
A BILL FOR AN ACT

RELATING TO ENFORCEMENT OF VIOLATIONS BY THE DEPARTMENT OF LAND
AND NATURAL RESOURCES.

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

1 SECTION 1. Chapter 286, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§286- Denial of application for failure to discharge a
5 condition imposed by the board of land and natural resources.

6 In addition to any other acts or conditions provided by law, the
7 director of finance of the appropriate county may deny any
8 application for registration if the director of finance has
9 received notification from the board of land and natural
10 resources pursuant to section 171-6(22) that the applicant has
11 failed to discharge a condition imposed by the board of land and
12 natural resources pursuant to any of the provisions of title 12
13 or chapter 6D or 6E, or any rule adopted thereunder. Unless
14 otherwise provided by law, the director of finance shall not
15 approve an application for registration denied under this
16 section until receipt of certification of satisfactory



1 compliance from the board of land and natural resources pursuant
2 to section 171-6(22)."

3 SECTION 2. Section 171-6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§171-6 Powers. Except as otherwise provided by law, the
6 board of land and natural resources shall have the powers and
7 functions granted to the heads of departments and the board of
8 land and natural resources under chapter 26.

9 In addition to the foregoing, the board may:

- 10 (1) Adopt a seal;
- 11 (2) Administer oaths;
- 12 (3) Prescribe forms of instruments and documents;
- 13 (4) Adopt rules which, upon compliance with chapter 91,
14 shall have the force and effect of law;
- 15 (5) Set, charge, demand, and collect reasonable fees for
16 the preparation of documents to be issued, for the
17 surveying of public lands, and for the issuing of
18 certified copies of its government records, which
19 fees, when collected, shall be deposited into the
20 state general fund, unless otherwise specified in this
21 chapter;



- 1 (6) Establish additional restrictions, requirements, or
2 conditions, not inconsistent with those prescribed in
3 this chapter, relating to the use of particular land
4 being disposed of, the terms of sale, lease, license,
5 or permit, and the qualifications of any person to
6 draw, bid, or negotiate for public land;
- 7 (7) Reduce or waive the lease rental at the beginning of
8 the lease on any lease of public land to be used for
9 any agricultural or pastoral use, or for resort,
10 commercial, industrial, or other business use where
11 the land being leased requires substantial
12 improvements to be placed thereon; provided that
13 [~~such~~] the reduction or waiver shall not exceed two
14 years for land to be used for any agricultural or
15 pastoral use, or exceed one year for land to be used
16 for resort, commercial, industrial, or other business
17 use;
- 18 (8) Delegate to the chairperson or employees of the
19 department of land and natural resources, subject to
20 the board's control and responsibility, [~~such~~] powers
21 and duties as may be lawful or proper for the
22 performance of the functions vested in the board;



- 1 (9) Use arbitration under chapter 658A to settle any
2 controversy arising out of any existing or future
3 lease;
- 4 (10) Set, charge, and collect reasonable fees in an amount
5 sufficient to defray the cost of performing or
6 otherwise providing for the inspection of activities
7 permitted upon the issuance of a land license
8 involving a commercial purpose;
- 9 (11) Appoint masters or hearing officers to conduct public
10 hearings as provided by law and under [~~such~~]
11 conditions as the board by rules shall establish;
- 12 (12) Bring [~~such~~] actions as may be necessary to remove or
13 remedy encroachments upon public lands. Any person
14 causing an encroachment upon public land shall:
- 15 (A) Be fined not more than \$1,000 a day for the first
16 offense;
- 17 (B) Be fined not less than \$1,000 nor more than
18 \$4,000 per day upon the second offense and
19 thereafter;
- 20 (C) If required by the board, restore the land to its
21 original condition if altered and assume the
22 costs thereof;



- 1 (D) Assume [~~such~~] costs [~~as may~~] that result from
2 adverse effects from [~~such~~] restoration; and
- 3 (E) Be liable for administrative costs incurred by
4 the department and for payment of damages;
- 5 (13) Set, charge, and collect interest and a service charge
6 on delinquent payments due on leases, sales, or other
7 accounts. The rate of interest shall not exceed one
8 per cent a month and the service charge shall not
9 exceed \$50 a month for each delinquent payment;
10 provided that the contract shall state the interest
11 rate and the service charge and be signed by the party
12 to be charged;
- 13 (14) Set, charge, and collect additional rentals for the
14 unauthorized use of public lands by a lessee,
15 licensee, grantee, or permittee who is in violation of
16 any term or condition of a lease, license, easement,
17 or revocable permit, retroactive to the date of the
18 occurrence of the violation. [~~Such~~] The amounts shall
19 be considered delinquent payments and shall be subject
20 to interest and service charges as provided in
21 paragraph (13);



1 (15) Set, charge, and collect reasonable fines for
2 violation of [~~this chapter~~] title 12 and chapters 6D
3 and 6E, or any rule adopted thereunder. Any person
4 engaging in any prohibited use of public lands or
5 conducting any prohibited activity on public lands, or
6 violating any of the other provisions of [~~this~~
7 ~~chapter~~] title 12 or chapter 6D or 6E, or any rule
8 adopted thereunder, for which violation a penalty is
9 not otherwise provided, shall be:

