
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 small boat harbors
2 and boating facilities are some of the most heavily trafficked
3 facilities in the State, used by residents and tourists alike.
4 The division of conservation and resources enforcement of the
5 department of land and natural resources is responsible for
6 enforcing all statutes and administrative rules of the
7 department but spends a large part of its time responding to
8 violations in small boat harbors and boating facilities.

9 Much of the enforcement effort at small boat harbors and
10 boating facilities is necessary to ensure public health and
11 safety, such as responding to vandalism, theft, trespassing, and
12 squatting. In order to deter violators and repeat offenders,
13 stricter penalties are needed. The provisions of section 200-
14 14, Hawaii Revised Statutes, are unclear regarding whether
15 criminal penalties are authorized for violations of the section,
16 which has hindered enforcement efforts.



1 Therefore, the purpose of this Act is to clarify that
2 criminal penalties are authorized under section 200-14, Hawaii
3 Revised Statutes.

4 SECTION 2. Section 200-14, Hawaii Revised Statutes, is
5 amended follows:

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

7 "~~(a) [Except as provided in subsection (b), any person who~~
8 ~~violates any rule adopted by the department under this part or~~
9 ~~who violates this part, shall be fined not more than \$1,000 or~~
10 ~~less than \$50 for each violation, and any vessel, the agents,~~
11 ~~owner, or crew of which violate the rules of the department or~~
12 ~~this part, shall be fined not more than \$1,000 or less than \$50~~
13 ~~for each violation; provided that in addition to or as a~~
14 ~~condition to the suspension of the fines and penalties, the~~
15 ~~environmental court may deprive the offender of the privilege of~~
16 ~~operating or mooring any vessel in state waters for a period of~~
17 ~~not more than thirty days.] Any person who violates any~~
18 provision in this chapter or rule adopted by the department
19 relating to reckless or unauthorized operation of a vessel,
20 unauthorized mooring of a vessel, unauthorized commercial
21 activity, unauthorized camping within state small boat harbors



1 or boating facilities, animal abandonment within state small
2 boat harbors or boating facilities, or creation of animal
3 colonies within state small boat harbors or boating facilities
4 shall be guilty of a petty misdemeanor."

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

6 "(c) [~~Notwithstanding the provisions of subsection (a)~~
7 ~~establishing a fine of not more than \$1,000 or less than \$50 for~~
8 ~~each violation, any person who violates any rule adopted by the~~
9 ~~department relating to unauthorized discharge, dumping, or~~
10 ~~abandoning, in any state boating facility or state waters, of~~
11 ~~any petroleum product, hazardous material, or sewage in~~
12 ~~violation of the state water quality standards established by~~
13 ~~the department of health, shall be fined not more than \$10,000~~
14 ~~for each day of violation, and any vessel, the agents, owner, or~~
15 ~~crew of which violate the rules of the department shall be fined~~
16 ~~not more than \$10,000 for each day of violation.] In addition
17 to, or as a condition to the suspension of, any criminal fines
18 and penalties, the environmental court may deprive the offender
19 of the privilege of operating any vessel, including but not
20 limited to any thrill craft or vessel engaged in parasailing or~~



1 water sledding, in certain geographical areas of the waters of
2 the State for a period of no more than twelve months."

3 SECTION 3. Section 200-14.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~]**\$200-14.5**[~~+~~] **General administrative penalties.** (a)

6 Except as otherwise provided by law, the board is authorized to
7 set, charge, and collect administrative fines and to recover
8 administrative fees and costs, including attorney's fees and
9 costs, or bring legal action to recover administrative fines and
10 fees and costs, including attorney's fees and costs, or payment
11 for damages or for the cost to correct damages resulting from a
12 violation of [~~subtitle 8 of title 12~~] this chapter or any rule
13 adopted thereunder.

14 (b) In addition to, or as a condition to the suspension
15 of, any administrative fines and penalties, the board may
16 deprive the offender of the privilege of registering or titling
17 any vessel for use on state waters, or mooring any vessel in any
18 state small boat harbor, boating facility, or state waters, for
19 a period of not more than twenty-four months. Each day or
20 instance of violation shall constitute a separate offense.



1 [~~(b)~~] (c) For violations involving pollution of the waters
2 of the State, the administrative fine shall be as follows:

3 (1) For a first violation or a violation beyond five years
4 of a previous violation, a fine of not more than
5 \$10,000;

6 (2) For a second violation within five years of a previous
7 violation, by a fine of not more than \$15,000; and

8 (3) For a third or subsequent violation within five years
9 of the last violation, by a fine of not more than
10 \$25,000.

11 [~~(e)~~] (d) For all other violations the administrative fine
12 shall be as follows:

13 (1) For a first violation or a violation beyond five years
14 of a previous violation, a fine of not more than
15 \$5,000;

16 (2) For a second violation within five years of a previous
17 violation, by a fine of not more than \$10,000; and

18 (3) For a third or subsequent violation within five years
19 of the last violation, by a fine of not more than
20 \$15,000.



1 ~~[(d)]~~ (e) Any criminal action against a person for any
2 violation of subtitle 8 of title 12 or any rule adopted
3 thereunder shall not preclude the State from pursuing civil
4 legal action to recover administrative fines, fees and costs, or
5 damages against that person. Any civil legal action to recover
6 administrative fines, fees and costs, or damages for any
7 violation of subtitle 8 of title 12 or any rule adopted
8 thereunder shall not preclude the State from pursuing any
9 appropriate criminal action against that person. All fines,
10 fees and costs, or damages recovered by the department under
11 this section shall be deposited in the boating special fund."

12 SECTION 4. Section 200-25, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§200-25 Fines and penalties. Any person violating this~~
15 ~~part, or any rule adopted pursuant to this part, shall be fined~~
16 ~~not less than \$50 and not more than \$1,000 or sentenced to a~~
17 ~~term of imprisonment of not more than thirty days, or both, for~~
18 ~~each violation; provided that in addition to, or as a condition~~
19 ~~to the suspension of, the fines and penalties, the environmental~~
20 ~~court may deprive the offender of the privilege of operating any~~
21 ~~vessel, 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 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, 3000.



Report Title:

Boating and Ocean Recreation; Criminal Penalties

Description:

Makes it a petty misdemeanor to violate any provision of chapter 200, Hawaii Revised Statutes, or rule adopted by the Department of Land and Natural Resources relating to reckless or unauthorized operation of a vessel, unauthorized mooring of a vessel, unauthorized commercial activity, unauthorized camping within state small boat harbors or boating facilities, animal abandonment within state small boat harbors or boating facilities, or creation of animal colonies within state small boat harbors or boating facilities. Allows the Environmental Court to, in addition to or as a condition to the suspension of any criminal fines and penalties, deprive the offender of the privilege of operating any vessel in certain geographical areas of the waters of the State for a period of no more than twelve months. Allows the Board of Land and Natural Resources, to, in addition to or as a condition to the suspension of any administrative fines and penalties, deprive the offender of the privilege of registering or titling any vessel for use on state waters, or mooring any vessel in any state small boat harbor, boating facility, or state waters, for a period of not more than twenty-four months. Repeals fines and penalties relating to the Boating Law. Takes effect 7/1/3000. (HD1)

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