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DEPT. COMM. NO. 183

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COMMISSION ON WATER RESOURCE
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LAND
STATE PARKS

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

December 15, 2023

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of Forest Reserve Penalty Revenue Report under Chapter 183-5, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, copy of this report has been transmitted to the Legislative Reference Bureau and the report may be viewed electronically at <https://files.hawaii.gov/dlnr/reports-to-the-legislature/2024/FW24-Foresty-Penalty-Revenue-Rpt-FY23.pdf>

Sincerely,

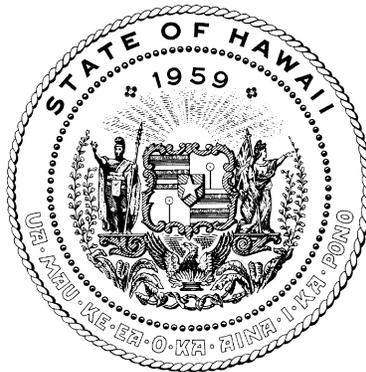


DAWN N.S. CHANG
Chairperson

Enclosure

**REPORT TO THE THIRTY-SECOND LEGISLATURE
STATE OF HAWAII
2024 REGULAR SESSION**

**REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES
IMPOSED UNDER CHAPTER 183, HAWAII REVISED STATUTES**



Prepared by

THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE

In response to Section 183-5, Hawaii Revised Statutes

Honolulu, Hawaii
December 2023

REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES IMPOSED UNDER CHAPTER 183, HAWAII REVISED STATUTES

PURPOSE

This report complies with Section 183-5, Hawaii Revised Statutes (HRS), and covers specific topics relating to the protection of the State Forest Reserve System (FRS). Act 174, Session Laws of Hawaii (SLH) 2006, in part amended Chapter 183, HRS, by adding a new section entitled, “General Administrative Penalties.” This section authorizes the Board of Land and Natural Resources (Board) or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department of Land and Natural Resources (Department) is also required to submit an annual report to the Hawaii State Legislature outlining revenues generated by these administrative penalties. This annual report covers the period from July 1, 2022, to June 30, 2023.

BACKGROUND

The administrative penalties for violations of Chapter 183, HRS, became effective in June of 2006, by way of Act 174, SLH 2006. This Act authorizes the Board or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department sought this change to HRS due to a notable increase in the occurrence and severity of violations, particularly the theft or unpermitted harvest of highly valuable koa timber resources from FRS. The Department appreciates the attention that this report and related laws have drawn to this important issue.

Prior to Act 174, SLH 2006, the existing language within Chapter 183, HRS, created a situation whereby certain penalties for violations, particularly large-scale theft of timber or other resources on FRS lands, did not effectively deter illegal harvesting because the potential value of the resources taken far exceeded any penalties that could be imposed by the State upon a violator. With the enactment of Act 174, SLH 2006, a framework for effective enforcement of penalties and timely prosecution of those in violation of Chapter 183, HRS, and associated rules was established.

Act 174, SLH 2006, has helped to protect public resources by, among other things:

- 1) Allowing the Board to set and collect administrative penalties, including bringing legal action to recover fines, fees, and other costs resulting from violations of Chapter 183, HRS, and associated rules;
- 2) Increasing the criminal fine amount for timber trespass, including the removal of any timber within the FRS; and
- 3) Establishing specific administrative penalty levels for repeat offenders or violations of varying severity.

The Department does note that from the onset of the Act, the value of forest products, including koa and now sandalwood, has significantly increased. Penalties and fines of Chapter 183, HRS, has been amended by Act 193, SLH 2021, to an amount up to three times the market value at the time and place of the violation for each tree or plant and the cost of restoration or replacement of the habitat. This provides a stronger deterrent for unauthorized and illegal use of public

resources. Further, there have been several reports of theft or attempted thefts in recent years across both public and private forest lands of these valuable forest resources.

Act 193, SLH 2021, also establishes penalties for any person who violates vehicular parking or traffic movement rules, and zoning laws. It authorizes the State to pursue civil legal action and criminal action against a person violating forest reserves, water development, and zoning laws and rules, and it establishes criminal penalties for violations of all forest reserves laws or rules.

REVENUES GENERATED

The Board did not issue any administrative fines or fees in fiscal year 2023. The Department is still following up on an administrative fine issued in fiscal year 2019, that has not been received as of this report.

RECOMMENDATION

This law is very important for the protection of public resources within the state FRS. The amended fines for destroying or harvesting trees and plants on lands within the forest reserves provide a stronger deterrent for unauthorized and illegal use of public resources.