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# A BILL FOR AN ACT

RELATING TO OCEAN RESOURCES.

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

1 PART I

2 SECTION 1. Section 171-58.5, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "**§171-58.5 Prohibitions.** The mining or taking of sand,  
5 dead coral or coral rubble, rocks, soil, or other marine  
6 deposits seaward from the shoreline is prohibited with the  
7 following exceptions:

8 (1) The inadvertent taking from seaward of the shoreline  
9 of [~~such~~] these materials, [~~not in excess of one~~  
10 ~~gallon per person per day for reasonable, personal,~~  
11 ~~noncommercial use;~~] such as those inadvertently  
12 carried away on the body, and on clothes, toys,  
13 recreational equipment, and bags, not to exceed one  
14 gallon per person per day;

15 (2) For the replenishment or protection of public  
16 shoreline areas and adjacent public lands seaward of  
17 the shoreline, or construction or maintenance of state  
18 approved lagoons, harbors, launching ramps, or



1 navigational channels with a permit authorized under  
2 chapter 183C;

3 (3) The clearing of [~~such~~] these materials from existing  
4 drainage pipes and canals and from the mouths of  
5 streams including clearing for the purposes under  
6 section 46-11.5; provided that the sand removed shall  
7 be placed on adjacent areas unless this placement  
8 would result in significant turbidity; [~~or~~]

9 (4) The cleaning of areas seaward of the shoreline for  
10 state or county maintenance purposes including the  
11 purposes under section 46-12; provided that the sand  
12 removed shall be placed on adjacent areas unless  
13 [~~such~~] the placement would result in significant  
14 turbidity[~~-~~];

15 (5) The exercise of traditional cultural practices as  
16 authorized by law or as permitted by the department  
17 pursuant to article XII, section 7, of the Hawaii  
18 state constitution; or

19 (6) For the response to a public emergency or a state or  
20 local disaster."

21 SECTION 2. Section 205A-44, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) The mining or taking of sand, dead coral or coral  
2 rubble, rocks, soil, or other beach or marine deposits from the  
3 shoreline area is prohibited with the following exceptions:

4           (1) The inadvertent taking from the shoreline area of the  
5 materials, [~~not in excess of one gallon per person per~~  
6 ~~day, for reasonable, personal, noncommercial use,~~  
7 ~~provided that stricter provisions may be established~~  
8 ~~by the counties,] such as those inadvertently carried  
9 away on the body, and on clothes, toys, recreational  
10 equipment, and bags, not to exceed one gallon per  
11 person per day;~~

12           (2) Where the mining or taking is authorized by a variance  
13 pursuant to this part;

14           (3) The clearing of [~~the~~] these materials from existing  
15 drainage pipes and canals and from the mouths of  
16 streams including clearing for the purposes under  
17 section 46-11.5; provided that the sand removed shall  
18 be placed on adjacent areas unless [~~such~~] the  
19 placement would result in significant turbidity; [~~or~~]

20           (4) The cleaning of the shoreline area for state or county  
21 maintenance purposes, including the clearing for  
22 purposes under section 46-12; provided that the sand



1 removed shall be placed on adjacent areas unless the  
2 placement would result in significant turbidity[-];

3 (5) The taking of driftwood, shells, beach glass, glass  
4 floats, or seaweed;

5 (6) The exercise of traditional cultural practices as  
6 authorized by law or as permitted by the department  
7 pursuant to article XII, section 7, of the Hawaii  
8 state constitution; or

9 (7) For the response to a public emergency or a state or  
10 local disaster."

11 SECTION 3. Chapter 171, Hawaii Revised Statutes, is  
12 amended by adding two new sections to be appropriately  
13 designated and to read as follows:

14 "§171- Traditional names of kanaka maoli fishponds, or

15 loko i'a. (a) Notwithstanding any other law to the contrary,  
16 the board shall provide preference to the retention of the  
17 traditional name of a kanaka maoli fishpond or loko i'a, when  
18 issuing leases for public land suitable for reconstruction,  
19 restoration, repair, or use of kanaka maoli fishponds or loko  
20 i'a. The board shall adopt rules pursuant to chapter 91 to  
21 effectuate this section.



1        (b) For the purposes of this section, "kanaka maoli  
2 fishponds" or "loko i'a" have the same meaning as "Hawaiian  
3 fishponds" as defined in section 183B-1.

4        **§171- Lease preferences; Hawaiian fishponds or loko i'a.**

5        (a) Notwithstanding any other law to the contrary, the board  
6 shall provide preferences for the reconstruction, restoration,  
7 repair, or use of Hawaiian fishponds, generally referred to as  
8 loko i'a and subject to chapter 183B, when issuing leases for  
9 state land suitable for Hawaiian fishponds.

10       (b) The board shall adopt rules pursuant to chapter 91 to  
11 effectuate this section, including rules to streamline the  
12 application approval process for applicants for leases for the  
13 purpose of reconstruction, restoration, repair, or use of  
14 Hawaiian fishponds or loko i'a.

15       (c) No lease for public land containing an existing  
16 Hawaiian fishpond or loko i'a or the site of an identifiable  
17 historic Hawaiian fishpond or loko i'a shall be granted if the  
18 terms of the lease preclude or foreclose the reconstruction,  
19 restoration, repair, or use of the fishpond or site as a  
20 Hawaiian fishpond or loko i'a.





1       (4) Preserve customary and traditional uses of fishponds  
2               in the fishpond heritage area.

3       (b) The department of land and natural resources shall  
4 consult as necessary with appropriate federal, state, and county  
5 agencies and community members to implement this section.

6       (c) For purposes of this section, "east Honolulu fishpond  
7 heritage area" encompasses the following parcels:

8       (1) The Kalauhaihai fishpond, identified by tax map key  
9               numbers 3-7-002:018 and 3-7-002-77;

10       (2) The state-owned portion of Kanewai fishpond,  
11               identified by tax map key number 3-8-002-030; and

12       (3) The land identified by tax map key number 3-8-002-  
13               027."

14       SECTION 5. All Hawaiian fishponds held as public lands  
15 under the jurisdiction of the department of land and natural  
16 resources shall be held in trust and transferred to a Native  
17 Hawaiian government upon the establishment of such a government.

18                               PART III

19       SECTION 6. If any provision of this Act, or the  
20 application thereof to any person or circumstance, is held  
21 invalid, the invalidity does not affect other provisions or  
22 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 7. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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





**Report Title:**

Sand Removal; Beach or Marine Deposits; DLNR; State Leases;  
Hawaiian Fishponds

**Description:**

Clarifies the prohibition against removal of sand and beach or marine deposits, except for materials inadvertently taken, not to exceed one gallon per person per day. Creates exemptions for public emergencies and traditional cultural practices. Directs the Department of Land and Natural Resources to establish the east Honolulu fishpond heritage area. Provides state lease preferences for the reconstruction, restoration, repair, or use of Hawaiian and kanaka maoli fishponds. Creates a preference for the use of traditional names of Hawaiian fishponds. (SB2305 HD1)

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