

JAN 28 2015

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# A BILL FOR AN ACT

RELATING TO DEPARTMENT OF LAND AND NATURAL RESOURCES.

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

1           SECTION 1. The legislature has been engaged in an ongoing  
2 effort to make resolution of minor criminal offenses, including  
3 traffic violations, as simple as possible for the average  
4 citizen and to ensure that police, prosecutor, and judicial  
5 resources are focused on the most serious criminal offenses.  
6 Since 1978, the legislature has undertaken comprehensive  
7 attempts to adjust the penalties for various minor criminal  
8 offenses, particularly those found outside the Hawaii Penal  
9 Code, such that they are consistent with the nature of the  
10 offense, the seriousness with which the offenses are viewed, and  
11 the need to deter and prevent commission of the offenses.

12           The legislature finds that Act 214, Session Laws of Hawaii  
13 1993, enacted chapter 291D, Hawaii Revised Statutes, to  
14 adjudicate traffic infractions without court appearance if there  
15 is no possibility of imprisonment as a penalty. Chapter 291D,  
16 Hawaii Revised Statutes, is designed to permit persons charged



1 with minor offenses to pay fines by mail and to reduce the  
2 amount of time police officers and prosecutors spend in court.

3 Act 101, Session Laws of Hawaii 2008, part III,  
4 decriminalized certain traffic offenses occurring on state park  
5 lands under the jurisdiction of the department of land and  
6 natural resources. Act 101 was a product of Act 124, Session  
7 Laws of Hawaii 2005, which requires the legislative reference  
8 bureau to recommend changes, after discussion with the  
9 respective departments, to the penalties imposed by statute to  
10 make the penalties more consistent the decriminalization of  
11 traffic offenses in Act 214.

12 The purpose of this Act is to decriminalize traffic  
13 offenses occurring on all lands managed by the department of  
14 land and natural resources.

15 SECTION 2. Chapter 171, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 **"§171- Decriminalization of certain traffic offenses.**

19 (a) Any person who violates any rule adopted by the department  
20 under this chapter regulating vehicular parking or traffic  
21 movement on any lands managed by the department shall have



1 committed a traffic infraction as set forth in chapter 291D, the  
2 adjudication of which shall be subject to the provisions  
3 contained therein. A person found to have committed such a  
4 traffic infraction shall be fined not more than:

- 5 (1) \$100 for a first violation;
- 6 (2) \$200 for a second violation; and
- 7 (3) \$500 for a third or subsequent violation."

8 SECTION 3. Section 183-5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "[+]§183-5[+] **General administrative penalties.** (a)

11 Except as otherwise provided by law, the board or its authorized  
12 representative may:

- 13 (1) Set, charge, and collect administrative fines;
- 14 (2) Bring legal action to recover administrative fines,  
15 fees, and costs, including attorney's fees and costs  
16 and costs associated with land or habitat restoration;  
17 and
- 18 (3) Collect administrative fees and costs pursuant to  
19 paragraph (2),

20 resulting from a violation of this chapter, any rule adopted, or  
21 permit issued thereunder.



1           (b) ~~[The]~~ Except as provided in subsection (d), the  
2 administrative fines for violation of this chapter shall be as  
3 follows:

4           (1) For a first violation, or any violation not preceded  
5 within a five-year period by a violation of this  
6 chapter, a fine of not more than \$2,500 per violation;

7           (2) For a second violation within five years of a previous  
8 violation of this chapter, a fine of not more than  
9 \$5,000 per violation; and

10          (3) For a third or subsequent violation within five years  
11 of the last violation of this chapter, a fine of not  
12 more than \$10,000 per violation.

13          (c) In addition:

14          (1) A fine of up to \$10,000 per violation of section  
15 183-17 may be levied for each destroyed or harvested  
16 koa tree, or portion thereof, larger than six inches  
17 in diameter at ground level; and

18          (2) A fine of up to \$2,000 per violation of section 183-17  
19 may be levied for each destroyed or harvested tree or  
20 plant, other than koa, or portion thereof, larger than  
21 six inches in diameter at ground level.



