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# 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 171-58.5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "**§171-58.5 Prohibitions.** [~~The~~] (a) Any person is  
17 prohibited from the mining or taking of sand, dead coral or



1 coral rubble, rocks, soil, or other beach or marine deposits,  
2 seaward from the shoreline [~~is prohibited~~] with the following  
3 exceptions:

4 (1) The inadvertent taking from seaward of the shoreline  
5 of [~~these materials,~~] beach or marine deposits, such  
6 as those inadvertently carried away on the body, [~~and~~  
7 ~~en~~] clothes, toys, recreational equipment, and 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 state  
11 approved lagoons, harbors, launching ramps, or  
12 navigational channels with a permit authorized under  
13 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) For the purposes of this section, "person" includes  
13 any individual, firm, partnership, corporation, association, or  
14 other legal entity, including licensed and 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] Any person is  
19 prohibited from the mining or taking of sand, dead coral or  
20 coral rubble, rocks, soil, or other beach or marine deposits,



1 from the shoreline area [~~is prohibited~~] with the following  
2 exceptions:

- 3 (1) The inadvertent taking from the shoreline area of [~~the~~  
4 ~~materials,~~] beach or marine deposits, such as those  
5 inadvertently carried away on the body, [~~and on~~]  
6 clothes, toys, recreational equipment, and 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  
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 were completed prior to June 22, 1970;

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

17 (3) They are outside the shoreline area when they receive  
18 either a building permit or board approval;

19 (4) They are necessary for or ancillary to continuation of  
20 existing agriculture or aquaculture in the shoreline  
21 area on June 16, 1989;



1 (5) They are minor structures permitted under rules  
2 adopted by the department which do not affect beach  
3 processes or artificially fix the shoreline and do not  
4 interfere with public access or public views to and  
5 along the shoreline; or  
6 (6) [~~Work~~] The work being done on the structure consists  
7 of maintenance, repair, and minor additions or  
8 alterations [~~of~~] to legal boating, maritime, or  
9 watersports recreational facilities [~~, which~~] that are  
10 publicly owned, and [~~which result~~] results in little  
11 or no interference with natural shoreline processes;  
12 provided that permitted structures may be repaired, but shall  
13 not be enlarged, rebuilt, or replaced within the shoreline area  
14 without a variance.

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

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

21 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

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

**Description:**

Clarifies that the prohibition on the taking or mining of beach or marine deposits, including sand, seaward from the shoreline includes licensed and unlicensed contractors. (SD1)

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

