed a traffic infraction and
9 be adjudicated as set forth in chapter 291D. A person found to
10 have committed a traffic infraction shall be fined no more than:

11 (1) \$100 for a first violation;

12 (2) \$200 for a second violation; and

13 (3) \$500 for a third or subsequent violation.

14 Except as provided in this subsection, the State shall be
15 precluded from pursuing further civil legal action to recover
16 administrative fines, fees, and costs, including attorney's fees
17 and costs or monetary assessment against the person fined under
18 this subsection.

19 ~~[(d)]~~ (e) Any criminal [prosecution] action against a
20 person for any violation of this chapter or any rule adopted
21 thereunder shall not be deemed to preclude the State from



1 ~~[recovering additional]~~ pursuing civil legal action to recover
2 administrative fines, fees, and costs, including attorney's fees
3 and costs~~[-]~~ or monetary assessments against that person. Any
4 civil legal action against a person to recover administrative
5 fines, fees, and costs, including attorney's fees and costs or
6 monetary assessments, for any violation of this chapter or any
7 rule adopted thereunder shall not be deemed to preclude the
8 State from pursuing any criminal action against that person.

9 ~~[(e)]~~ (f) No person shall be sanctioned pursuant to this
10 section for the exercise of native Hawaiian gathering rights and
11 traditional cultural practices as authorized by law or as
12 permitted by the department pursuant to article ~~[xii,]~~ XII,
13 section 7, of the ~~[Hawaii]~~ state constitution.

14 ~~[(f)]~~ (g) The department shall submit an annual report
15 outlining the revenues generated by the penalties to the
16 legislature ~~[at least]~~ no later than twenty days ~~[before]~~ prior
17 to the convening of each regular session."

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

20 "~~§183-18 Criminal penalties. [Any person who violates~~
21 ~~section 183-17, upon conviction thereof, is guilty of a~~



1 ~~misdemeanor and shall be fined not more than \$2,000 or~~
2 ~~imprisoned not more than one year, or both. In addition to any~~
3 ~~other penalty imposed under this section, a fine of up to \$2,000~~
4 ~~shall be levied for each tree illegally destroyed or harvested~~
5 ~~under section 183-17.]~~ (a) Unless otherwise specified, any
6 person who violates a provision of this part or a rule adopted
7 pursuant to this part shall be guilty of a petty misdemeanor.
8 Authorized employees of the department acting within the scope
9 of employment shall not be subject to the penalty provided for
10 in this section. A person convicted of violating a provision of
11 this part or a rule adopted pursuant to this part shall be
12 sentenced, without the possibility of suspension of sentence, as
13 follows:

- 14 (1) A mandatory fine of no less than \$100, or imprisonment
15 of no more than thirty days, or both, for a first
16 offense, or any offense not preceded within a
17 five-year period by a conviction for a prior offense;
18 (2) A mandatory fine of no less than \$500, or by
19 imprisonment of no more than thirty days, or both, for
20 an offense that occurs within five years of a
21 conviction for a prior offense; and



1 (3) A mandatory fine of \$1,000, or imprisonment of no more
2 than thirty days, or both, for an offense that occurs
3 within five years of two or more convictions for prior
4 offenses.

5 For purposes of this subsection, "offense" means a violation of
6 any provision of this part or any rules adopted pursuant
7 thereto.

8 (b) A person who is convicted of violating section 183-17
9 is guilty of a misdemeanor and shall be fined no more than
10 \$2,000, or imprisoned no more than one year, or both."

11 SECTION 3. Section 183-4, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§183-4 General penalty. Any person violating any of the~~
14 ~~provisions of chapters 183 to 185, for which violation a penalty~~
15 ~~is not otherwise provided, or violating any rule or regulation~~
16 ~~of the department of land and natural resources, and any master~~
17 ~~of any vessel which brings into the State any article which the~~
18 ~~department shall at any time prohibit from being imported into~~
19 ~~the State, and the master of any vessel from which is landed any~~
20 ~~article required in chapters 183 to 185 to be inspected, before~~
21 ~~the master has received a permit to land the articles from the~~



1 ~~department or its officer or inspector, as in such chapters~~
2 ~~provided, shall be fined not more than \$500."]~~

3 SECTION 4. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

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

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



Report Title:

Destruction or Harvesting of Trees including Koa on State Lands;
Forest Reserves Violations; Penalties

Description:

Amends the additional fines and costs for destroying or harvesting trees or tree products, including koa, on state forest reserves lands. Establishes penalties for any person who violates vehicular parking or traffic movement rules adopted by the DLNR under forest reserves, water development, and zoning laws. Authorizes the State to pursue civil legal action and criminal action against a person violating forest reserves, water development, and zoning laws and rules. Establishes criminal penalties for violations of all forest reserves laws or rules. Repeals the general penalty provision for violations of certain forestry and wildlife, recreation areas, and fire protection laws and rules. (SD1)

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