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## A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

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

1           SECTION 1. Pursuant to the constitution and laws of the  
2 State of Hawaii, the University of Hawaii is vested with  
3 autonomous authority to control and manage its educational and  
4 proprietary affairs. This authority extends to the use and  
5 oversight of lands and real property owned by the university or  
6 leased, demised, or transferred to the university from various  
7 owners, including state, federal, or private entities, for the  
8 furtherance of the university's educational, research, and  
9 agricultural activities.

10           This autonomous authority includes the power to supervise,  
11 oversee, and permit public activities on lands leased or  
12 controlled by the university on Mauna Kea, including the Mauna  
13 Kea Science Reserve, Hale Pohaku, and the connecting roadway  
14 corridor between Hale Pohaku and the Mauna Kea Science Reserve  
15 (collectively the Mauna Kea lands).

16           The purpose of this Act is to clarify the law relating to  
17 the university's authority to manage and control public  
18 activities on the Mauna Kea lands expressly authorizing the



1 university to adopt rules pursuant to chapter 91, Hawaii Revised  
2 Statutes, relating to public activities permitted or occurring  
3 on the Mauna Kea lands. In adopting these rules, the university  
4 shall address and reconcile any conflicts with other statutes or  
5 rules that are applicable to the Mauna Kea lands.

6 The legislature finds that administrative rules governing  
7 public and commercial activities on the Mauna Kea lands are  
8 necessary to provide effective protection of cultural and  
9 natural resources from certain public activities, and to help  
10 ensure public health and safety. Public and commercial  
11 activities covered by administrative rules may include:

- 12 (1) General access to sensitive resource areas, such as  
13 specific cultural features and identified natural  
14 resource habitat areas;
- 15 (2) Traffic and off-road vehicle management and control;
- 16 (3) Alcohol consumption;
- 17 (4) Snow play activities; and
- 18 (5) Commercial tour activities.

19 Access for traditional and customary native Hawaiian cultural  
20 and religious purposes will be accommodated.





1 "Mauna Kea lands" means those lands on Mauna Kea, island of  
2 Hawaii, leased from the board of land and natural resources by  
3 the university, and includes the Mauna Kea Science Reserve, Hale  
4 Pohaku, the connecting roadway corridor between Hale Pohaku and  
5 the Mauna Kea Science Reserve, and any other lands that the  
6 university leases on Mauna Kea or over which the university  
7 acquires control or jurisdiction.

8 **§304A-B Powers of board.** The board of regents shall have  
9 authority, through the adoption of administrative rules, to  
10 regulate public and commercial activities in the Mauna Kea lands  
11 to protect cultural and natural resources in the Mauna Kea  
12 lands, and to ensure public health and safety.

13 The board of regents shall encourage and foster a process  
14 of collaboration and involvement between its Mauna Kea lands  
15 advisory bodies and community interests to ensure that the  
16 process of developing administrative rules for the Mauna Kea  
17 lands is accomplished with community participation and input.

18 **§304A-C Regulation of public and commercial activities;**  
19 **lease or use of university real property and facilities; rents,**  
20 **fees, and charges.** (a) The board of regents may regulate and  
21 control all public and commercial activities in the Mauna Kea  
22 lands, including but not limited to:



1 (1) Access to sensitive resource areas, such as specific  
2 cultural features and identified natural resource  
3 habitat areas;

4 (2) Traffic and off-road vehicle management and control;

5 (3) Alcohol consumption;

6 (4) Snow play activities; and

7 (5) Commercial tour activities;

8 provided that access for traditional and customary native  
9 Hawaiian cultural and religious purposes shall be preserved.

10 (b) The board of regents may establish rents, fees, and  
11 charges, including those for the lease or use of university real  
12 property and facilities within the Mauna Kea lands; provided  
13 that the university shall comply with all statutory requirements  
14 in the disposition of ceded lands.

15 In establishing and amending the rents, fees, and charges,  
16 the board of regents shall be exempt from the public notice,  
17 public hearing, and gubernatorial approval requirements of  
18 chapter 91; provided that the rents, fees, and charges shall be  
19 established at an open public meeting subject to chapter 92; and  
20 provided further that a copy of the schedule of the rents, fees,  
21 and charges shall be filed in the office of the lieutenant  
22 governor prior to the schedule's taking effect.



1 (c) All rents, fees, and charges assessed and collected  
2 from public and commercial activities on the Mauna Kea lands  
3 shall be deposited into the Mauna Kea management special fund  
4 created in section 304A-F.

5 **§304A-D Violations and enforcement.** (a) The board of  
6 regents may assess and collect administrative fines for  
7 violations of any provision in this subpart. Administrative  
8 fines shall be as follows:

9 (1) For the first violation, an administrative fine of not  
10 more than \$2,500;

11 (2) For the second violation within five years of a  
12 previous violation, an administrative fine of not more  
13 than \$5,000; and

14 (3) For the third and any subsequent violation within five  
15 years of the last violation, an administrative fine of  
16 not more than \$10,000.

