

JAN 21 2022

A BILL FOR AN ACT

RELATING TO OCEAN RECREATION.

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

1 SECTION 1. The legislature finds that some boating and
2 ocean recreation laws impose criminal penalties that are
3 disproportionate to the severity of the acts committed. Alleged
4 violators of less-severe offenses are required to spend their
5 time attending court hearings to challenge their citations, and
6 their cases clog court dockets. On the other hand, far more
7 harmful acts are not sufficiently penalized.

8 The purpose of this Act is to align penalties for violation
9 of certain boating and ocean recreation laws with the severity
10 of the prohibited conduct by:

- 11 (1) Converting certain less severe criminal offenses into
12 civil offenses subject to administrative fines only;
13 (2) Establishing offenses related to violation of the
14 state water quality standards as misdemeanor offenses
15 subject to suspension of operating and mooring
16 privileges;



(3) Establishing offenses related to reckless or unauthorized operation of a vessel, unauthorized mooring, violation of commercial boating rules, and operating a vessel while under the influence of an intoxicant as misdemeanor offenses; and

(4) Clarifying that the department of land and natural resources may impose administrative fines in addition to civil or criminal penalties.

SECTION 2. Section 200-14, Hawaii Revised Statutes, is amended to read as follows:

"§200-14 Violation of rules; penalty. (a) Except as provided in subsection (b), any person who violates this part or any rule adopted ~~[by the department under]~~ pursuant to this part ~~[or who violates this part, shall be fined not more than \$1,000 or less than \$50 for each violation, and any vessel, the agents, owner, or crew of which violate the rules of the department or this part, shall be fined not more than \$1,000 or less than \$50 for each violation; provided that in addition to or as a condition to the suspension of the fines and penalties, the environmental court may deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of~~



1 ~~not more than thirty days.]~~, and any vessel, the agents, owner,
2 or crew of which violate the rules of the department or this
3 part, shall be subject to an administrative fine of:

4 (1) \$100 for a first violation;

5 (2) \$200 for a second violation; and

6 (3) \$500 for a third and any subsequent violation.

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

14 (1) \$100 for a first violation;

15 (2) \$200 for a second violation; and

16 (3) \$500 for a third or subsequent violation.

17 (c) ~~[Notwithstanding the provisions of subsection (a)~~
18 ~~establishing a fine of not more than \$1,000 or less than \$50 for~~
19 ~~each violation,]~~ In addition to any civil or criminal penalties
20 otherwise provided by law, any person who violates any rule
21 adopted by the department relating to unauthorized discharge,



1 dumping, or abandoning, in any state boating facility or state
2 waters, of any petroleum product, hazardous material, or sewage
3 in violation of the state water quality standards established by
4 the department of health, shall be ~~[fined not more than \$10,000~~
5 ~~for each day of violation, and any vessel, the agents,]~~ guilty
6 of a misdemeanor and subject to an administrative fine under
7 section 200-14.5(b). If any agent, owner, or crew member of
8 ~~[which violate the rules of the department shall be fined not~~
9 ~~more than \$10,000 for each day of violation.]~~ a vessel that was
10 involved in a violation of a rule as described in this
11 subsection participated in the violation or had the power to
12 prevent the violation but failed to take actions to prevent the
13 violation, the agent, owner, or crew member shall also be
14 subject to the penalties under this subsection. In addition to
15 or as a condition of the suspension of any fines and penalties
16 under this subsection, the environmental court may prohibit the
17 offender from operating or mooring any vessel in state waters
18 for a period of not more than thirty days."

19 SECTION 3. Section 200-25, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**\$200-25 Fines and penalties.** (a) Any person ~~[violating~~
2 ~~this part, or]~~ who violates any rule adopted by the department
3 pursuant to this part, shall be ~~[fined not less than \$50 and not~~
4 ~~more than \$1,000 or sentenced to a term of imprisonment of not~~
5 ~~more than thirty days, or both, for each violation,]~~ subject to
6 an administrative fine of:

7 (1) \$100 for a first violation;

8 (2) \$200 for a second violation; and

9 (3) \$500 for a third and any subsequent violation;

10 provided that ~~[in]~~ any person who violates any rule adopted by
11 the department relating to reckless or unauthorized operation of
12 a vessel, unauthorized vessel mooring, or the regulation of
13 commercial boating and ocean recreation activities, shall be
14 guilty of a misdemeanor; provided further that any person who
15 violates any rules adopted by the department relating to
16 operating a vessel under the influence of an intoxicant shall be
17 subject to penalties.

18 (b) In addition to, or as a condition to the suspension
19 of, ~~[the]~~ fines and other penalties, the environmental court may
20 deprive the offender of the privilege of operating any vessel,
21 including ~~[but not limited to]~~ any thrill craft or vessel



1 engaged in parasailing or water sledding, in the waters of the
2 State for a period of not more than thirty days."

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 on July 1, 2022.

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INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'D. W. M.', is written over a horizontal line.

S.B. NO. 2727

Report Title:

Department of Land and Natural Resources; Boating; Ocean Recreation; Penalties; Administrative Fines

Description:

Amends penalties for violations of laws and administrative rules governing boating and ocean recreation by aligning penalties with the severity of the prohibited conduct. Clarifies that imposition of civil or criminal penalties does not preclude the imposition of administrative fines.

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

