

JAN 27 2021

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:

17 (1) For a first conviction, by a mandatory fine of not
18 less than \$100, or imprisonment of not more than

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1 thirty days, or both and all animal parts, products,
2 or items containing prohibited animal parts or
3 products involved in the commission of the violations
4 shall be considered contraband to be forfeited to and
5 disposed of by the State;

6 (2) For a second conviction within five years of a
7 previous conviction, by a mandatory fine of not less
8 than \$500, or by imprisonment of not more than thirty
9 days, or both, and all firearms used in the commission
10 of the violations shall be considered contraband to be
11 forfeited to and 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 \$1,000, or by imprisonment of
15 not more than thirty days, or both, and all firearms
16 used in the commission of the violations shall be
17 considered contraband to be forfeited to and disposed
18 of by the State.

19 (b) Any person violating section [~~183D-66,~~] 183D-25.5,
20 183D-26, 183D-27, 183D-32, 183D-62, [~~or~~] 183D-64, or 183D-66
21 shall be guilty of a misdemeanor, and upon conviction thereof,
22 shall be punished as follows:

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

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1 violations shall be considered contraband to be
2 forfeited to and disposed of by the State.

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

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

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

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

1 progeny that has been possessed, transferred,
2 transported, or released after transport, or by
3 imprisonment of not more than one year, or both.

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

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

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

- 21 (1) \$100 for a first violation;
- 22 (2) \$200 for a second violation; and

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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 thereunder shall
15 not be deemed to preclude the State from pursuing civil legal
16 action to recover administrative fines and costs, or monetary
17 assessments against that person. Any civil legal action against
18 a person to recover administrative fines and costs, or monetary
19 assessments, for any violation of subtitle 4 of title 12 or any
20 rule adopted thereunder, or the conditions and restrictions of
21 any license, permit, or check station issued or operated

1 pursuant thereto, shall not be deemed to preclude the State from
2 pursuing any 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 any section of this chapter or
12 rule adopted by the department under this chapter regulating
13 vehicular parking or traffic movement shall have committed a
14 traffic infraction as set forth in chapter 291D, the
15 adjudication of which shall be subject to the provisions
16 contained therein. A person found to have committed such a
17 traffic 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.

21 ~~[(b)]~~ (c) Except as otherwise provided by law, the board or
22 its authorized representative by proper delegation is authorized

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1 to set, charge, and collect administrative fines or bring legal
2 action to recover administrative fees and costs as documented by
3 receipts or affidavit, including [~~attorneys'~~] attorney's fees
4 and costs; or bring legal action to recover administrative
5 fines, fees, and costs, including [~~attorneys'~~] attorney's fees
6 and costs, or payment for damages or for the cost to correct
7 damages resulting from a violation of this chapter or any rule
8 adopted thereunder. The administrative fines shall be as
9 follows:

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

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

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

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

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

6

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Paul M. ...", is written over a horizontal line.

8

BY REQUEST

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Report Title:

Traffic Infractions; Decriminalization

Description:

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

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

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO PENALTIES FOR VIOLATIONS ON CERTAIN STATE LANDS.

PURPOSE: To decriminalize traffic infractions within natural area reserves, game management areas, wildlife sanctuaries, and public hunting areas.

MEANS: Amend sections 183D-5, and 195-8, Hawaii Revised Statutes.

JUSTIFICATION: The Legislature has been engaged in an ongoing effort to make resolution of minor criminal offenses, including traffic violations, as simple as possible for the average citizen and to ensure that police, prosecutor, and judicial resources are focused on the most serious criminal offenses.

This bill seeks to decriminalize traffic infractions within natural area reserves, game management areas, wildlife sanctuaries, and public hunting areas so that they are comparable with the penalties for similar infractions established for the State Park System.

Impact on the public: This bill will simplify resolution of traffic violations occurring on certain state lands.

Impact on the department and other agencies: This bill will reduce effort and resources expended to resolve minor traffic violations occurring on certain state lands for the Department, the police, the prosecutors, and the Judiciary.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

LNR 172, 402, and 407.

OTHER AFFECTED
AGENCIES:

Police departments, Judiciary, Prosecuting
Attorney offices.

EFFECTIVE DATE:

Upon approval.