

ACT 57

S.B. NO. 2159-86

A Bill for an Act Relating to Department of Transportation.

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

SECTION 1. Section 266-1, Hawaii Revised Statutes, is amended to read as follows:

“§266-1 Department of transportation; harbors; jurisdiction. All ocean [shores seaward of the shoreline, shore] waters and navigable streams, and all harbor and roadsteads, and all harbor and waterfront improvements, belonging to or controlled by the State, and all vessels and shipping within the harbors, roadsteads, waters, and streams shall be under the care and control of the department of transportation.”

SECTION 2. Section 266-3, Hawaii Revised Statutes, is amended by amending subsections (a), (b) and (c) to read as follows:

“(a) The director of transportation may from time to time adopt rules not inconsistent with law as he may deem necessary respecting the manner in which all vessels may enter and moor, anchor or dock in the [shore] ocean waters, navigable streams, harbors, ports, and roadsteads of the State, or move from one dock, wharf, bulkhead, quay, landing, anchorage, or mooring to another within the waters, streams, harbors, ports, or roadsteads; the examination, guidance, and control of harbor masters and their assistants, and their conduct while on duty; the embarking or disembarking of passengers; the expeditious and careful handling of freight, goods, wares, and merchandise of every kind which may be delivered for shipment or discharged on the wharves, docks, quays, bulkheads, or landings belonging to or controlled by the State; and defining the duties and powers of carriers, shippers, and consignees respecting passengers, freight, goods, wares, and merchandise in and upon the wharf, landing, dock, quay, or bulkhead. The director may also make further rules and regulations for the safety of the docks, wharves, landings, quays, bulkheads, and harbor and waterfront improvements belonging to or controlled by the State.

(b) The director may also, from time to time, make, alter, amend, and repeal such rules not inconsistent with law as shall be deemed necessary for the proper regulation and control of all shipping in the harbors, [shore] ocean waters, and navigable streams belonging to or controlled by the State, and of the entry, departure, mooring, and berthing of vessels therein, and for the regulation and control of all other matters and things connected with shipping in all the harbors, [shore] ocean waters, and navigable streams; and rules and regulations to prevent the throwing into these harbors, [shore] ocean waters, and navigable streams, of rubbish, refuse, garbage, or other substances liable to make such harbors, [shore] ocean waters, and navigable streams unsightly, unhealthful or unclean, or liable to fill up or shoal or shallow the harbors, [shore] ocean waters, and streams and likewise to prevent the escape of fuel or other oils into the harbors, [shore] ocean waters, and streams, either from any vessel or from pipes or storage tanks upon the land.

(c) In addition to the powers vested in the director by sections 266-1 and 266-2, the director, to protect and foster public peace and tranquility and to promote public safety, health, and welfare in or on the [shore] ocean waters [and shores], navigable streams, and on beaches encumbered with easements in favor of the public, [and on public beaches constructed seaward of an existing shoreline,] may adopt rules governing the [shore] ocean waters, [shores,] navigable streams, and beaches encumbered with easements in favor of the public], and public beaches constructed seaward of an existing shoreline. The rules to be adopted under this subsection may include:

- (1) Safety measures, requirements, and practices in or on the [shore] ocean waters and [shores] navigable streams of the State;
- (2) The licensing and registration of persons or organizations engaged in commercial activities in or on the [shore] ocean waters [or shores] and navigable streams of the State;
- (3) The licensing and registration of equipment utilized for commercial activities in or on the [shore] ocean waters [or shores] and navigable streams of the State;
- (4) [The prohibition of the following uses and activities on] For beaches encumbered with easements in favor of the public [and on public beaches constructed seaward of an existing shoreline:], the prohibition or denial of the following uses and activities:
 - (A) Commercial activities;
 - (B) The storage, parking, and display of any personal property;

- (C) The placement of structures or obstructions; [and]
- (D) The beaching, landing, mooring, or anchoring of any vessels;
and
- [(D)] (E) Other uses or activities that may interfere with the public use and enjoyment of [the] these beaches; and
- (5) Any other matter relating to the safety, health, and welfare of the general public.

Management of all other beaches, shores, and submerged lands, belonging to or controlled by the State, shall be the responsibility of department of land and natural resources.

For the purpose of this chapter, if not inconsistent with the context: “Beaches encumbered with easements in favor of the public” means any lands which lie along the shores of the State [above the shoreline and] which are now, or may hereafter be, encumbered by easements granted in favor of the public for bathing purposes and for foot passage.

“Ocean waters” means all waters seaward of the shoreline within the jurisdiction of the State.

[“Shore waters and shores” means all ocean shores and waters seaward of the shoreline and within the jurisdiction of the State.]

“Shoreline” means the upper reaches of the wash of the waves, usually evidenced by the edge of vegetation growth or by the upper limit of debris left by the wash of the waves.”

SECTION 3. Section 266-16, Hawaii Revised Statutes, is amended to read as follows:

“§266-16 Limitation of private use of [shores or shore] ocean waters. No person shall erect or place any structure or similar object, or sink any type of watercraft or other sizeable object, or abandon any type of watercraft or other sizeable object, either sunk or unsunk, on or within the [shores or shore] ocean waters of the State without a written permit from the department of transportation. The department may require any person violating this section to remove any structure, similar object, watercraft, or other sizeable object, within the meaning of this section, on or within the [shores or shore] ocean waters of the State. If any person fails to remove same within a time limit set by the department, it may effect such removal and charge the person with the cost thereof. The department may enforce compliance with this section by the use of any appropriate remedy.”

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

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

(Approved April 21, 1986.)