
A BILL FOR AN ACT

RELATING TO COASTAL AREAS.

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

1 SECTION 1. The legislature finds that there are many
2 shoreline areas throughout the state where the overgrowth of
3 vegetation inhibits access to and transit along the beach,
4 thereby denying the public of use and enjoyment of the public
5 domain. The area seaward of the shoreline is part of the
6 conservation district and regulating uses of the conservation
7 district is the responsibility of the department of land and
8 natural resources. Although there exists natural vegetative
9 overgrowth along beach areas, there is also evidence in many
10 areas of induced vegetative overgrowth into the beach area by
11 private property owners. The department does not have the
12 funding to remove this vegetative overgrowth, nor should it have
13 the financial responsibility to do so.

14 The legislature finds that public beach corridors are
15 similar to public sidewalks in the sense that they are for
16 public use. To maintain public transit along the shoreline,
17 provisions similar to those pertaining to the maintenance of
18 sidewalks are needed. For example, chapter 14, article 20,



1 Revised Ordinances of Honolulu, requires property owners to
2 maintain adjacent sidewalks. If the sidewalk is not maintained,
3 a property owner may be cited and given a certain amount of time
4 to clean up the sidewalk. If the sidewalk is not cleaned, the
5 city and county of Honolulu may clean the sidewalk and seek
6 reimbursement from the property owner.

7 The legislature finds that a similar provision to protect
8 public transit corridors along shorelines in the conservation
9 district would have the benefit of encouraging property owners to
10 keep adjacent beachfront free of encroaching vegetation and would
11 provide a means to reimburse government agencies for removing
12 vegetation if necessary.

13 SECTION 2. Chapter 115, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§115- Maintenance of beach transit corridors. (a)
17 Under chapter 183C and this chapter, the department of land and
18 natural resources shall maintain public transit along beach
19 corridors by requiring private property owners to ensure that
20 beaches abutting or adjoining their lands are kept passable and
21 free from human-induced, enhanced, or unmaintained vegetation
22 that blocks transit.



1 (b) For lands seaward of the shoreline and in the state
2 conservation district, the department is authorized to issue a
3 violation citation to landowners who fail to maintain beaches
4 abutting or adjoining their property. If any landowner, after
5 receiving notice from the department, fails to remove the
6 obstruction, the department may remove the obstruction as may be
7 necessary to allow public access. The cost incurred for removal
8 by the department shall be charged to and against the landowner,
9 and collected from the landowner or the landowner's agent, if
10 not immediately paid by action in the district court."

11 SECTION 3. Section 115-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~f~~]**\$115-5**[~~]~~ **Transit area and public transit corridor**
14 **defined.** (a) The right of transit along the shoreline exists
15 [~~below the private property line which is defined as being along~~
16 ~~the upper reaches of the wash of waves, usually evidenced by the~~
17 ~~edge of vegetation or by the debris left by the wash of waves.]~~
18 seaward of the shoreline as defined in section 205A-1.

19 However, in areas of cliffs or areas where the nature of
20 the topography is such that there is no reasonably safe transit
21 for the public along the shoreline below the private property
22 lines, the counties by condemnation [~~shall~~] may establish along



1 the makai boundaries of the property lines public transit
2 corridors which shall be not less than six feet wide.

3 (b) In areas where the shoreline vegetation is human-
4 induced, enhanced, or unmaintained such that there is no
5 reasonably safe transit for the public along the shoreline, the
6 department of land and natural resources may require maintenance
7 of public transit corridors by the adjacent landowner, by means
8 of the removal of the impeding vegetation."

9 SECTION 4. Section 115-9, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~§~~§115-9[~~]~~] **Obstructing access to public property;**

12 **penalty.** (a) A person commits the offense of obstructing
13 access to public property if the person, by action or by having
14 installed a physical impediment, intentionally prevents a member
15 of the public from traversing:

16 (1) A public right-of-way;

17 (2) A transit area; [~~or~~]

18 (3) A public transit corridor; or

19 (4) Along the shoreline,

20 and thereby obstructs access to and along the sea, the
21 shoreline, or any inland public recreational area.



1 (b) Physical impediments that may prevent traversing
2 include but are not limited to the following:

3 (1) Gates;

4 (2) Fences;

5 (3) Walls;

6 (4) Constructed barriers;

7 (5) Rubbish;

8 (6) Security guards; [~~and~~]

9 (7) Guard dogs or animals[~~-~~]; and

10 (8) Human-induced, enhanced, or unmaintained vegetation.