1        (d) Any person who violates any rule adopted by the  
2 department under this chapter regulating vehicular parking or  
3 traffic movement shall have committed a traffic infraction as  
4 set forth in chapter 291D, the adjudication of which shall be  
5 subject to the provisions contained therein. A person found to  
6 have committed such a traffic infraction shall be fined not more  
7 than:

8        (1) \$100 for a first violation;

9        (2) \$200 for a second violation; and

10       (3) \$500 for a third or subsequent violation.

11       ~~[(d)]~~ (e) Any criminal prosecution for any violation of  
12 this chapter or any rule adopted thereunder shall not be deemed  
13 to preclude the State from recovering additional administrative  
14 fines, fees, and costs, including attorney's fees and costs.

15       ~~[(e)]~~ (f) No person shall be sanctioned pursuant to this  
16 section for the exercise of native Hawaiian gathering rights and  
17 traditional cultural practices as authorized by law or as  
18 permitted by the department pursuant to article XII, section 7  
19 of the Hawaii ~~[state constitution.]~~ State Constitution.

20       ~~[(f)]~~ (g) The department shall submit an annual report  
21 outlining the revenues generated by the penalties to the



1 legislature at least twenty days before the convening of each  
2 regular session."

3 SECTION 4. Section 195-8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§195-8 Penalty.** (a) ~~[Any]~~ Except as provided in  
6 subsection (b), any person who violates any of the laws and  
7 rules applicable to the reserves system, upon conviction  
8 thereof, shall be guilty of a misdemeanor and shall be fined not  
9 less than \$1,000 or imprisoned not more than one year, or both,  
10 for each offense.

11 (b) Any person who violates any rule adopted by the  
12 department under this chapter regulating vehicular parking or  
13 traffic movement shall have committed a traffic infraction as  
14 set forth in chapter 291D, the adjudication of which shall be  
15 subject to the provisions contained therein. A person found to  
16 have committed such a traffic infraction shall be fined not more  
17 than:

- 18 (1) \$100 for a first violation;  
19 (2) \$200 for a second violation; and  
20 (3) \$500 for a third or subsequent violation.



1           ~~(b)~~ (c) Except as otherwise provided by law, the board  
2 or its authorized representative by proper delegation is  
3 authorized to set, charge, and collect administrative fines or  
4 bring legal action to recover administrative fees and costs as  
5 documented by receipts or affidavit, including attorneys' fees  
6 and costs; or bring legal action to recover administrative  
7 fines, fees, and costs, including attorneys' fees and costs, or  
8 payment for damages or for the cost to correct damages resulting  
9 from a violation of this chapter or any rule adopted thereunder.  
10 The administrative fines shall be as follows:

- 11           (1) For a first violation, a fine of not more than \$2,500;  
12           (2) For a second violation within five years of a previous  
13           violation, a fine of not more than \$5,000; and  
14           (3) For a third or subsequent violation within five years  
15           of the last violation, a fine of not more than  
16           \$10,000.

17           ~~(e)~~ (d) Any criminal action against a person for any  
18 violation of this chapter or any rule adopted thereunder shall  
19 not be deemed to preclude the State from pursuing civil legal  
20 action to recover administrative fines and costs against that  
21 person. Any civil legal action against a person to recover



1 administrative fines and costs for any violation of this chapter  
2 or any rule adopted thereunder shall not be deemed to preclude  
3 the State from pursuing any criminal action against that  
4 person."

5 SECTION 5. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.

8

INTRODUCED BY: *Russell*





# S.B. NO. 1045

**Report Title:**

Traffic Infractions; State Reserves

**Description:**

Decriminalizes traffic infractions within lands managed by the department of land and natural resources.

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

