
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 the
10 prohibitions and associated administrative, civil, or criminal
11 penalties for the removal of sand from public beaches apply to
12 all persons, including licensed and unlicensed contractors.

13 SECTION 2. Section 171-58.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§171-58.5 Prohibitions. [The mining or taking of]~~ (a)
16 No person shall mine or take sand, dead coral or coral rubble,
17 rocks, soil, or other beach or marine deposits seaward from the



1 shoreline [~~is prohibited with the following exceptions:~~], except
2 as follows:

3 (1) The inadvertent taking [~~from~~] beach or marine
4 deposits seaward of the shoreline [~~of these~~
5 ~~materials~~], such as those inadvertently carried away
6 on the body, [~~and on~~] clothes, toys, recreational
7 equipment, [~~and~~] or bags;

8 (2) For the replenishment or protection of public
9 shoreline areas and adjacent public lands seaward of
10 the shoreline, or construction or maintenance of
11 [~~state-approved~~] state-approved lagoons, harbors,
12 launching ramps, or navigational channels with a
13 permit authorized under chapter 183C;

14 (3) The clearing of [~~these materials~~] beach or marine
15 deposits from existing drainage pipes and canals and
16 from the mouths of streams, including clearing for the
17 purposes under section 46-11.5; provided that [~~the~~]
18 any sand removed shall be placed on adjacent areas
19 unless [~~this~~] the placement would result in
20 significant turbidity;



1 (4) The cleaning of areas seaward of the shoreline for
2 state or county maintenance purposes, including the
3 purposes under section 46-12; provided that ~~the~~ any
4 sand removed shall be placed on adjacent areas unless
5 the placement would result in significant turbidity;

6 (5) The exercise of traditional cultural practices as
7 authorized by law or as permitted by the department
8 pursuant to article XII, section 7, of the Hawaii
9 State Constitution; or

10 (6) For the response to a public emergency or a state or
11 local disaster.

12 (b) As used in this section, "person" includes any
13 individual, firm, partnership, corporation, association, or
14 other legal entity, including licensed or unlicensed
15 contractors."

16 SECTION 3. Section 205A-44, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§205A-44 Prohibitions.** (a) ~~[The mining or taking of]~~ No
19 person shall mine or take sand, dead coral or coral rubble,
20 rocks, soil, or other beach or marine deposits from the



1 shoreline area [~~is prohibited with the following exceptions:~~],
2 except as follows:

- 3 (1) The inadvertent taking of beach or marine deposits
4 from the shoreline area [~~of the materials~~], such as
5 those inadvertently carried away on the body, [~~and on~~]
6 clothes, toys, recreational equipment, [~~and~~] or bags;
- 7 (2) Where the mining or taking is authorized by a variance
8 pursuant to this part;
- 9 (3) The clearing of [~~these materials~~] beach or marine
10 deposits from existing drainage pipes and canals and
11 from the mouths of streams, including clearing for the
12 purposes under section 46-11.5; provided that [~~the~~]
13 any sand removed shall be placed on adjacent areas
14 unless the placement would result in significant
15 turbidity;
- 16 (4) The cleaning of the shoreline area for state or county
17 maintenance purposes, including [~~the~~] clearing for the
18 purposes under section 46-12; provided that [~~the~~] any
19 sand removed shall be placed on adjacent areas unless
20 the placement would result in significant turbidity;



1 (5) The taking of driftwood, shells, beach glass, glass
2 floats, or seaweed;

3 (6) The exercise of traditional cultural practices as
4 authorized by law or as permitted by the department
5 pursuant to article XII, section 7, of the Hawaii
6 State Constitution; or

7 (7) For the response to a public emergency or a state or
8 local disaster.

9 (b) Except as provided in this section, structures are
10 prohibited in the shoreline area without a variance pursuant to
11 this part. Structures in the shoreline area shall not need a
12 variance if:

13 (1) [~~They~~] The structures were completed [~~prior to~~] before
14 June 22, 1970;

15 (2) [~~They~~] The structures received [~~either~~] a building
16 permit, board approval, or shoreline setback variance
17 [~~prior to~~] before June 16, 1989;

18 (3) [~~They~~] The structures are outside the shoreline area
19 when they receive either a building permit or board
20 approval;



1 (4) [~~They~~] The structures are necessary for or ancillary
2 to continuation of existing agriculture or aquaculture
3 in the shoreline area on June 16, 1989;

4 (5) [~~They~~] The structures are minor structures permitted
5 under rules adopted by the department [~~which~~] that do
6 not affect beach processes or artificially fix the
7 shoreline and do not interfere with public access or
8 public views to and along the shoreline; or

9 (6) [~~Work~~] The work being done on the structure consists
10 of maintenance, repair, and minor additions or
11 alterations [~~of~~] to legal boating, maritime, or
12 watersports recreational facilities [~~, which~~] that are
13 publicly owned, and [~~which result~~] results in little
14 or no interference with natural shoreline processes;
15 provided that permitted structures may be repaired, but shall
16 not be enlarged, rebuilt, or replaced within the shoreline area
17 without a variance.

18 (c) For the purposes of this section, "person" includes
19 any individual, firm, partnership, corporation, association, or
20 other legal entity, including licensed or unlicensed
21 contractors."



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

3 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Clarifies that the prohibition on the mining or taking of beach or marine deposits, including sand, seaward from the shoreline applies to licensed and unlicensed contractors. 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.

