

H .B. NO. 2395

A BILL FOR AN ACT

RELATING TO PROTECTION OF FOREST RESERVES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1.0 Chapter 183, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§183- General administrative penalties. (a) Except
5 as otherwise provided by law, the board or its authorized
6 representative by proper delegation may independently, or by a
7 combination of the following if required:

8 (1) Set, charge, and collect administrative fines;

9 (2) Recover administrative fees and costs as documented by
10 receipts or affidavits, including attorney's fees and
11 costs;

12 (3) Recover costs associated with land or habitat
13 restoration;

14 (4) Bring legal action to recover administrative fines,
15 fees, and costs, including attorney's fees and costs;

16 resulting from a violation of this chapter, any rule adopted, or
17 permit issued thereunder.

1 (b) The administrative fines shall be as follows:

2 (1) For a first violation, or any violations not preceded
3 within a five-year period by a violation of chapter
4 183, a fine of not more than \$2,500 per violation;

5 (2) For a second violation within five years of a previous
6 violation, a fine of not more than \$5,000 per
7 violation; and

8 (3) For a third or subsequent violation within five years
9 of the last two violations, a fine of not more than
10 \$10,000 per violation.

11 (c) In addition, a fine of up to \$2,000 per violation may
12 be levied for each destroyed or harvested tree or plant, or
13 portion thereof, other than koa, larger than six inches in
14 diameter at ground level;

15 (d) In addition, a fine of up to \$10,000 per violation may
16 be levied for each destroyed or harvested koa tree, or portion
17 thereof, larger than six inches in diameter at ground level;

18 (e) Any criminal prosecution for any violation of this
19 chapter or any rule adopted thereunder shall not be deemed to
20 preclude the State from recovering additional administrative
21 fines, fees, and costs, including attorney's fees and costs."

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1 SECTION 2. Section 183-18, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§183-18 [Penalty.]~~ Criminal penalties. Any person who
4 violates section 183-17, upon conviction thereof, is guilty of a
5 misdemeanor and shall be fined not more than [~~\$1,000~~] \$2,000 or
6 imprisoned not more than one year, or both. In addition to any
7 other penalty imposed under this section, a fine of up to \$2,000
8 shall be levied for each tree illegally taken under section 183-
9 17."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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

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14 INTRODUCED BY: Calvin K. Iy
15 BY REQUEST

16 JAN 23 2006
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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO PROTECTION OF FOREST RESERVES.

PURPOSE: To establish general administrative penalties for violations under chapter 183, Hawaii Revised Statutes (HRS); and to increase fines for timber trespass.

MEANS: Add a new section to chapter 183 and amend section 183-18, HRS.

JUSTIFICATION: The current language within chapter 183, HRS, creates a situation whereby certain violations, particularly large-scale timber theft, cannot be effectively prosecuted due to value of the resources taken far exceeding the cost and deterrent fine amount for the actual violation. For example, funds generated from theft and sale of just one Koa log can exceed \$10,000. The bill would establish administrative penalties as an alternative to prosecuting violations of chapter 183, HRS, and associated rules, strictly through the Courts. This bill would also increase the general fine amount for timber trespass, including the removal of any timber within the State Forest Reserves, and add a fine for each tree illegally taken.

Impact on the public: None.

Impact on the department and other agencies: Establishing administrative penalties within chapter 183, HRS, would speed up enforcement actions thereby freeing the Courts to address more serious transgressions, as well as bring the chapter in line with other departmental statutes relating to penalties.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 402.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.