

ACT 171

S.B. NO. 2617-78

A Bill for an Act Relating to Establishment of a Conservation and Resources Enforcement Program Within the Department of Land and Natural Resources.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated, and to read as follows:

**“CHAPTER
CONSERVATION AND RESOURCES ENFORCEMENT
PROGRAM**

Sec. -1 Board of land and natural resources, powers and duties. The board of land and natural resources shall establish within the department of land and natural resources a conservation and resources enforcement program relating to the enforcement of chapters under title 12 entitled “Conservation and Resources,” and rules and regulations promulgated thereunder, and shall employ or appoint, and remove, the following persons, subject to chapters 76 and 77 and section 78-1, who shall be provided with suitable badges or insignia of office by the department of land and natural resources:

- (1) An enforcement chief of the department of land and natural resources, who shall be the head of the conservation and resources enforcement program and shall have charge, direction and control, subject to the direction and control of the board, of all matters relating to the enforcement of State conservation and resources laws and rules and regulations promulgated thereunder and such other matters as the board may from time to time direct. The enforcement chief shall be an administrator experienced in conservation and resources law enforcement and management.

- (2) Personnel and enforcement officers of the conservation and resources enforcement program, including but not limited to enforcement officers on a voluntary basis and without pay.

Sec. -2 Board of land and natural resources, delegation of authority.

The board of land and natural resources may delegate to enforcement officers within the conservation and resources enforcement program, such authority as may be required for enforcement of State conservation and resources laws and rules and regulations promulgated thereunder.

Sec. -3 Conservation and resources enforcement officers, duties. The conservation and resources enforcement officers, with respect to all State lands, including public lands, State parks, forest reserves, forests, fish and game areas, and any other lands and waters subject to the jurisdiction of the department of land and natural resources, shall:

- (1) Enforce title 12 and rules and regulations promulgated thereunder;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct such field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual agreements for conservation and resources enforcement activities within the State;
- (4) Cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs, and mutual aid agreements for search and rescue activities within the State;
- (5) Check and verify all leases, permits and licenses issued by the department of land and natural resources;
- (6) Carry out such other duties and responsibilities as the board of land and natural resources may from time to time direct.

Sec. -4 Board of land and natural resources, police powers. The board of land and natural resources shall have police powers, which may be delegated to the enforcement officers within the conservation and resources enforcement program, including the power to serve and execute warrants, issue citations, and arrest offenders of title 12 and the rules and regulations promulgated thereunder. Such police powers shall also extend to the enforcement of the laws of the State within the areas under jurisdiction of the department of land and natural resources.

An enforcement officer, upon arresting any person for violation of title 12 and rules and regulations promulgated thereunder, may immediately take the person arrested to a police station or before a district judge, or take the name, address, and the number of the fishing, hunting, or other licenses or permits, if any, of the person, and note the violation of such law, rule, or regulation by the person, and issue him a summons or citation, printed in the form described in section -5, warning him to appear and to answer to the charge against him at a certain place and time within seven days after the arrest. Any person failing to obey a summons issued pursuant to this section shall be subject to section -6.

Sec. -5 Summons or citation. There shall be a form of summons or

citation for use in citing violators of title 12 and rules and regulations promulgated thereunder, which do not mandate the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citation used in modern methods of arrest and shall be so designed to include all necessary information to make it valid and legal within the laws and regulations of the State. The form and content of the summons or citation shall be adopted or prescribed by the district courts.

In every case where a summons or citation is issued the original of the same shall be given to the violator; provided that the district courts may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies.

Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

Sec. -6 Failure to obey a summons. Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the officers or their agents or subordinates, upon his arrest for violation of title 12 and rules and regulations promulgated thereunder, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$500 or be imprisoned not more than six months, or both.

If any person fails to comply with a summons or citation issued to him, or if any person fails or refuses to deposit bail as required and within the time permitted, the officers shall cause a complaint to be entered against the person and secure the issuance of a warrant for his arrest.

When a complaint is made to any prosecuting officer of the violation of title 12 and rules and regulations promulgated thereunder, the officer who issued the summons or citation shall subscribe to it under oath administered by another official or officials of the department of land and natural resources whose names have been submitted to the prosecuting officer and who have been designated by the chairman of the board of land and natural resources to administer the same.

Sec. -7 Seizure and forfeiture of equipment. Any equipment, article, or instrument used or possessed in violation of title 12 and rules and regulations promulgated thereunder, is declared to be a public nuisance and subject to seizure by any enforcement officer of the department of land and natural resources or by any police officer; and upon conviction of the person having possession or control of such equipment, article or instrument for a violation of any provision of such laws or rules and regulations, the equipment, article or instrument may be declared by the court to be forfeited to the State. Any property so forfeited shall be turned over to the department of land and natural resources and destroyed, if illegal, or otherwise shall be sold at public auction in the judicial circuit in which it was seized, the auction to be held once annually at a place and time to be designated by the department and notice thereof to be published in a newspaper of general circulation within the judicial circuit at least once before the auction, the first publication to be not less than twenty days prior to the auction. The auction shall be conducted by a person other than an employee of the department but designated by the department."

SECTION 2. Enforcement functions transferred. The functions of land

rangers, forest rangers, fish and game agents, and state parks enforcement officers, and the enforcement functions of the state parks system, forestry and the fish and game, or other divisions of the department of land and natural resources may be transferred by the board of land and natural resources to the conservation and resources enforcement program created by this Act.

All officers and employees whose functions may be transferred as herein stated may be transferred with their functions and shall continue to perform assigned duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of transfer to the conservation and resources enforcement program, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided, that the officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided further, that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

SECTION 3. Property transfer. All appropriate records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personnel property heretofore made, used, acquired, or held by the divisions whose functions are transferred to the conservation and resources enforcement program shall be transferred with the functions to which they relate.

SECTION 4. Conservation and resources enforcement program, organization. The board of land and natural resources shall establish the form and structure of the conservation and resources enforcement program and place this program within the organization of the department of land and natural resources in accordance with all applicable laws and rules and regulations of the State.

SECTION 5. Applicability of Act. Nothing in this Act is intended, nor shall it be interpreted, to abolish or diminish any of the powers or duties of the various county police departments and other law enforcement agencies, with respect to all law enforcement or the protection of persons or property.

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

(Approved June 2, 1978.)