

---

---

# 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 State's conservation district and is regulated by the department  
7 of land and natural resources. Although natural vegetative  
8 overgrowth exists along beach areas, there is also evidence in  
9 many areas of vegetative overgrowth into the beach area induced  
10 by private property owners. The department does not have the  
11 funding to remove this vegetative overgrowth, nor should it be  
12 financially responsible for such removal.

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



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

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

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

15 "§115- Maintenance of beach transit corridors. (a) The  
16 department of land and natural resources shall maintain transit  
17 areas and public transit corridors under this chapter and  
18 chapter 183C, by requiring private property owners to ensure  
19 that transit areas and public transit corridors abutting or  
20 adjoining their lands are kept passable and free from human-  
21 induced, enhanced, or unmaintained vegetation that interferes  
22 with transit.



1        (b) The department is authorized to issue notice to  
2 landowners who fail to maintain transit areas and public transit  
3 corridors abutting or adjoining their property. If any  
4 landowner fails to remove the obstruction within twenty-one days  
5 of notice being issued, the department shall elect to impose  
6 finest pursuant to the schedule in section 115-9(d) or remove the  
7 obstruction to allow public access. The cost incurred for the  
8 removal of the obstruction by the department shall be charged to  
9 and against the landowner, as landowner is defined in section  
10 115-9, and collected from the landowner, if not immediately  
11 paid, by action in the district court."

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

14        "[~~+~~]§115-5[~~+~~] Transit area and public transit corridor  
15 defined. (a) The right of transit along the shoreline exists  
16 [below the private property line which is defined as being along  
17 the upper reaches of the wash of waves, usually evidenced by the  
18 edge of vegetation or by the debris left by the wash of waves.]  
19 seaward of the shoreline as defined in section 205A-1. As used  
20 in this section this area shall be known as a transit area.

21        However, in areas of cliffs or areas where the nature of  
22 the topography is such that there is no reasonably safe transit



1 for the public along the shoreline below the private property  
2 lines, the counties by condemnation [~~shall~~] may establish along  
3 the makai boundaries of the property lines public transit  
4 corridors which shall be not less than six feet wide.

5 (b) Along transit areas and public transit corridors where  
6 the vegetation is human-induced, enhanced, or unmaintained such  
7 that it interferes with public transit, the department of land  
8 and natural resources may require maintenance of transit areas  
9 and public transit corridors by the adjacent landowner, by means  
10 of the removal of the interfering vegetation."

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

13 "[~~§~~115-9~~]~~ **Obstructing access to public property;**  
14 **penalty.** (a) A person commits the offense of obstructing  
15 access to public property if the person, by action or by having  
16 installed a physical impediment, intentionally prevents a member  
17 of the public from traversing:

- 18 (1) A public right-of-way;  
19 (2) A transit area; or  
20 (3) A public transit corridor;

21 and thereby obstructs access to and along the sea, the  
22 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 mailed to the affected landowner  
13 at the landowner's last known address in the state. If any  
14 landowner, after receiving notice from the department of land  
15 and natural resources, fails to remove an obstruction within  
16 twenty-one days, the department may fine the landowner as  
17 provided in subsection (d) and remove the obstruction to allow  
18 public access. The cost for removal by the department shall be  
19 charged to the landowner, and if not paid immediately, shall be  
20 collected from the landowner 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~~] violation or failure  
5 to rectify a first violation within twenty-one days of  
6 being notified of the offense by the department; and

7 (2) \$2,000 for any [~~conviction~~] violation after a second  
8 [~~conviction~~] violation or for each twenty-one day  
9 period, after the first twenty-one day period, in  
10 which an ongoing violation has not been rectified.

11 (e) As used in this section:

12 "Landowner" means the record owner of the property or the  
13 record owner's agent, including a lessee, tenant, property  
14 manager, or trustee.

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

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

18 SECTION 5. Section 205A-1, Hawaii Revised Statutes, is  
19 amended by amending the definition of "shoreline" to read as  
20 follows:

21 ""Shoreline" means the upper reaches of the wash of the  
22 waves, other than storm and seismic waves, at high tide during



1 the season of the year in which the highest wash of the waves  
2 occurs, usually evidenced by the edge of natural vegetation  
3 growth, [~~e~~] but never lower than the upper limit of debris left  
4 by the wash of the waves."

