

JAN 22 2021

A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCES.

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

1 SECTION 1. The legislature finds that Hawaii's aquatic
2 resources serve significant economic, ecologic, cultural, and
3 aesthetic importance such as to agriculture, tourism, food
4 production, and fisheries in the State. The legislature also
5 recognizes the importance of managing and conserving Hawaii's
6 aquatic resources and ecosystem for present and future
7 generations. Careful stewardship and protection of Hawaii's
8 aquatic resources are essential to the well-being of our island-
9 state.

10 The purpose of this Act is to strengthen the penalties for
11 violations of the State's aquatic resources law by:

12 (1) Specifying that any equipment, article, instrument,
13 aircraft, vehicle, vessel, or business record used in
14 violation of the aquatic resources law is subject to
15 forfeiture;

16 (2) Authorizing the imposition of a criminal fine;



- 1 (3) Clarifying that the fine structure may be assessed on
- 2 a per-specimen basis;
- 3 (4) Making violations of the aquatic resources law a
- 4 misdemeanor, rather than a petty misdemeanor; and
- 5 (5) Permitting the department of land and natural
- 6 resources to recommend community service that benefits
- 7 the resource damaged when a person is ordered to
- 8 perform community service in lieu of a fine.

9 SECTION 2. Chapter 187A, Hawaii Revised Statutes, is
10 amended by adding two new sections to be appropriately
11 designated and to read as follows:

12 "§187A- Seizure; forfeiture of property. Any
13 equipment, article, instrument, aircraft, vehicle, vessel, or
14 business record used in violation of the provisions of this
15 chapter may be seized and shall be subject to forfeiture
16 according to the procedures set forth in chapter 712A.

17 §187A- Criminal fine. (a) In addition to any other
18 civil or administrative penalties that may be applicable under
19 this chapter, any person who is convicted of violating this
20 chapter may be subject to a fine imposed under section 706-640.



1 (b) Moneys from the fine collected pursuant to this
2 section shall be deposited to the credit of the conservation and
3 resources enforcement special fund established pursuant to
4 section 199-1.5."

5 SECTION 3. Section 187A-12.5, Hawaii Revised Statutes, is
6 amended by amending subsections (b) and (c) to read as follows:

7 "(b) For violations involving threatened or endangered
8 species, the administrative fines shall be as follows:

9 (1) For a first violation, a fine of not more than
10 \$5,000[+] for each specimen;

11 (2) For a second violation within five years of a previous
12 violation, a fine of not more than \$10,000[+] for each
13 specimen; and

14 (3) For a third or subsequent violation within five years
15 of the last violation, a fine of not more than
16 \$15,000[-] for each specimen.

17 (c) For all other violations the administrative fines
18 shall be as follows:

19 (1) For a first violation, a fine of not more than
20 \$1,000[+] for each specimen;



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1 (2) For a second violation within five years of a previous
2 violation, a fine of not more than \$2,000[+] for each
3 specimen; and

4 (3) For a third or subsequent violation within five years
5 of the last violation, a fine of not more than
6 \$3,000[+] for each specimen."

7 SECTION 4. Section 187A-13, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (a) to read:

10 "(a) Any person violating this chapter or any rule adopted
11 thereunder for which a penalty is not otherwise provided, shall
12 be guilty of a [~~petty~~] misdemeanor and, in addition to any other
13 penalties, shall be fined not less than:

14 (1) \$250 for a first offense;

15 (2) \$500 for a second offense; and

16 (3) \$1,000 for a third or subsequent offense."

17 2. By amending subsection (c) to read:

18 "(c) The court may direct the defendant to perform
19 community service as administered by the department in lieu of
20 paying any monetary fine authorized by this section[+]; provided
21 that if community service is ordered pursuant to this section,



1 the department may recommend to the court community service that
2 benefits the resource that was damaged."

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

8 SECTION 7. This Act shall take effect on July 1, 2021.

9

INTRODUCED BY: *Jamaine R. Brown*



S.B. NO. 572

Report Title:

Aquatic Resources; Violations; Penalties; Fines; Forfeiture

Description:

Specifies that any equipment, article, instrument, aircraft, vehicle, vessel, or business record used in violation of the aquatic resources law is subject to forfeiture. Authorizes the imposition of a criminal fine. Clarifies that the fine structure may be assessed on a per-specimen basis. Makes violations of the aquatic resources law a misdemeanor, rather than a petty misdemeanor. Permits the department of land and natural resources to recommend community service that benefits the resource damaged when a person is ordered to perform community service in lieu of a fine.

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