

JAN 22 2021

A BILL FOR AN ACT

RELATING TO TRAILS.

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

1 SECTION 1. Section 137-2, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Whenever any government entity engages in a search or
4 rescue operation for the purpose of searching for or rescuing a
5 person, and incurs search and rescue expenses therein, the
6 government entity [~~may~~] shall seek reimbursement from the
7 following:

- 8 (1) The person on whose behalf search or rescue operations
9 were conducted, including the person's estate,
10 guardians, custodians, or other entity responsible for
11 the person's safety;
- 12 (2) A person who ultimately benefited from a search or
13 rescue operation by being rescued; or
- 14 (3) Any entity responsible for placing the person in the
15 position of danger for which the search or rescue
16 operation was initiated."



1 SECTION 2. Section 198D-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~[†]~~ §198D-13 ~~[†]~~ **Criminal penalties.** (a) ~~[†]~~ Except as
4 provided in subsection (b), in addition to any other penalties,
5 any person violating this chapter, any rule adopted pursuant to
6 this chapter, or the terms and conditions of any permit issued
7 in accordance with this chapter shall be guilty of a petty
8 misdemeanor and shall be fined not less than:

- 9 (1) \$100 for a first offense;
10 (2) \$200 for a second offense; and
11 (3) \$500 for a third or subsequent offense.

12 (b) Any person violating this chapter, any rule adopted
13 pursuant to this chapter, or the terms and conditions of any
14 permit issued in accordance with this chapter, restricting
15 public access to a trail, shall be guilty of a petty misdemeanor
16 and shall be fined not less than:

- 17 (1) \$500 for a first offense;
18 (2) \$750 for a second offense; and
19 (3) \$1,000 for a third or subsequent offense.



1 [~~(b)~~] (c) The fines specified in this section shall not be
2 suspended or waived. Each day of each violation shall
3 constitute a separate offense.

4 [~~(e)~~] (d) Any criminal action against a person for any
5 violation of this chapter or any rule adopted pursuant to this
6 chapter shall not be deemed to preclude the State from pursuing
7 civil legal action to recover administrative fines and costs
8 against that person. Any civil legal action against a person to
9 recover administrative fines and costs for any violation of this
10 chapter or any rule adopted pursuant to this chapter shall not
11 be deemed to preclude the State from pursuing any criminal
12 action against that person."

13 SECTION 3. Section 708-814.7, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsection (1) to read:

16 "(1) Except for lands owned by the office of Hawaiian
17 affairs, and except for improved state lands that are designated
18 safe havens by state departments or agencies, or that are under
19 executive order by the governor to be used as a safe haven and
20 have a department of health component and adequate space, not to



1 include state hospitals, a person commits the offense of
2 criminal trespass onto state lands if:

3 (a) The person enters or remains unlawfully in or upon any
4 improved state land when:

5 (i) The land is closed to public use and its closure
6 hours are posted on a sign or signs on the
7 improved state land, and after a request to leave
8 is made by any law enforcement officer the person
9 remains in or upon the land; or

10 (ii) The land is not open to the public and there are
11 signs that are sufficient to give reasonable
12 notice that read: "Government Property - No
13 Trespassing"; provided that these signs shall
14 contain letters no less than two inches in height
15 and shall be placed at reasonable intervals no
16 less than three signs to a mile along the
17 boundary line of the land and at all roads and
18 trails entering the land in a manner and position
19 as to be clearly noticeable from outside the
20 boundary; [e]



1 (b) The person enters or remains unlawfully in or upon any
2 state land on or under any highway, and the state land
3 has a sign or signs displayed upon the land that are
4 sufficient to give reasonable notice that read:
5 "Government Property - No Trespassing"; provided that
6 the signs shall contain letters no less than two
7 inches in height and shall be placed at reasonable
8 intervals no less than three signs to a mile along the
9 boundary line of the land and at all roads and trails
10 entering the land in a manner and position as to be
11 clearly noticeable from outside the boundary[-]; or
12 (c) The person enters or remains unlawfully in or upon a
13 trail on state land that has been closed to public use
14 and has a sign or signs displayed across or adjacent
15 to the trail that are sufficient to give reasonable
16 notice of the closure; provided that the signs shall
17 contain letters no less than two inches in height and
18 shall be placed at the entry to the trail in a manner
19 and position as to be clearly noticeable from outside
20 the trail; provided further that a person who violates
21 this paragraph shall be fined:



- 1 (i) \$500 for a first offense;
- 2 (ii) \$750 for a second offense; and
- 3 (iii) \$1,000 for a third or subsequent offense."

4 2. By amending subsection (3) to read:

5 "(3) For the purposes of this section, unless the context
6 requires otherwise:

7 "Highway" has the same meaning as in section 286-2.

8 "Improved state land" means any state land, including but
9 not limited to harbors under the care and control of the
10 department of transportation under chapter 266, and small boat
11 harbors under the care and control of the department of land and
12 natural resources under chapter 200, upon which there is
13 improvement, including any structure, building, or facility; or
14 alteration of the land by grading, dredging, or mining that
15 would cause a permanent change in the land or that would change
16 the basic natural condition of the land. Land is not "improved
17 state land" if it only has minor improvements, including utility
18 poles, signage, and irrigation facilities or systems; or minor
19 alterations undertaken for the preservation or prudent
20 management of the unimproved or unused land, including fences,
21 trails, or pathways. Land is not "improved state land" solely



1 due to the performance of state maintenance activities on the
2 land, including forest plantings and the removal of weeds,
3 brush, rocks, boulders, or trees; or removal or securing of
4 rocks or boulders undertaken to reduce risk to downslope
5 properties.

6 "State lands" means all land owned by the State through any
7 of its departments or agencies.

8 "Trail" has the same meaning as in section 198D-1."

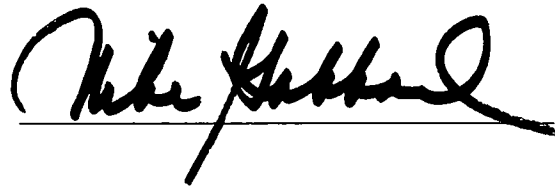
9 SECTION 4. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

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

15

INTRODUCED BY:

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

S.B. NO. 363

Report Title:

Trails; State Land; Closed to the Public; Trespassing;
Penalties; Search and Rescue; Department of Land and Natural
Resources

Description:

Requires government entities that engage in search and rescue operations to seek reimbursement when the rescued person required search and rescue efforts because that person acted in disregard of that person's safety, including intentionally disregarding a warning or notice. Creates a penalty for restricting public access to a trail. Creates a penalty for entering or remaining unlawfully on a trail or state land that has been closed to public use.

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