11 (c) Obstructing access to public property is a
12 misdemeanor. Notice shall be sent to the affected landowner by
13 mailing it to the landowner's last known address in the state,
14 or to the landowner's agent at the landowner's agent's last
15 known address. If any landowner, after receiving notice from
16 the department of land and natural resources, fails to remove an
17 obstruction, the department may remove the obstruction as may be
18 necessary to allow public access. The cost for removal by the
19 department shall be charged to and against the landowner, and if
20 not paid immediately, shall be collected from the landowner or
21 the landowner's agent by action in the district court.



1 (d) [~~Minimum~~] In addition to the cost of removal of an
2 obstruction pursuant to subsection (c), the minimum fines for
3 violation under this section shall be as follows:

- 4 (1) \$1,000 for a second conviction; and
- 5 (2) \$2,000 for any conviction after a second conviction.

6 (e) As used in this section:

7 "Landowner" means the record owner of the property or the
8 record owner's agent, including a lessee, tenant, property
9 manager, or trustee.

10 "Person" means a natural person or a legal entity.

11 "Public recreational area" means public lands or bodies of
12 water opened to the public for recreational use."

13 SECTION 5. Section 205A-2, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) Policies.

16 (1) Recreational resources;

17 (A) Improve coordination and funding of coastal
18 recreational planning and management; and

19 (B) Provide adequate, accessible, and diverse
20 recreational opportunities in the coastal zone
21 management area by:

- 1 (i) Protecting coastal resources uniquely suited
2 for recreational activities that cannot be
3 provided in other areas;
- 4 (ii) Requiring replacement of coastal resources
5 having significant recreational value
6 including, but not limited to, surfing
7 sites, fishponds, and sand beaches, when
8 such resources will be unavoidably damaged
9 by development; or requiring reasonable
10 monetary compensation to the State for
11 recreation when replacement is not feasible
12 or desirable;
- 13 (iii) Providing and managing adequate public
14 access, consistent with conservation of
15 natural resources, to and along shorelines
16 with recreational value;
- 17 (iv) Providing an adequate supply of shoreline
18 parks and other recreational facilities
19 suitable for public recreation;
- 20 (v) Ensuring public recreational uses of county,
21 state, and federally owned or controlled
22 shoreline lands and waters having



1 recreational value consistent with public
2 safety standards and conservation of natural
3 resources;

4 (vi) Adopting water quality standards and
5 regulating point and nonpoint sources of
6 pollution to protect, and where feasible,
7 restore the recreational value of coastal
8 waters;

9 (vii) Developing new shoreline recreational
10 opportunities, where appropriate, such as
11 artificial lagoons, artificial beaches, and
12 artificial reefs for surfing and fishing;
13 and

14 (viii) Encouraging reasonable dedication of
15 shoreline areas with recreational value for
16 public use as part of discretionary
17 approvals or permits by the land use
18 commission, board of land and natural
19 resources, and county authorities; and
20 crediting such dedication against the
21 requirements of section 46-6.

22 (2) Historic resources;



- 1 (A) Identify and analyze significant archaeological
- 2 resources;
- 3 (B) Maximize information retention through
- 4 preservation of remains and artifacts or salvage
- 5 operations; and
- 6 (C) Support state goals for protection, restoration,
- 7 interpretation, and display of historic
- 8 resources.
- 9 (3) Scenic and open space resources;
- 10 (A) Identify valued scenic resources in the coastal
- 11 zone management area;
- 12 (B) Ensure that new developments are compatible with
- 13 their visual environment by designing and
- 14 locating such developments to minimize the
- 15 alteration of natural landforms and existing
- 16 public views to and along the shoreline;
- 17 (C) Preserve, maintain, and, where desirable, improve
- 18 and restore shoreline open space and scenic
- 19 resources; and
- 20 (D) Encourage those developments that are not coastal
- 21 dependent to locate in inland areas.
- 22 (4) Coastal ecosystems;