5 SECTION 6. Section 205A-2, Hawaii Revised Statutes, is  
6 amended by amending subsection (c) to read as follows:

7 "(c) Policies.

8 (1) Recreational resources;

9 (A) Improve coordination and funding of coastal  
10 recreational planning and management; and

11 (B) Provide adequate, accessible, and diverse  
12 recreational opportunities in the coastal zone  
13 management area by:

14 (i) Protecting coastal resources uniquely suited  
15 for recreational activities that cannot be  
16 provided in other areas;

17 (ii) Requiring replacement of coastal resources  
18 having significant recreational value  
19 including, but not limited to[7] surfing  
20 sites, fishponds, and sand beaches, when  
21 such resources will be unavoidably damaged  
22 by development; or requiring reasonable



- 1 monetary compensation to the State for  
2 recreation when replacement is not feasible  
3 or desirable;
- 4 (iii) Providing and managing adequate public  
5 access, consistent with conservation of  
6 natural resources, to and along shorelines  
7 with recreational value;
- 8 (iv) Providing an adequate supply of shoreline  
9 parks and other recreational facilities  
10 suitable for public recreation;
- 11 (v) Ensuring public recreational uses of county,  
12 state, and federally owned or controlled  
13 shoreline lands and waters having  
14 recreational value consistent with public  
15 safety standards and conservation of natural  
16 resources;
- 17 (vi) Adopting water quality standards and  
18 regulating point and nonpoint sources of  
19 pollution to protect, and where feasible,  
20 restore the recreational value of coastal  
21 waters;





- 1           (vii) Developing new shoreline recreational
- 2                           opportunities, where appropriate, such as
- 3                           artificial lagoons, artificial beaches, and
- 4                           artificial reefs for surfing and fishing;
- 5                           and
- 6           (viii) Encouraging reasonable dedication of
- 7                           shoreline areas with recreational value for
- 8                           public use as part of discretionary
- 9                           approvals or permits by the land use
- 10                          commission, board of land and natural
- 11                          resources, and county authorities; and
- 12                          crediting such dedication against the
- 13                          requirements of section 46-6[-] i;
- 14       (2) Historic resources;
- 15           (A) Identify and analyze significant archaeological
- 16                           resources;
- 17           (B) Maximize information retention through
- 18                           preservation of remains and artifacts or salvage
- 19                           operations; and
- 20           (C) Support state goals for protection, restoration,
- 21                           interpretation, and display of historic
- 22                           resources [-] i;



- 1           (3) Scenic and open space resources;
- 2                 (A) Identify valued scenic resources in the coastal
- 3                         zone management area;
- 4                 (B) Ensure that new developments are compatible with
- 5                         their visual environment by designing and
- 6                         locating such developments to minimize the
- 7                         alteration of natural landforms and existing
- 8                         public views to and along the shoreline;
- 9                 (C) Preserve, maintain, and, where desirable, improve
- 10                         and restore shoreline open space and scenic
- 11                         resources; and
- 12                 (D) Encourage those developments that are not coastal
- 13                         dependent to locate in inland areas[-];
- 14           (4) Coastal ecosystems;
- 15                 (A) Exercise an overall conservation ethic, and
- 16                         practice stewardship in the protection, use, and
- 17                         development of marine and coastal resources;
- 18                 (B) Improve the technical basis for natural resource
- 19                         management;
- 20                 (C) Preserve valuable coastal ecosystems, including
- 21                         reefs, of significant biological or economic
- 22                         importance;



- 1 (D) Minimize disruption or degradation of coastal  
2 water ecosystems by effective regulation of  
3 stream diversions, channelization, and similar  
4 land and water uses, recognizing competing water  
5 needs; and
- 6 (E) Promote water quantity and quality planning and  
7 management practices that reflect the tolerance  
8 of fresh water and marine ecosystems and maintain  
9 and enhance water quality through the development  
10 and implementation of point and nonpoint source  
11 water pollution control measures[-];
- 12 (5) Economic uses;
- 13 (A) Concentrate coastal dependent development in  
14 appropriate areas;
- 15 (B) Ensure that coastal dependent development such as  
16 harbors and ports, and coastal related  
17 development such as visitor industry facilities  
18 and energy generating facilities, are located,  
19 designed, and constructed to minimize adverse  
20 social, visual, and environmental impacts in the  
21 coastal zone management area; and