10 (A) Fined not more than \$5,000 per violation for a
11 first violation or a violation beyond five years
12 of the last violation; provided that, after
13 written or verbal notification from the
14 department, an additional \$1,000 per day per
15 violation may be assessed for each day in which
16 the violation persists;

17 (B) Fined not more than \$10,000 per violation for a
18 second violation within five years of the last
19 violation; provided that, after written or verbal
20 notification from the department, an additional
21 \$2,000 per day per violation may be assessed for
22 each day in which the violation persists;



1 (C) Fined not more than \$20,000 per violation for a
2 third or subsequent violation within five years
3 of the last violation; provided that, after
4 written or verbal notification from the
5 department, an additional \$4,000 per day per
6 violation may be assessed for each day in which
7 the violation persists; and

8 (D) Liable for administrative costs and expenses
9 incurred by the department and for payment for
10 damages, including but not limited to natural
11 resource damages.

12 In addition to the fines, administrative costs, and
13 damages provided for hereinabove, for damage to or
14 theft of natural resources, the board may also set,
15 charge, and collect a fine that, in its discretion, is
16 appropriate considering the value of the natural
17 resource that is damaged or the subject of the theft.

18 In arriving at an appropriate fine, the board may
19 consider the market value of the natural resource
20 damaged or taken and any other factor it deems
21 appropriate, such as the loss of the natural resource
22 to its natural habitat and environment and the cost of



1 restoration or replacement. The remedies provided for
2 in this paragraph are cumulative and in addition to
3 any other remedies allowed by law.

4 No person shall be sanctioned pursuant to this section
5 for the exercise of native Hawaiian gathering rights
6 and traditional cultural practices as authorized by
7 law or as permitted by the department pursuant to
8 article XII, section 7, of the Hawaii state
9 constitution;

10 (16) Issue revenue bonds, subject to the approval of the
11 legislature. All revenue bonds shall be issued
12 pursuant to part III of chapter 39, except as provided
13 in this chapter. All revenue bonds shall be issued in
14 the name of the department and not in the name of the
15 State. The final maturity date of the revenue bonds
16 may be any date not exceeding thirty years from the
17 date of issuance;

18 (17) Pledge or assign all or any part of the receipts and
19 revenues of the department. The revenue bonds shall
20 be payable from and secured solely by the revenue
21 derived by the department from the industrial park or
22 parks for which the bonds are issued;



1 (18) Reimburse the state general fund for debt service on
2 general obligation bonds or reimbursable general
3 obligation bonds issued by the State for purposes of
4 this chapter;

5 (19) Notwithstanding part II of chapter 205A to the
6 contrary, plan, design, construct, operate, and
7 maintain any lands or facilities under the
8 jurisdiction of the division of boating and ocean
9 recreation of the department without the need to
10 obtain a special management area minor permit or
11 special management area use permit; [~~and~~]

12 (20) Authorize the performance of natural or cultural
13 resource-related community service in lieu of or in
14 addition to any administrative fines imposed pursuant
15 to an administrative enforcement of any of the
16 provisions of title 12 or chapter 6D or 6E, or any
17 rule adopted thereunder; provided that:

18 (A) The community service shall be performed under
19 the supervision of a state agency deemed
20 appropriate by the board until satisfactory
21 compliance is certified by the board or its
22 designated agent;



1 (B) The person who performs the community service
2 shall not be considered to be an employee of the
3 board or the supervising state agency, and the
4 community service shall not constitute
5 employment; and

6 (C) The board shall adopt rules pursuant to chapter
7 91 to implement this paragraph;

8 (21) Suspend or revoke a license or permit issued under the
9 authority of the board or department, or deny any
10 application for the issuance of a license or permit,
11 if the board finds that the licensee, permittee, or
12 applicant is in violation of any of the provisions of
13 title 12 or chapter 6D or 6E, or any rule adopted
14 thereunder, until satisfactory compliance is certified
15 by the board or its designated agent; provided that
16 the board shall adopt rules pursuant to chapter 91 to
17 implement this paragraph;

18 (22) Provide notification to the director of finance of the
19 appropriate county when an applicant for the
20 registration of a motor vehicle has:

21 (A) Failed to discharge a condition imposed by the
22 board pursuant to any of the provisions of title



1 12 or chapter 6D or 6E, or any rule adopted
2 thereunder, if the board makes such a finding; or
3 (B) Complied with the conditions, as certified by the
4 board or its agent;
5 provided that the board shall adopt rules pursuant to
6 chapter 91 to implement this paragraph; and
7 ~~[(20)]~~ (23) Do any and all things necessary to carry out its
8 purposes and exercise the powers granted in this
9 chapter."

10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Cultural and Natural Resources; Enforcement; Penalties

Description:

Provides alternative civil enforcement options that may be utilized by the BLNR in the processing of natural and cultural resource violation cases. Effective July 1, 2050. (SB1170 HD1)

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

