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# 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 for certain violations of  
3 ocean recreation laws.

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

6           "**§200-14 Violation of chapter or rules; penalty.** (a)

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



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

5 (b) Any person who violates any rule adopted by the  
6 department under this part regulating vehicular parking or  
7 traffic movement shall have committed a traffic infraction as  
8 set forth in chapter 291D, the adjudication of which shall be  
9 subject to the provisions contained therein. A person found to  
10 have committed [~~such~~] a traffic infraction shall be fined [~~not~~]  
11 no more than:

- 12 (1) \$100 for a first violation;  
13 (2) \$200 for a second violation; and  
14 (3) \$500 for a third or subsequent violation.

15 (c) [~~Notwithstanding the provisions of subsection (a)~~  
16 ~~establishing a fine of not more than \$1,000 or less than \$50 for~~  
17 ~~each violation, any person who violates any rule adopted by the~~  
18 ~~department relating to unauthorized discharge, dumping, or~~  
19 ~~abandoning, in any state boating facility or state waters, of~~  
20 ~~any petroleum product, hazardous material, or sewage in~~  
21 ~~violation of the state water quality standards established by~~



1 ~~the department of health, shall be fined not more than \$10,000~~  
2 ~~for each day of violation, and any vessel, the agents, owner, or~~  
3 ~~crew of which violate the rules of the department shall be fined~~  
4 ~~not more than \$10,000 for each day of violation.] As a condition~~

5 of probation pursuant to sections 706-623 and 706-624, or as a  
6 condition to the suspension of any criminal penalties, the  
7 environmental court may provide that the defendant refrain from  
8 operating any vessel, including but not limited to any thrill  
9 craft or vessel engaged in parasailing or water sledding, in  
10 specified geographical areas of the waters of the State.

11 (d) For the purposes of this section, "operate",  
12 "parasailing", "thrill craft", "vessel", "water sledding", and  
13 "waters of the State" have the same meaning as those terms are  
14 defined in section 200-23."

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

17 "[+]§200-14.5[+] **General administrative penalties.** (a)  
18 Except as otherwise provided by law, the board is authorized to  
19 set, charge, and collect administrative fines and to recover  
20 administrative fees and costs, including attorney's fees and  
21 costs, or bring legal action to recover administrative fines and



1 fees and costs, including attorney's fees and costs, or payment  
2 for damages or for the cost to correct damages resulting from a  
3 violation of [~~subtitle 8 of title 12~~] this chapter, chapter 200A  
4 or 200D, or any rule adopted thereunder.

5 (b) In addition to, or as a condition to the suspension  
6 of, any administrative fines and penalties, the board may  
7 deprive the offender of the privilege of registering or titling  
8 any vessel for use on waters of the State, or mooring any vessel  
9 in any state small boat harbor, boating facility, or waters of  
10 the State, for a period of no more than twenty-four months.

11 Each day or instance of violation shall constitute a separate  
12 offense.

13 ~~[(b) For violations involving pollution of the waters of~~  
14 ~~the State, the administrative fine shall be as follows:~~

15 ~~(1) For a first violation or a violation beyond five years~~  
16 ~~of a previous violation, a fine of not more than~~  
17 ~~\$10,000;~~

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



1       ~~(3) For a third or subsequent violation within five years~~  
2           ~~of the last violation, by a fine of not more than~~  
3           ~~\$25,000.]~~

4       (c) For all other violations, the administrative fine  
5 shall be as follows:

6       (1) For a first violation or a violation beyond five years  
7           of a previous violation, a fine of ~~[not]~~ no more than  
8           \$5,000;

9       (2) For a second violation within five years of a previous  
10           violation, ~~[by]~~ a fine of ~~[not]~~ no more than \$10,000;  
11           and

12       (3) For a third or subsequent violation within five years  
13           of the last violation, ~~[by]~~ a fine of ~~[not]~~ no more  
14           than \$15,000.

15       (d) Any criminal action against a person for any violation  
16 of ~~[subtitle 8 of title 12]~~ this chapter, chapter 200A or 200D,  
17 or any rule adopted thereunder shall not preclude the State from  
18 pursuing civil legal action to recover administrative fines,  
19 fees and costs, or damages against that person. Any civil legal  
20 action to recover administrative fines, fees and costs, or  
21 damages for any violation of ~~[subtitle 8 of title 12]~~ this



1 chapter, chapter 200A or 200D, or any rule adopted thereunder  
2 shall not preclude the State from pursuing any appropriate  
3 criminal action against that person. All fines, fees and costs,  
4 or damages recovered by the department under this section shall  
5 be deposited in the boating special fund.

6 (e) For the purposes of this section, "vessel" and "waters  
7 of the State" have the same meaning as those terms are defined  
8 in section 200-23."

9 SECTION 4. Section 200-34, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§200-34 Disposition of revenues.** All fees and penalties  
12 collected pursuant to sections 200-10, 200-14, 200-14.5, [200-  
13 25,] and 200-32, and all fees and penalties established by rules  
14 adopted pursuant to sections 200-4 and 200-24, shall be  
15 deposited in the boating special fund."

16 SECTION 5. Section 200-37.5, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) [~~Notwithstanding the provisions of section 200-25,~~  
19 ~~any]~~ Any person who violates this section shall be fined [~~not~~  
20 no more than \$100 for each separate offense. Each day of each  
21 violation constitutes a separate offense. Any action taken to



1 impose or collect the fine provided by this section shall be  
2 considered a civil action."

3 SECTION 6. Section 200-25, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§200-25 Fines and penalties. Any person violating this  
6 part, or any rule adopted pursuant to this part, shall be fined  
7 not less than \$50 and not more than \$1,000 or sentenced to a  
8 term of imprisonment of not more than thirty days, or both, for  
9 each violation; provided that in addition to, or as a condition  
10 to the suspension of, the fines and penalties, the environmental  
11 court may deprive the offender of the privilege of operating any  
12 vessel, including but not limited to any thrill craft or vessel  
13 engaged in parasailing or water sledding, in the waters of the  
14 State for a period of not more than thirty days."~~]

15 SECTION 7. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 8. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 9. This Act shall take effect on July 1, 3000.





**Report Title:**

Boating and Ocean Recreation; Criminal Penalties

**Description:**

Clarifies the penalties for violations of ocean recreation laws.  
Effective 7/1/3000. (HD2)

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

