

ACT 66

H.B. NO. 1748

A Bill for an Act Relating to Kaho‘olawe Penalties.

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

SECTION 1. Chapter 6K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§6K- **General administrative penalties.** (a) Except as otherwise provided by law, the commission is authorized to set, charge, and collect administrative fines, or bring legal action to recover administrative costs of the commission or the department, or payment for damages, or for the cost to correct damages resulting from a violation of chapter 6K or any rule adopted thereunder. The administrative fines shall be as follows:

- (1) For a first violation, by a fine of not more than \$10,000;
- (2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and
- (3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.

(b) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of natural resource or any historic property taken, killed, injured, broken, or damaged in violation of any rule adopted under this chapter. For purposes of this section, “natural resource” includes any archaeological artifacts, minerals, any aquatic life or wildlife or parts thereof, including their eggs, and any land plants or parts thereof, including seeds. Also for purposes of this section, “historic property” means any building, structure, object, districts, area, or site, including heiau and underwater site, which is over fifty years old.

(c) Any criminal penalty for any violation of this chapter or any rule adopted under this chapter shall not be deemed to preclude the commission from bringing a civil legal action to recover additional administrative fines and costs. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter or any rule adopted under this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.

(d) In any judicial proceeding to recover an administrative penalty imposed, the commission need only show that notice was given, that a hearing was held or the time granted for requesting a hearing has run without such a request, that an

administrative penalty was imposed, and that the administrative penalty remains unpaid.”

SECTION 2. Section 6K-8, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§6K-8]]~~ **Penalty.** Any person who violates any of the laws or rules applicable to the island reserve shall be guilty of a petty misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than [one year,] thirty days, or both, for each offense. Each day of each violation shall be deemed a separate offense.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 1997.)

**Note**

1. Edited pursuant to HRS §23G-16.5.