

---

# A BILL FOR AN ACT

RELATING TO THE COMMERCIAL HARBORS.

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

1 SECTION 1. Chapter 266, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:

4 "§266- Enforcement of rules. Any employee, officer, or  
5 representative of the department of transportation, designated  
6 by the director of transportation as a law enforcement officer  
7 or harbor agent, shall enforce any rule adopted pursuant to this  
8 part by issuing a notice of violation to the purported violator.  
9 The printed notice of violation shall inform the purported  
10 violator in writing:

11 (1) Of the charge against the purported violator; and

12 (2) That the purported violator shall either:

13 (A) Remit a fee to the harbor special fund in lieu of  
14 appearing at an administrative hearing to contest  
15 the charge against the purported violator,  
16 whereupon the purported violator will forfeit the  
17 opportunity to appear at an administrative  
18 hearing; or



1           (B) Appear before an administrative hearing and  
2           answer to the charge against the purported  
3           violator.

4 In the event the purported violator elects to appear at an  
5 administrative hearing, the purported violator shall have ten  
6 calendar days after receipt of the notice of the violation to  
7 make a written request for an administrative hearing. The  
8 administrative hearing shall be held solely for the purpose of  
9 allowing the purported violator to contest the basis of the  
10 notice of violation issued by the department. The department  
11 shall schedule the administrative hearing within thirty days of  
12 the department's receipt of the written request, excluding  
13 Saturdays, Sundays, and holidays designated under section 8-1."

14           SECTION 2. Section 266-19, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16           "(a) There is created in the treasury of the State the  
17 harbor special fund. All moneys received by the department of  
18 transportation from the rates [~~and~~], fees, fines, and penalties  
19 pursuant to [~~section~~] sections 266-17(a)(1), 266-25, 266-28, and  
20 266-\_\_\_ shall be paid into the harbor special fund. The harbor  
21 special fund and the second separate harbor special fund  
22 heretofore created shall be consolidated into the harbor special



1 fund at such time as there are no longer any revenue bonds  
2 payable from the second separate harbor special fund. The  
3 harbor reserve fund heretofore created is abolished.

4 All moneys derived pursuant to this chapter from harbor  
5 properties of the statewide system of harbors [~~excluding~~  
6 ~~properties principally used for recreation or the landing of~~  
7 ~~fish, except properties located at Kewalo Basin, ewa of Ala~~  
8 ~~Moana Park, Honolulu)~~] shall be paid into the harbor special  
9 fund and each fiscal year shall be appropriated, applied, or  
10 expended by the department of transportation for the statewide  
11 system of harbors for any purpose within the jurisdiction,  
12 powers, duties, and functions of the department of  
13 transportation related to the statewide system of harbors  
14 [~~excluding properties principally used for recreation or the~~  
15 ~~landing of fish, except the properties located at Kewalo Basin,~~  
16 ~~ewa of Ala Moana Park, Honolulu)~~], including, without  
17 limitation, the costs of operation, maintenance, and repair of  
18 the statewide system of harbors and reserves therefor, and  
19 acquisitions (including real property and interests therein),  
20 constructions, additions, expansions, improvements, renewals,  
21 replacements, reconstruction, engineering, investigation, and  
22 planning, for the statewide system of harbors, all or any of



1 which in the judgment of the department of transportation are  
2 necessary to the performance of its duties or functions."

3 SECTION 3. Section 266-24.1, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§266-24.1 Arrest or citation.** [~~Except when required by~~  
6 ~~state law to take immediately before a district judge a person~~  
7 ~~arrested for a violation of any provision of this part,~~  
8 ~~including any rule or regulation adopted and promulgated~~  
9 ~~pursuant to this part, any person authorized to enforce the~~  
10 ~~provisions of this part, hereinafter referred to as enforcement~~  
11 ~~officer,~~] (a) Any employee, officer, or representative of the  
12 department of transportation conferred by the director of  
13 transportation with police powers, hereinafter referred to as  
14 law enforcement officer, shall enforce any rule adopted pursuant  
15 to this part and chapters 287 through 291E, 705, 707 through  
16 710, 712, and 712A.

17 (b) Any law enforcement officer upon issuing a citation or  
18 arresting a person for [violation of] violating any provision of  
19 this part, including any rule [or regulation] adopted [and  
20 promulgated] pursuant to this part [shall], in the discretion of  
21 the law enforcement officer, shall either:



1           (1) [~~issue~~] Issue to the purported violator a summons or  
2           citation, printed in the form hereinafter described,  
3           warning the purported violator to appear and answer to  
4           the charge against the purported violator at a certain  
5           place and at a time within seven days after such  
6           arrest[~~r~~]; or

7           (2) [~~take~~] Take the purported violator without unnecessary  
8           delay before a district judge.