- 1 (C) Direct the location and expansion of coastal  
2 dependent developments to areas presently  
3 designated and used for such developments and  
4 permit reasonable long-term growth at such areas,  
5 and permit coastal dependent development outside  
6 of presently designated areas when:
- 7 (i) Use of presently designated locations is not  
8 feasible;
- 9 (ii) Adverse environmental effects are minimized;  
10 and
- 11 (iii) The development is important to the State's  
12 economy[-] ;
- 13 (6) Coastal hazards;
- 14 (A) Develop and communicate adequate information  
15 about storm wave, tsunami, flood, erosion,  
16 subsidence, and point and nonpoint source  
17 pollution hazards;
- 18 (B) Control development in areas subject to storm  
19 wave, tsunami, flood, erosion, hurricane, wind,  
20 subsidence, and point and nonpoint source  
21 pollution hazards;



- 1 (C) Ensure that developments comply with requirements  
2 of the Federal Flood Insurance Program; and
- 3 (D) Prevent coastal flooding from inland projects[-];
- 4 (7) Managing development;
- 5 (A) Use, implement, and enforce existing law  
6 effectively to the maximum extent possible in  
7 managing present and future coastal zone  
8 development;
- 9 (B) Facilitate timely processing of applications for  
10 development permits and resolve overlapping or  
11 conflicting permit requirements; and
- 12 (C) Communicate the potential short and long-term  
13 impacts of proposed significant coastal  
14 developments early in their life cycle and in  
15 terms understandable to the public to facilitate  
16 public participation in the planning and review  
17 process[-];
- 18 (8) Public participation;
- 19 (A) Promote public involvement in coastal zone  
20 management processes;
- 21 (B) Disseminate information on coastal management  
22 issues by means of educational materials,



- 1 published reports, staff contact, and public  
2 workshops for persons and organizations concerned  
3 with coastal issues, developments, and government  
4 activities; and
- 5 (C) Organize workshops, policy dialogues, and site-  
6 specific mediations to respond to coastal issues  
7 and conflicts[-];
- 8 (9) Beach protection;
- 9 (A) Locate new structures inland from the shoreline  
10 setback to conserve open space, minimize  
11 interference with natural shoreline processes,  
12 and minimize loss of improvements due to erosion;
- 13 (B) Prohibit construction of private erosion-  
14 protection structures seaward of the shoreline,  
15 except when they result in improved aesthetic and  
16 engineering solutions to erosion at the sites and  
17 do not interfere with existing recreational and  
18 waterline activities; [and]
- 19 (C) Minimize the construction of public erosion-  
20 protection structures seaward of the  
21 shoreline[-];



- 1           (D) Prohibit private property owners from creating a  
2           public nuisance by inducing vegetation in a  
3           public transit area or public transit corridor;  
4           and  
5           (E) Prohibit private property owners from creating a  
6           public nuisance by allowing unmaintained  
7           vegetation to encroach upon a public transit area  
8           or public transit corridor;  
9       (10) Marine resources;  
10           (A) Ensure that the use and development of marine and  
11           coastal resources are ecologically and  
12           environmentally sound and economically  
13           beneficial;  
14           (B) Coordinate the management of marine and coastal  
15           resources and activities to improve effectiveness  
16           and efficiency;  
17           (C) Assert and articulate the interests of the State  
18           as a partner with federal agencies in the sound  
19           management of ocean resources within the United  
20           States exclusive economic zone;  
21           (D) Promote research, study, and understanding of  
22           ocean processes, marine life, and other ocean



1 resources [~~in order~~] to acquire and inventory  
2 information necessary to understand how ocean  
3 development activities relate to and impact upon  
4 ocean and coastal resources; [~~and~~]

5 and

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

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

11 SECTION 8. This Act shall take effect on July 1, 2020.





**Report Title:**

Coastal Areas; Public Access; Shoreline

**Description:**

Requires maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance. Establishes shoreline access as a policy of the Coastal Zone Management Program. Clarifies the definition of "shoreline." Effective July 1, 2020. (HB1808 HD3)

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

