

A Bill for an Act Relating to Land Fire Protection Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 185, Hawaii Revised Statutes, is amended to read:

**“CHAPTER 185  
“LAND FIRE PROTECTION LAW**

**“Sec. 185-1 Responsible agency.** The department of land and natural resources shall take measures for the prevention, control, and extinguishment of forest fires on State owned and private lands within the forest reserves and public shooting grounds of the State and shall cooperate with established fire control agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for assistance for the prevention, control and extinguishment of fires on forest, pasture, and brush lands not within forest reserves.

**“Sec. 185-2 Fire wardens and foresters.** The state forester shall be responsible for coordinating the work of fire wardens and reviewing their plans for fire protection and control. The forester in charge of state forest reserves on each island shall be the chief fire wardens for that island and shall be in charge of all fire wardens on the island; provided that if members of the county or federal fire departments are fire wardens the chain of command will be defined by a mutual aid agreement between the department of land and natural resources and the county or federal government as provided in section 185-1. Fire wardens shall be appointed by the department of land and natural resources to serve without pay, for as many districts as in the opinion of the department may be needed for each island to give an adequate coverage and they shall be responsible for enforcing the fire prevention sections of this chapter in the district to which they are appointed.

**“Sec. 185-3 Powers and duties of foresters and fire wardens.** The state forester shall be responsible to the board of land and natural resources for supervision of the organization, plans and actions of the fire warden.

(1) The state forester. The state forester shall have the following duties and powers: review and approve plans, prepared by the chief fire wardens, zoning each island under his jurisdiction into fire districts; recommend to the board the appointment of a fire warden for each fire district in accordance with section 185-2; appoint, pending the filling of vacant fire warden positions by the board or during periods when a fire warden is unable, because of illness, absence from the district, or for any valid reason, to perform or attend to his duties for periods not to exceed two months, special fire wardens who shall serve without compensation but who shall have the same benefits, powers and duties as district fire wardens during the term of their appointments; establish procedures and guidelines for the prevention, control and extinguishment of fires coming within the meaning of fires in this chapter; establish procedures, guidelines and conditions for the issuance of fire permits and

for determining periods when forest areas shall be closed; close forest areas when necessary; summon when he deems it necessary men and fire fighting equipment, supplies and materials needed to extinguish fires; act as fire boss or assign a fire boss to supervise the operations of controlling and extinguishing fires; arrest without warrant any person committing in his presence any of the offenses prohibited by this chapter; and to do any act which the chief fire warden or district warden is empowered to perform under this chapter.

(2) Chief fire warden. The chief fire warden of each island shall have the following duties and powers: prepare a master plan for zoning the island into fire districts; make recommendations to the state forester who will then recommend to the board for the appointment of fire wardens for each fire district; take necessary measures for the prevention, control, and extinguishment of fires coming within the meaning of this chapter; supervise the work of fire wardens, and, when necessary, recommend to the state forester for the appointment for periods of time limited to two months of special fire wardens to serve without compensation who shall have the same powers as district fire wardens during their term of appointment; issue fire warning notices during dry periods or other seasons when fire hazards are great; close forest reserves to public access during dry periods when necessary to reduce fire risk, except it shall be lawful for the owner or his agents or other persons regularly engaged in harvesting, processing or moving farm or forest products to enter the closed area for essential residential or commercial purposes, issue burning permits and authorize fire wardens to issue burning permits as provided in section 185-7; receive, audit, and if correct, approve and transmit to the board through the state forester, all reports and accounts for expenses incurred in the prevention, control, and extinguishment of any fires which come within the meaning of this chapter; summon when he deems necessary additional fire fighting assistance, equipment, supplies, or materials to assist fire wardens in fighting a fire; assume full responsibility, upon relieving any fire warden of such responsibility, for directing the control and extinguishment of any fire coming within the meaning of this chapter, including directing the control and extinguishment of any fire on or threatening any government or private lands in forest reserves and public shooting grounds; conduct educational work in the protection of forest, pasture, and brush lands against fires; arrest without warrant any person committing in his presence any of the offenses prohibited by this chapter.

“(3) District fire warden. The district fire warden shall have the following duties and powers within his assigned district: advise the chief fire warden of the need of fire warning notices; and, if issued, assist in posting the warnings; issue burning permits, when authorized by the chief fire warden; summon and have control of (unless relieved by the state forester or chief fire warden as herein provided) all persons, equipment, apparatus, supplies, and materials used or needed for fighting a fire; authority to incur expenses for the purposes of and in accordance with this part, provided, that the district fire warden may relinquish such authority to the chief fire warden of the island; submit to the chief fire warden a correct and itemized account of expenses, together with a report of the fire on forms supplied by the department;

arrest without warrant any person committing in his presence any of the offenses prohibited by this chapter.