9           (c) The summons or citation shall be printed in a form  
10          comparable to the form of other summonses and citations used for  
11          arresting offenders and shall be designed to provide for  
12          inclusion of all necessary information. The form and content of  
13          [~~such~~] the summons or citation shall be adopted or prescribed by  
14          the district courts.

15          (d) The original of a summons or citation shall be given  
16          to the purported violator and the other copy or copies  
17          distributed in the manner prescribed by the district courts;  
18          provided that the district courts may prescribe alternative  
19          methods of distribution for the original and any other copies.

20          (e) Summonses and citations shall be consecutively  
21          numbered and the [~~carbon-copy-or~~] copies of each shall bear the  
22          same number.



1           ~~[Any]~~ (f) Except for the alleged violation of chapters 287  
2 through 291E, 705, 707 through 710, 712, and 712A, any person  
3 who fails to appear at the place and within the time specified  
4 in the summons or citation issued to the person by the law  
5 enforcement officer, upon the person's arrest for violation of  
6 any provision of this part, including any rule ~~[or regulation~~  
7 ~~promulgated]~~ adopted pursuant to this part, shall be guilty of a  
8 misdemeanor and, on conviction, shall be fined not more than  
9 \$1,000, or be imprisoned not more than six months, or both.

10           ~~[In the event]~~ (g) If any person fails to comply with a  
11 summons or citation issued to ~~[such]~~ that person, or if any  
12 person fails or refuses to deposit bail as required, the law  
13 enforcement officer shall cause a complaint to be entered  
14 against ~~[such]~~ the person and secure the issuance of a warrant  
15 for the person's arrest.

16           (h) When a complaint is made to any prosecuting officer of  
17 the violation of any provision of this part, including any rule  
18 ~~[or regulation promulgated]~~ adopted thereunder, the law  
19 enforcement officer who issued the summons or citation shall  
20 subscribe to it under oath administered by another official of  
21 the department of transportation whose names have been submitted



1 to the prosecuting officer and who have been designated by the  
2 director of transportation to administer the same."

3 SECTION 4. Section 266-25, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**S266-25 Violation of rules; penalty.** In addition to the  
6 reimbursement of fines and costs as provided in section 266-28,  
7 any person who violates any rule made, adopted, and published by  
8 the department of transportation as herein provided, or who  
9 violates any lawful command of any harbor master, harbor agent,  
10 facility security officer, or harbor district manager, while in  
11 the discharge of the person's duty, or who violates this  
12 chapter, shall be fined not more than \$10,000 for each offense,  
13 and any vessel, the agents, owner, or crew of which violate the  
14 rules of the department or this chapter, shall be fined not more  
15 than \$10,000 for each violation; provided that in addition to or  
16 as a condition to the suspension of the fines and penalties, the  
17 court or administrative hearing officer may deprive the offender  
18 of the privilege of entering the secured area of the port or  
19 obtaining an operating or mooring permit for any vessel in state  
20 waters for a period of not more than [~~two years~~] one year;  
21 provided further that the offender at the resumption of the



1 privilege of operating or mooring a vessel in state waters shall  
2 assume the last position on any waiting list."

3 SECTION 5. Section 266-28, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " ~~[+]§266-28[+]~~ **Fines arising from environmental protection**  
6 **and maritime transportation security violations.**

7 Notwithstanding any other law to the contrary, any commercial  
8 harbor tenant or user, including any shipper or shipping agent,  
9 who violates any federal, state, or county law or rule relating  
10 to environmental protection ~~[and]~~ or maritime transportation  
11 security pursuant to 33 Code of Federal Regulations chapter 1  
12 and thereby causes a fine to be levied by the United States  
13 Coast Guard upon the department, shall reimburse the department  
14 for the entire amount of the fine. The department may take such  
15 actions necessary to collect and deposit any amount reimbursable  
16 under this section~~[7]~~ into the harbor special fund, and may also  
17 demand reimbursement for costs or expenses incurred by the  
18 department resulting from enforcement of this section."

19 SECTION 6. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on July 1, 2050.





**Report Title:**

Department of Transportation, Harbors; Administrative Violations of Rules; Reimbursement from Tenant for Security Violations

**Description:**

Amends chapter 266, HRS, to clarify that persons cited for non-criminal violations may appeal through an administrative hearing; clarifies that enforcement agents such as the harbor master, harbor agents, facility security officer, or district manager can issue citations for non-criminal violations; provides that penalties and fines are deposited into the harbor special fund; allows the Department of Transportation to seek reimbursement from tenants or harbor users that violate security rules in harbor-secured areas. Broadens the definition of law enforcement officer to include any employee, officer, or representative of the Department of Transportation conferred by the director with police powers. (SB2876 HD2)

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

