



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2451, S.D. 2, H.D. 1, RELATING TO CHAPTER 183, HAWAII REVISED STATUTES.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, March 22, 2016

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Lance M. Goto, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General submits comments and recommendations.

On page 1 of the bill, at lines 4-5 and 11-13, ceilings for administrative fines are set at "the current market value" of the tree or plant that is illegally destroyed or harvested. The Department respectfully recommends that the "current market value" provisions be clarified as being the "current market value at the time and place of the violation." With this clarification, an offender will be on notice as to the maximum possible fine at the time of the commission of the violation, and would not be surprised by a different fine amount based on the current market value at the time the fine is levied.

Thank you for the opportunity to submit comments.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of  
SUZANNE D. CASE  
Chairperson

Before the House Committee on  
JUDICIARY

Tuesday, March 22, 2016  
2:00 PM  
State Capitol, Conference Room 325

In consideration of  
SENATE BILL 2451, SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO CHAPTER 183, HAWAII REVISED STATUTES

Senate Bill 2451, Senate Draft 2, House Draft 1 proposes to amend fines for destroying and harvesting koa trees and other trees and plants on state lands to an amount up to the current market value of each tree or plant; clarify that any person who violates: (1) Section 183-17, Hawaii Revised Statutes (HRS), (timber trespass in forest reserves) shall be guilty of a misdemeanor; or (2) a provision of Part II of Chapter 183, HRS, (forest reserves) or any rule adopted pursuant thereto, other than Section 183-17, HRS, shall be guilty of a petty misdemeanor; and repeal the general penalty provision of Chapter 183, HRS. **The Department of Land and Natural Resources (Department) strongly supports this measure.**

Currently, Part II (Forest Reserves) of Chapter 183, HRS, does not allow for criminal penalties, except for timber trespass offenses. There are other types of offenses, including violations of administrative rules that warrant the imposition of a stricter penalty.

Establishing statutory authority for a criminal penalty to apply to any violation of Forest Reserves, or any rules adopted pursuant thereto, would strengthen the Department's enforcement capabilities, and allow for greater protection of the State's natural resources. This bill ensures a mechanism for pursuing enforcement actions when warranted, as well as providing a stronger deterrent for unauthorized and illegal use of public resources.

Section 183-4, HRS, authorizes general (civil) penalties for violations of Chapters 183 to 185, HRS; however, civil penalties are already provided in Section 183-5, HRS, and Section 184-5.5, HRS. Further while Chapter 185, HRS, pertaining to land fire protection, does not include a civil penalty, it does provide for criminal penalties under Section 185-7, HRS. Due to the serious risk

of harm to people, the environment, wildlife, and habitat, the Department feels that violations of Chapter 185, HRS, should carry only criminal penalties - given the above, Section 183-4, HRS, is proposed for repeal.

The Department supports the amendment to Section 183-5(c), HRS, regarding general administrative penalties for violation of Section 183-17, HRS, that requires fines for destroyed or harvested koa and other trees or plants on state lands be based on the current market value of the damaged or harvested resources and the cost of restoration or replacement of the habitat.