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# A BILL FOR AN ACT

RELATING TO CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM.

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

1           SECTION 1. Section 199-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~§199-1 [Board of land and natural resources,]~~ Department  
4 of public safety; powers and duties. The [~~board of land and~~  
5 ~~natural resources shall establish within the department of land~~  
6 ~~and natural resources a]~~ department of public safety shall have  
7 jurisdiction over the conservation and resources enforcement  
8 program relating to the enforcement of title 12, chapters 6D,  
9 6E, and 6K, and rules adopted thereunder, and shall employ or  
10 appoint, and remove, the following persons, subject to chapter  
11 76 and section 78-1, who shall be provided with suitable badges  
12 or insignia of office by the [~~department of land and natural~~  
13 ~~resources:]~~ department of public safety:

14           (1) [~~An enforcement chief of the department of land and~~  
15 ~~natural resources,]~~ A deputy director of public  
16 safety, who shall be the head of the conservation and  
17 resources enforcement program and shall have charge,

1 direction, and control, subject to the direction and  
2 control of the [~~board,~~] director of public safety of  
3 all matters relating to the enforcement of title 12,  
4 chapters 6D, 6E, and 6K, and rules adopted thereunder  
5 and such other matters as the [~~board~~] director of  
6 public safety may from time to time direct[~~—The~~  
7 ~~enforcement chief shall be an administrator~~  
8 ~~experienced in conservation and resources law~~  
9 ~~enforcement and management~~]; and

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

14 SECTION 2. Section 199-4, Hawaii Revised Statutes, is  
15 amended as follows:

- 16 1. By amending its title to read:

17 "~~§199-4 [Board of land and natural resources,]~~ Department  
18 of public safety; police powers."

- 19 2. By amending subsection (a) to read:

20 "(a) The [~~board of land and natural resources~~] department  
21 of public safety shall have police powers and may appoint and  
22 commission enforcement officers within the conservation and

1 resources enforcement program. Persons appointed and  
2 commissioned under this section shall have and may exercise all  
3 of the powers and authority of a police officer, including the  
4 power of arrest, and in addition to enforcing title 12, chapters  
5 6D, 6E, and 6K, and rules adopted thereunder, may enforce all  
6 other state laws and rules, and county ordinances within all  
7 lands and waters of the State; provided that ~~[such]~~ the powers  
8 shall remain in force and effect only while in actual  
9 performance of their duties, which shall include off-duty  
10 employment when ~~[such]~~ that employment is for other state  
11 departments or agencies. These enforcement officers shall  
12 consist of personnel whose primary duty ~~[will]~~ shall be the  
13 enforcement of title 12, chapters 6D, 6E, and 6K, and the rules  
14 adopted thereunder within the areas under the jurisdiction of  
15 the department of ~~[land and natural resources.]~~ public safety."

16 SECTION 3. Section 199-6, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§199-6 Failure to obey a summons.** (a) Any person who  
19 fails to appear at the place and within the time specified in  
20 the summons or citation issued by the officers or their agents  
21 or subordinates, upon that person's arrest for violation of  
22 title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder,

1 shall be guilty of a petty misdemeanor and, upon conviction,  
2 shall be fined not more than \$500 or be imprisoned not more than  
3 thirty days, or both.

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

9 (b) When a complaint is made to any prosecuting officer of  
10 the violation of title 12, chapters 6D, 6E, and 6K, and rules  
11 adopted thereunder, the officer who issued the summons or  
12 citation shall subscribe to it under oath administered by  
13 another official or officials of the department of [~~land and~~  
14 ~~natural resources~~] public safety whose names have been submitted  
15 to the prosecuting officer and who have been designated by the  
16 [~~chairperson of the board of land and natural resources~~]  
17 director of public safety to administer [~~the same.~~] oaths."

18 SECTION 4. Section 199-7, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By amending subsection (a) to read:

21 "(a) Any police officer or agent of the department of  
22 [~~land and natural resources~~] public safety upon whom the [~~board~~

1 ~~of land and natural resources]~~ director of public safety has  
2 conferred powers of police officers, shall have the authority to  
3 conduct searches on probable cause as provided by law and to  
4 seize any equipment, article, instrument, aircraft, vehicle,  
5 vessel, business records, or natural resource used or taken in  
6 violation of the provisions contained in chapters 6D, 6E, and  
7 6K, or title 12, or any rules adopted thereunder. For purposes  
8 of this section, "natural resource" includes any archaeological  
9 artifacts, minerals, any aquatic life or wildlife or parts  
10 thereof, including their eggs, and any land plants or parts  
11 thereof, including seeds."

12 2. By amending subsections (c) and (d) to read:

13 "(c) The department of [~~land and natural resources]~~ public  
14 safety shall compile a list of all equipment, articles,  
15 instruments, aircraft, vehicles, vessels, or any natural  
16 resource forfeited as provided in this section and shall publish  
17 the list in its annual report.

