
A BILL FOR AN ACT

RELATING TO BEACHES.

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

1 SECTION 1. The legislature finds that existing laws under
2 sections 171-58.5 and 205A-44, Hawaii Revised Statutes, prohibit
3 the removal or disturbance of beach sand. However, landowners
4 frequently hire licensed or unlicensed contractors to illegally
5 remove sand from public beaches to fortify their private land.

6 The legislature further finds that the department of land
7 and natural resources requires clearer authority to hold those
8 persons liable.

9 Accordingly, the purpose of this Act is to clarify that any
10 person in violation of laws and subject to administrative,
11 civil, or criminal penalties prohibiting the removal of sand
12 from public beaches includes licensed and unlicensed
13 contractors.

14 SECTION 2. Section 171-6.4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§171-6.4 General administrative penalties.** (a) Except
17 as otherwise provided by law, the board or its authorized



1 representative by proper delegation may set, charge, and collect
2 administrative fines or bring legal action to recover
3 administrative fees and costs as documented by receipts or
4 affidavit, including attorneys' fees and costs; or bring legal
5 action to recover administrative fines, fees, and costs,
6 including attorneys' fees and costs, or payment for damages
7 resulting from a violation of this chapter or any rule adopted
8 pursuant to this chapter. The administrative fines shall be as
9 follows:

10 (1) For a first violation, a fine of not more than \$2,500;
11 (2) For a second violation within five years of a previous
12 violation, a fine of not more than \$5,000; and
13 (3) For a third or subsequent violation within five years
14 of the last violation, a fine of not more than
15 \$10,000.

16 (b) Any criminal action against a person for any violation
17 of this chapter or any rule adopted pursuant to this chapter
18 shall not be deemed to preclude the State from pursuing civil
19 legal action against that person. Any civil legal action
20 against a person to recover administrative fines and costs for
21 any violation of this chapter or any rule adopted pursuant to



1 this chapter shall not be deemed to preclude the State from
2 pursuing any criminal action against that person. Each day of
3 each violation shall constitute a separate offense.

4 (c) Noncompliance with administrative enforcement action
5 against a landowner for a land use, as defined in section
6 183C-2, that violates the law or for a currently unauthorized
7 structure encroaching on public lands, including but not limited
8 to submerged lands or lands within the shoreline, that falls,
9 slides, or comes onto public land, or arises from or benefits an
10 adjoining or abutting private land shall affect title pursuant
11 to section 501-151 and result in a lien attaching to the
12 adjoining or abutting private land.

13 (d) For the purposes of this section, "person" includes
14 any licensed or unlicensed contractor, as defined in section
15 444-1."

16 SECTION 3. Section 171-31.6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[f]§171-31.6[] **Criminal penalties.** (a) Any person
19 found guilty of a violation of this chapter or any rules adopted
20 thereunder shall be guilty of a petty misdemeanor and shall be
21 punished as follows:



- (1) For a first offense, by a mandatory fine of not less than \$500, or imprisonment of not more than thirty days, or both;
- (2) For a second offense within five years of a previous conviction under this section, by a mandatory fine of not less than \$1,000, or imprisonment of not more than thirty days, or both; and
- (3) For a third or subsequent offense within five years of two prior convictions under this section, by a mandatory fine of not less than \$2,000, or imprisonment of not more than thirty days, or both.

(b) Any criminal action against a person for any violation under this section shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against the person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter or any rules adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person pursuant to this section.



1 (c) For the purposes of this section, "person" includes
2 any licensed or unlicensed contractor, as defined in section
3 444-1."

4 SECTION 4. Section 205A-32, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"\$205A-32 Penalties.** (a) Any person who violates any
7 provision of part II or part III shall be liable as follows:
8 (1) For a civil fine not to exceed \$100,000; or
9 (2) For the cost of returning the affected environment or
10 ecology within the coastal management area to the
11 condition existing before the violation.

12 (b) In addition to any other penalties, any person who is
13 violating any provision of part II or part III shall be liable
14 for a civil fine not to exceed \$10,000 a day for each day in
15 which such violation persists.

16 (c) Any civil fine or other penalty provided under this
17 section may be imposed by the circuit court or may be imposed by
18 the department after an opportunity for a hearing under chapter
19 91. Imposition of a civil fine shall not be a prerequisite to
20 any civil fine or other injunctive relief ordered by the circuit
21 court.



1 (d) For the purposes of this section, "person" includes
2 any licensed or unlicensed contractor, as defined in section
3 444-1."

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

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

7

INTRODUCED BY: 



S.B. NO. 3032

Report Title:

Department of Land and Natural Resources; Public Beaches; Sand Removal; Contractors; Penalties

Description:

Clarifies that any person in violation of laws and subject to administrative, civil, or criminal penalties prohibiting the removal of sand from public beaches includes licensed and unlicensed contractors.

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