
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 identify the charge
10 against the purported violator and direct the purported violator
11 to:

12 (1) Appear before an administrative hearing and answer to
13 the charge against the purported violator; or

14 (2) Remit a fee, the amount of which shall be written on
15 the notice of violation, to the harbor special fund.

16 The purported violator shall have ten calendar days after
17 receipt of the notice of the violation to make a written request
18 for an administrative hearing. The administrative hearing shall



1 be held solely for the purpose of allowing the purported
2 violation to contest the charge identified in the notice of
3 violation by the department. The department shall schedule the
4 administrative hearing within thirty days of the department's
5 receipt of the written request, excluding Saturdays, Sundays,
6 and holidays designated under section 8-1."

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

9 "(a) There is created in the treasury of the State the
10 harbor special fund. All moneys received by the department of
11 transportation from the rates [~~and~~], fees, fines, and penalties
12 pursuant to [~~section~~] sections 266-17(a)(1), 266-25, 266-28, and
13 266-__ shall be paid into the harbor special fund. The harbor
14 special fund and the second separate harbor special fund
15 heretofore created shall be consolidated into the harbor special
16 fund at such time as there are no longer any revenue bonds
17 payable from the second separate harbor special fund. The
18 harbor reserve fund heretofore created is abolished.

19 All moneys derived pursuant to this chapter from harbor
20 properties of the statewide system of harbors [~~(excluding~~
21 ~~properties principally used for recreation or the landing of~~
22 ~~fish, except properties located at Kewalo Basin, ewa of Ala~~



1 ~~Moana Park, Honolulu}~~] shall be paid into the harbor special
2 fund and each fiscal year shall be appropriated, applied, or
3 expended by the department of transportation for the statewide
4 system of harbors for any purpose within the jurisdiction,
5 powers, duties, and functions of the department of
6 transportation related to the statewide system of harbors
7 [~~excluding properties principally used for recreation or the~~
8 ~~landing of fish, except the properties located at Kewalo Basin,~~
9 ~~ewa of Ala Moana Park, Honolulu}~~], including, without
10 limitation, the costs of operation, maintenance, and repair of
11 the statewide system of harbors and reserves therefor, and
12 acquisitions (including real property and interests therein),
13 constructions, additions, expansions, improvements, renewals,
14 replacements, reconstruction, engineering, investigation, and
15 planning, for the statewide system of harbors, all or any of
16 which in the judgment of the department of transportation are
17 necessary to the performance of its duties or functions."

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

20 "**§266-24.1 Arrest or citation.** [~~Except when required by~~
21 ~~state law to take immediately before a district judge a person~~
22 ~~arrested for a violation of any provision of this part,~~



1 ~~including any rule or regulation adopted and promulgated~~
2 ~~pursuant to this part, any person authorized to enforce the~~
3 ~~provisions of this part, hereinafter referred to as enforcement~~
4 ~~officer,]~~ (a) Any employee, officer, or representative of the
5 department of transportation conferred by the director of
6 transportation with police powers, hereinafter referred to as
7 law enforcement officer, shall enforce any rule adopted pursuant
8 to this part and chapters 287 through 291E, 705, 707 through
9 710, 712, and 712A.

10 (b) Any law enforcement officer upon issuing a citation or
11 arresting a person for [violation of] violating any provision of
12 this part, including any rule [or regulation] adopted [and
13 promulgated] pursuant to this part [shall], in the discretion of
14 the law enforcement officer, shall either:

15 (1) [~~issue~~] Issue to the purported violator a summons or
16 citation, printed in the form hereinafter described,
17 warning the purported violator to appear and answer to
18 the charge against the purported violator at a certain
19 place and at a time within seven days after such
20 arrest[~~]~~; or

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



1 (c) The summons or citation shall be printed in a form
2 comparable to the form of other summonses and citations used for
3 arresting offenders and shall be designed to provide for
4 inclusion of all necessary information. The form and content of
5 ~~[such]~~ the summons or citation shall be adopted or prescribed by
6 the district courts.

7 (d) The original of a summons or citation shall be given
8 to the purported violator and the other copy or copies
9 distributed in the manner prescribed by the district courts;
10 provided that the district courts may prescribe alternative
11 methods of distribution for the original and any other copies.

12 (e) Summonses and citations shall be consecutively
13 numbered and the ~~[carbon copy]~~ or copies of each shall bear the
14 same number.

15 ~~[Any]~~ (f) Except for the alleged violation of chapters 287
16 through 291E, 705, 707 through 710, 712, and 712A, any person
17 who fails to appear at the place and within the time specified
18 in the summons or citation issued to the person by the law
19 enforcement officer, upon the person's arrest for violation of
20 any provision of this part, including any rule ~~[or regulation~~
21 ~~promulgated]~~ adopted pursuant to this part, shall be guilty of a



1 misdemeanor and, on conviction, shall be fined not more than
2 \$1,000, or be imprisoned not more than six months, or both.

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

9 (h) When a complaint is made to any prosecuting officer of
10 the violation of any provision of this part, including any rule
11 ~~[or regulation promulgated]~~ adopted thereunder, the law
12 enforcement officer who issued the summons or citation shall
13 subscribe to it under oath administered by another official of
14 the department of transportation whose names have been submitted
15 to the prosecuting officer and who have been designated by the
16 director of transportation to administer the same."

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

19 "**§266-25 Violation of rules; penalty.** In addition to the
20 reimbursement of fines and costs as provided in section 266-28,
21 any person who violates any rule made, adopted, and published by
22 the department of transportation as herein provided, or who



1 violates any lawful command of any harbor master, harbor agent,
2 facility security officer, or harbor district manager, while in
3 the discharge of the person's duty, or who violates this
4 chapter, shall be fined not more than \$10,000 for each offense,
5 and any vessel, the agents, owner, or crew of which violate the
6 rules of the department or this chapter, shall be fined not more
7 than \$10,000 for each violation; provided that in addition to or
8 as a condition to the suspension of the fines and penalties, the
9 court or administrative hearing officer may deprive the offender
10 of the privilege of entering the secured area of the port or
11 obtaining an operating or mooring permit for any vessel in state
12 waters for a period of not more than [~~two years.~~] one year;
13 provided further that the offender at the resumption of the
14 privilege of operating or mooring a vessel in state waters shall
15 assume the last position on any waiting list."

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

18 "[+]§266-28[+] **Fines arising from environmental protection**
19 **and maritime transportation security violations.**

20 Notwithstanding any other law to the contrary, any commercial
21 harbor tenant or user, including any shipper or shipping agent,
22 who violates any federal, state, or county law or rule relating



1 to environmental protection [~~and~~] or maritime transportation
2 security pursuant to 33 Code of Federal Regulations chapter 1
3 and thereby causes a fine to be levied by the United States
4 Coast Guard upon the department, shall reimburse the department
5 for the entire amount of the fine. The department may take such
6 actions necessary to collect and deposit any amount reimbursable
7 under this section[~~7~~] into the harbor special fund, and may also
8 demand reimbursement for costs or expenses incurred by the
9 department resulting from enforcement of this section."

10 SECTION 6. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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



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 DOT to seek reimbursement from tenants or harbor users that violate security rules in harbor-secured areas. The issuance of citations for traffic code violations and other criminal statutes are restricted to law enforcement officers and fines and penalties remain in the jurisdiction of the District Courts. Broadens the definition of law enforcement officer to include any employee, officer, or representative of DOT conferred by the director with police powers. (SD2)

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