17 Each day of violation shall constitute a separate offense.

18 (b) The board may also assess against a party found to  
19 have violated this subpart the costs of any enforcement  
20 proceeding, including costs of holding any contested case  
21 proceedings.



1           (c) The board may set, charge, and collect additional  
2 fines based on the value of any natural resource that is  
3 damaged, the market value of the natural resource damaged, and  
4 any other factor it deems appropriate, such as the loss of the  
5 natural resource to its natural habitat and environment and the  
6 cost of restoration or replacement.

7           (d) The board may institute a civil action to collect any  
8 administrative fines and any costs that are or can be  
9 attributable to violations of this subpart.

10           (e) Any administrative penalty for any violation of this  
11 subpart shall not be deemed to preclude the State from  
12 recovering additional criminal penalties or administrative  
13 fines, fees, and costs, including attorney's fees and costs.

14           (f) All fines, penalties, and other revenue collected  
15 pursuant to this section shall be deposited into the Mauna Kea  
16 management special fund created under section 304A-F.

17           **§304A-E Rules.** The board of regents may adopt  
18 administrative rules pursuant to chapter 91 to effectuate the  
19 purposes of this subpart."

20           SECTION 3. Chapter 304A, Hawaii Revised Statutes, is  
21 amended by adding a new section to part V, subpart C, to be  
22 appropriately designated and to read as follows:



1           "§304A-F Mauna Kea management special fund. (a) There is  
2 established a Mauna Kea management special fund, into which  
3 shall be deposited all revenues, rent, fees, charges,  
4 assessments, fines, and other moneys collected by the university  
5 in connection with overseeing and managing the Mauna Kea lands  
6 pursuant to part IV, subpart .

7           (b) The university may establish separate accounts within  
8 the special fund for major program activities. The board of  
9 regents, or its designated representative, may expend the moneys  
10 deposited in the Mauna Kea management special fund for:

11           (1) Enforcement of the administrative rules adopted  
12 pursuant to this chapter relating to the Mauna Kea  
13 lands; and

14           (2) Oversight and management of the Mauna Kea lands,  
15 including maintenance, administrative expenses,  
16 salaries, wages, and benefits of employees, contractor  
17 services, supplies, security, furnishings, equipment,  
18 janitorial services, insurance, utilities, and other  
19 operational expenses.

20 All expenditures from this special fund shall be subject to  
21 legislative appropriation.





1        (c) Moneys deposited into the Mauna Kea management special  
2 fund shall not be used as a basis for reducing any current or  
3 future budget request or allotment to the university unless the  
4 university requests such a reduction.

5        (d) For purposes of this section, "maintenance" includes  
6 repairs, replacement, renewals, operation, and administration."

7        SECTION 4. Section 304A-105, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9        "(a) The board of regents shall have management and  
10 control of the general affairs, and exclusive jurisdiction over  
11 the internal structure, management, and operation of the  
12 university. The board may:

13        (1) Appoint a treasurer and other officers as it deems  
14 necessary;

15        (2) Authorize any officer, elected or appointed by it, to  
16 approve and sign on its behalf any voucher or other  
17 document that the board may approve and sign;

18        (3) Delegate to the president or the president's designee  
19 the authority to render the final decision in  
20 contested case proceedings subject to chapter 91, as  
21 it deems appropriate;



1           (4) Purchase or otherwise acquire lands, buildings,  
2                    appliances, and other property for the purposes of the  
3                    university; and

4           (5) Expend any sums of money as, from time to time, may be  
5                    placed at the disposal of the university from whatever  
6                    source; provided that notwithstanding any other law to  
7                    the contrary, all documents regarding expenditures and  
8                    changes thereto, made by the board shall be disclosed  
9                    in open meetings for the purpose of public comment;  
10                   provided further that all expenditure requests,  
11                   proposals, and any other budgetary documents used by  
12                   the board at an open meeting shall be made available  
13                   to the public at least six calendar days before the  
14                   meeting.

15           All lands, buildings, appliances, and other property so  
16           purchased or acquired shall be and remain the property of the  
17           university to be used in perpetuity for the benefit of the  
18           university. The board, in accordance with this section and  
19           other law, shall manage the inventory, equipment, surplus  
20           property, and expenditures of the university and, subject to  
21           chapter 91, may adopt rules, further controlling and regulating  
22           the same. The board of regents may also adopt rules, pursuant



1 to section 304A-E, to regulate activities at and within the  
2 Mauna Kea lands."

3 SECTION 5. In codifying the new sections added by sections  
4 2 and 3 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

7 SECTION 6. New statutory material is underscored.

8 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

*[Handwritten Signature]*

*Karen Luana*  
*[Handwritten Signature]*

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**Report Title:**

University of Hawaii; Mauna Kea Lands

**Description:**

Authorizes the university to manage and regulate public and commercial activities on lands leased or controlled on Mauna Kea. Establishes the Mauna Kea management special fund and allows the university to assess and collect administrative fines for deposit into the special fund.