**“Sec. 185-4 Payment for fire fighting.** No federal, state, or county agency summoned by a fire warden to assist in extinguishing a fire shall be reimbursed for expenses incurred in such fire fighting.

“No owner, lessee, or occupier of any lands upon which a fire has occurred, nor any employee of such persons, nor any person who has any vested interest in and to the lands or his employees shall be entitled to the compensation provided for in this chapter, for his services and materials rendered in and upon the land in the extinguishment of any fire; provided the prohibition contained in this paragraph shall not apply to owners or persons holding interests to any lands which have been surrendered to the department of land and natural resources under agreement as a public forest reserve for a period of ten years or more or as a public shooting ground for a period of five years or more or to any owner who suffered a fire as a result of his allowing his land to be used by the general public without compensation.

“The department shall pay all expenses for wages of persons, use of equipment, supplies, or materials summoned or used by the state forester, or a fire warden, for controlling and extinguishing any fire coming within the meaning of this chapter.

“All expenses incurred in controlling or extinguishing a fire by the state forester, or a fire warden, shall be payable from the governor’s contingent fund, provided such has been established by the legislature, and provided the fire suppression budget is exceeded, and the owner, lessee, or agency having control over the lands has not been negligent in starting or failing to control or extinguish a fire. Any person, agency, or corporation summoned by the state forester, or a fire warden to assist in extinguishing a fire eligible under this chapter to claim for reimbursement for wages, equipment use, supplies, or materials must submit an itemized statement of such claims to the chief fire warden through the district fire warden within sixty days after the fire has been extinguished in order to have it honored.

**“Sec. 185-5 Rates of pay for fire fighting.** Persons summoned by the state forester or a fire warden or by anyone authorized by the state forester or a fire warden for controlling or extinguishing a fire, within the meaning of this chapter, and who are eligible for compensation under this chapter, shall receive compensation at an hourly rate equivalent to the prevailing entry level rate of the civil service classification for the skill for which he is called on to perform. The rental rates of equipment shall not exceed the prevailing inter-departmental rates for equipment of similar type as established by the department of accounting and general services and supplies or material expended shall be paid for at the actual cost of replacement.

**“Sec. 185-6 Insurance protection.** All persons who have performed services required under this chapter, which services are made compensable under the terms of this chapter, shall, in case of injury or death arising out of and in the performance of the functions pursuant to this chapter, or their dependents, be entitled to all of the benefits provided in chapter 386 includ-

ing medical services and supplies; provided that for the purposes of such benefits, average weekly wages shall be computed on the basis of earnings from the usual employment of such persons. The cost thereof shall be a charge upon the appropriate fund.

**“Sec. 185-7 Fire danger periods, setting fires, penalties.** During periods of weather when the state forester determines that the possibility of fire is particularly dangerous on any island the chief fire warden of such island shall establish a fire danger period by causing a fire warning to be issued by publishing a notice containing information setting forth the fact and a designation of the areas within which burning is prohibited without a permit, in a paper of general circulation in the area affected or by posting notices in public places with similar information. During such periods no fires other than a fire contained in a closed, screened container, which shall prevent the spread of a fire shall be started for purposes of burning forest, pasture, or brush lands or for burning flammable material within 500 feet of forest, pasture, or brush land unless a burning permit is first obtained from the state forester or a fire warden as provided herein. The issuance of permits shall be at the discretion of the issuing officer who shall take into account whether the issuance of a permit is compatible with safety. Holders of permits shall start no fires during a heavy wind or without sufficient help present to control same and shall maintain a constant watch over the fires until they have been extinguished. Every person who discards burning material within a closed fire area, or, every person who sets a fire on land within the closed fire area without a permit, or, every person who wilfully, maliciously, or negligently sets a fire which burns property not owned, leased, or controlled by him shall be guilty of a misdemeanor. Any person violating this section shall be fined not less than \$25 nor more than \$5,000. Setting fires or causing them to be set or allowing them to escape shall be prima facie evidence of wilfulness, malice, or negligence under this section; provided that nothing herein contained shall apply to a person who, in good faith, sets a back fire to check a fire already burning. A ‘closed fire area’ is defined as the area wherein burning is prohibited during a fire danger period.

**“Sec. 185-8 Government agencies to assist.** All agencies of the state or its political subdivisions shall assist in extinguishing any fire when duly summoned by the state forester or any fire warden.

**“Sec. 185-9 Obstructing the state forester or fire wardens penalty.** Any person who obstructs or interferes with or prevents the state forester or any fire warden or any person in the performance of any duty authorized by this chapter shall be fined not less than \$25 nor more than \$500.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1974.)

\*Edited accordingly.