18 (d) Notwithstanding any other law to the contrary, the  
19 department of [~~land and natural resources]~~ public safety may  
20 sell or take actions to cause the sale of any perishable natural  
21 resource that is seized to prevent the waste of the natural  
22 resource and to ensure the economic value of [~~such~~] the natural

1 resource; provided that the department may not sell or cause the  
2 sale of any threatened or endangered species or any other  
3 species whose sale is prohibited by law. The department of  
4 [~~land and natural resources~~] public safety may require the  
5 person or persons who took the natural resources to sell the  
6 seized natural resources at fair market value. The department  
7 of [~~land and natural resources~~] public safety may require any  
8 person purchasing any seized natural resource to deliver the  
9 proceeds of the sale to the department of [~~land and natural~~  
10 ~~resources~~] public safety or its authorized representative. Any  
11 person who refuses to sell the seized natural resources at fair  
12 market value or any person who fails to deliver the proceeds of  
13 the sale, as directed by the department of [~~land and natural~~  
14 ~~resources,~~] public safety shall be in violation of this  
15 subsection and punishable as provided by law. The department of  
16 [~~land and natural resources~~] public safety shall deposit and  
17 keep the proceeds of the sale in an interest bearing account  
18 until such time as the suspected violation is settled between  
19 the person or persons who took the natural resource, consignee  
20 or consignees, if any, and the department of [~~land and natural~~  
21 ~~resources.~~] public safety. Should a settlement not be reached,  
22 the department of [~~land and natural resources~~] public safety

1 shall submit the proceeds of the sale to the court. The  
2 proceeds of the sale, after deducting any reasonable costs of  
3 the sale incurred by the department of [~~land and natural~~  
4 ~~resources,~~] public safety, shall be subject to any  
5 administrative or judicial proceedings in the same manner as the  
6 seized natural resource would have been, including an action in  
7 rem for the forfeiture of the proceeds. Seizure and sale of a  
8 natural resource is without prejudice to any other remedy or  
9 sanction authorized by law."

10 SECTION 5. Section 199D-1, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) There is established, within the department of [~~land~~  
13 ~~and natural resources,~~] public safety, a civil natural resource  
14 violations system, whose purpose shall be to process violations  
15 of departmental regulations for which administrative penalties  
16 have been authorized by law or rules adopted thereunder."

17 SECTION 6. Section 199-2, Hawaii Revised Statutes, is  
18 repealed.

19 [~~"§199-2 Board of land and natural resources, delegation~~  
20 ~~of authority.~~ The board of land and natural resources may  
21 ~~delegate to enforcement officers within the conservation and~~  
22 ~~resources enforcement program, such authority as may be required~~

1 ~~for enforcement of title 12, chapters 6D, 6E, and 6K, and rules~~  
2 ~~adopted thereunder."]~~

3 SECTION 7. All administrative rules adopted by the board  
4 of land and natural resources relating to chapter 199, Hawaii  
5 Revised Statutes, shall be deemed to be in effect under the  
6 department of public safety as of the effective date of this Act  
7 until such time as these rules are amended or repealed by the  
8 director of public safety; provided that the director of public  
9 safety may adopt rules as provided under section 353C-2, Hawaii  
10 Revised Statutes.

11 SECTION 8. All rights, powers, functions, and duties of  
12 the department of land and natural resources, conservation and  
13 resources enforcement division, are transferred to the  
14 department of public safety.

15 All officers and employees whose functions are transferred  
16 by this Act shall be transferred with their functions and shall  
17 continue to perform their regular duties upon their transfer,  
18 subject to the state personnel laws and this Act.

19 No officer or employee of the State having tenure shall  
20 suffer any loss of salary, seniority, prior service credit,  
21 vacation, sick leave, or other employee benefit or privilege as  
22 a consequence of this Act, and the officer or employee may be



1 transferred or appointed to a civil service position without the  
2 necessity of examination; provided that the officer or employee  
3 possesses the minimum qualifications for the position to which  
4 transferred or appointed; and provided that subsequent changes  
5 in status may be made pursuant to applicable civil service and  
6 compensation laws.

7 An officer or employee of the State who does not have  
8 tenure and who may be transferred or appointed to a civil  
9 service position as a consequence of this Act shall become a  
10 civil service employee without the loss of salary, seniority,  
11 prior service credit, vacation, sick leave, or other employee  
12 benefits or privileges and without the necessity of examination;  
13 provided that the officer or employee possesses the minimum  
14 qualifications for the position to which transferred or  
15 appointed.

16 If an office or position held by an officer or employee  
17 having tenure is abolished, the officer or employee shall not  
18 thereby be separated from public employment, but shall remain in  
19 the employment of the State with the same pay and classification  
20 and shall be transferred to some other office or position for  
21 which the officer or employee is eligible under the personnel

1 laws of the State as determined by the head of the department or  
2 the governor.

3 SECTION 9. All appropriations, records, equipment,  
4 machines, files, supplies, contracts, books, papers, documents,  
5 maps, and other personal property heretofore made, used,  
6 acquired, or held by the department of land and natural  
7 resources, conservation and resources enforcement division,  
8 relating to the functions transferred to the department of  
9 public safety shall be transferred with the functions to which  
10 they relate.

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

13 SECTION 11. This Act shall take effect on July 1, 2050.

**Report Title:**

Conservation and Resources

**Description:**

Transfers the conservation and resources enforcement program from the department of land and natural resources to the department of public safety. Effective 7/1/50. (SD2)