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# A BILL FOR AN ACT

RELATING TO THE KAHO'OLAWA REHABILITATION TRUST FUND.

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

- 1           SECTION 1. The Kaho'olawe Island Reserve Commission issued  
2 the Kaho'olawe Island Reserve Strategic Plan 2009-2013 (Strategic  
3 Plan) in September 2008. The Strategic Plan emphasizes the  
4 following goals:
- 5           (1) To increase the size, diversity, and sustainability of  
6 the trust fund by raising funds through grants,  
7 partnerships, contributions from corporations, and  
8 private individuals, entering into appropriate  
9 strategic alignments and operating agreements that  
10 generate revenue without commercial activity on-  
11 island, and to manage the organization's budget in a  
12 manner that protects the trust fund;
- 13           (2) To develop and implement a culturally appropriate  
14 five-year plan to access and stabilize cultural sites,  
15 archeological sites, and burial sites, and provide for  
16 appropriate access and cultural practices;



- 1           (3) To develop and maintain a culturally appropriate,  
2           environmentally sustainable infrastructure to provide  
3           and maintain an appropriate on-island presence to  
4           manage and protect the Kaho'olawe Island Reserve  
5           (Reserve);
- 6           (4) To systematically restore the natural resources of the  
7           Reserve, including the island and its surrounding  
8           waters;
- 9           (5) To create a five-year written plan to expand the  
10          volunteer base and relationships with individuals and  
11          organizations in concert with the Protect Kaho'olawe  
12          'Ohana for cultural, natural resource, and marine  
13          resource restoration, conservation, and other native  
14          Hawaiian traditional and customary practices;
- 15          (6) To develop and implement a measurable education and  
16          communication program to deepen understanding for the  
17          children and people of Hawai'i and the world of the  
18          natural, cultural, historical, and spiritual  
19          significance of Kaho'olawe, and to aid in the fund  
20          development process;



1 (7) To establish a written and measurable enforcement  
2 program and network to protect Kaho'olawe and its  
3 waters from illegal, inappropriate, and unsafe use;  
4 and

5 (8) To prepare for the transition of the Reserve to the  
6 future native Hawaiian sovereign entity.

7 The legislature finds that to carry out the goals of the  
8 Strategic Plan, additional funds are required for the Kaho'olawe  
9 rehabilitation trust fund.

10 SECTION 2. Chapter 6K, Hawaii Revised Statutes, is amended  
11 by adding a new section to be appropriately designated and to  
12 read as follows:

13 "§6K- Molokini recreational activity surcharge. (a)

14 Any ocean recreational activity business operator that operates  
15 a tour at Molokini island, including a tour of the reefs and  
16 reef lands off the shore of the island, shall collect a  
17 surcharge of \$1 from each customer for each activity tour  
18 provided to the customer.

19 (b) Each ocean recreational activity business operator may  
20 retain two per cent of the amount of surcharges collected to  
21 offset administrative expenses associated with collecting the  
22 surcharge.



1       (c) The ocean recreational activity business operator  
2 shall remit to the Kaho'olawe rehabilitation trust fund,  
3 established pursuant to section 6K-9.5, within sixty days after  
4 the end of the calendar month in which the surcharge is  
5 collected, an amount that represents the total surcharges  
6 collected during the calendar month less amounts retained for  
7 administrative expenses incurred by the ocean recreational  
8 activity business operator, as provided in subsection (b).

9       (d) The surcharges collected by the ocean recreational  
10 activity business operator pursuant to this section shall not be  
11 subject to any tax, fee, or assessment, and shall not be  
12 considered revenue of the operator.

13       (e) Each customer who is subject to this section shall be  
14 liable to the State for the surcharge until the surcharge has  
15 been paid to the ocean recreational activity business operator.  
16 Ocean recreational activity business operators shall have no  
17 liability to remit surcharges that have not been paid by  
18 customers. An ocean recreational activity business operator  
19 shall have no obligation to take any legal action to enforce the  
20 collection of the surcharge for which any customer is billed.  
21 The department may initiate a collection action against the



1 customer. If the department prevails in a collection action,  
2 reasonable attorney's fees and costs shall be awarded.

3 (f) As used in this section, "ocean recreational activity  
4 business operator" means any person who operates any commercial  
5 enterprise or establishment, including sole proprietorships,  
6 joint ventures, partnerships and corporations, or any other  
7 legally cognizable entity, whether for profit or not for profit,  
8 which:

9 (1) Engages in a recreational activity that is primarily  
10 conducted in or on the ocean, including kayaking,  
11 snorkeling, scuba diving, surfing, and windsurfing; or

12 (2) Provides instruction or guidance to any patron  
13 regarding the use of equipment associated with an  
14 ocean recreational activity."

15 SECTION 3. Section 6K-9.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) There is created in the state treasury a trust fund  
18 to be designated as the Kaho'olawe rehabilitation trust fund to  
19 be administered by the department with the prior approval of the  
20 commission. Subject to Public Law 103-139, and this chapter:

21 (1) All moneys received from the federal government for  
22 the rehabilitation and environmental restoration of



1 the island of Kaho'olawe or other purposes consistent  
2 with this chapter;

3 (2) Any moneys appropriated by the legislature to the  
4 trust fund;

5 (3) Any moneys received from grants, donations, or the  
6 proceeds from contributions; [~~and~~]

7 (4) Moneys collected pursuant to the surcharge levied  
8 under section 6K- ; and

9 [~~(4)~~] (5) The interest or return on investments earned from  
10 moneys in the trust fund,

11 shall be deposited in the trust fund and shall be used to  
12 fulfill the purposes of this chapter."

13 SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2020.



**Report Title:**

Molokini; Kaho'olawe Rehabilitation Trust Fund; Surcharge

**Description:**

Imposes a surcharge on customers of ocean recreational activity tours at Molokini island, including the reefs and reef lands off the shore of the island, to be deposited in the Kaho'olawe rehabilitation trust fund. Takes effect on July 1, 2020.  
(HB1961 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