- 1 (A) Exercise an overall conservation ethic, and
2 practice stewardship in the protection, use, and
3 development of marine and coastal resources;
- 4 (B) Improve the technical basis for natural resource
5 management;
- 6 (C) Preserve valuable coastal ecosystems, including
7 reefs, of significant biological or economic
8 importance;
- 9 (D) Minimize disruption or degradation of coastal
10 water ecosystems by effective regulation of
11 stream diversions, channelization, and similar
12 land and water uses, recognizing competing water
13 needs; and
- 14 (E) Promote water quantity and quality planning and
15 management practices that reflect the tolerance
16 of fresh water and marine ecosystems and maintain
17 and enhance water quality through the development
18 and implementation of point and nonpoint source
19 water pollution control measures.
- 20 (5) Economic uses;
- 21 (A) Concentrate coastal dependent development in
22 appropriate areas;



1 (B) Ensure that coastal dependent development such as
2 harbors and ports, and coastal related
3 development such as visitor industry facilities
4 and energy generating facilities, are located,
5 designed, and constructed to minimize adverse
6 social, visual, and environmental impacts in the
7 coastal zone management area; and

8 (C) Direct the location and expansion of coastal
9 dependent developments to areas presently
10 designated and used for such developments and
11 permit reasonable long-term growth at such areas,
12 and permit coastal dependent development outside
13 of presently designated areas when:

14 (i) Use of presently designated locations is not
15 feasible;

16 (ii) Adverse environmental effects are minimized;
17 and

18 (iii) The development is important to the State's
19 economy.

20 (6) Coastal hazards;

21 (A) Develop and communicate adequate information
22 about storm wave, tsunami, flood, erosion,



- 1 subsidence, and point and nonpoint source
2 pollution hazards;
- 3 (B) Control development in areas subject to storm
4 wave, tsunami, flood, erosion, hurricane, wind,
5 subsidence, and point and nonpoint source
6 pollution hazards;
- 7 (C) Ensure that developments comply with requirements
8 of the Federal Flood Insurance Program; and
- 9 (D) Prevent coastal flooding from inland projects.
- 10 (7) Managing development;
- 11 (A) Use, implement, and enforce existing law
12 effectively to the maximum extent possible in
13 managing present and future coastal zone
14 development;
- 15 (B) Facilitate timely processing of applications for
16 development permits and resolve overlapping or
17 conflicting permit requirements; and
- 18 (C) Communicate the potential short and long-term
19 impacts of proposed significant coastal
20 developments early in their life cycle and in
21 terms understandable to the public to facilitate



1 public participation in the planning and review
2 process.

3 (8) Public participation;

4 (A) Promote public involvement in coastal zone
5 management processes;

6 (B) Disseminate information on coastal management
7 issues by means of educational materials,
8 published reports, staff contact, and public
9 workshops for persons and organizations concerned
10 with coastal issues, developments, and government
11 activities; and

12 (C) Organize workshops, policy dialogues, and site-
13 specific mediations to respond to coastal issues
14 and conflicts.

15 (9) Beach protection;

16 (A) Locate new structures inland from the shoreline
17 setback to conserve open space, minimize
18 interference with natural shoreline processes,
19 and minimize loss of improvements due to erosion;

20 (B) Prohibit construction of private erosion-
21 protection structures seaward of the shoreline,
22 except when they result in improved aesthetic and



- 1 engineering solutions to erosion at the sites and
2 do not interfere with existing recreational and
3 waterline activities; [~~and~~]
- 4 (C) Minimize the construction of public erosion-
5 protection structures seaward of the
6 shoreline[-]; and
- 7 (D) Prohibit private property owners from inducing
8 vegetation seaward of the shoreline where it
9 interferes with public lateral access or natural
10 shoreline processes.
- 11 (10) Marine resources;
- 12 (A) Ensure that the use and development of marine and
13 coastal resources are ecologically and
14 environmentally sound and economically
15 beneficial;
- 16 (B) Coordinate the management of marine and coastal
17 resources and activities to improve effectiveness
18 and efficiency;
- 19 (C) Assert and articulate the interests of the State
20 as a partner with federal agencies in the sound
21 management of ocean resources within the United
22 States exclusive economic zone;



1 (D) Promote research, study, and understanding of
2 ocean processes, marine life, and other ocean
3 resources in order to acquire and inventory
4 information necessary to understand how ocean
5 development activities relate to and impact upon
6 ocean and coastal resources; and

7 (E) Encourage research and development of new,
8 innovative technologies for exploring, using, or
9 protecting marine and coastal resources."

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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



Report Title:

Coastal Areas; Public Access

Description:

Requires maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance. Establishes shoreline access as an policy of the Coastal Zone Management Program. (HB1808 HD1)

