

CHAPTER 199
CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM

Section

- 199-1 Board of land and natural resources, powers and duties
- 199-1.5 Conservation and resources enforcement special fund; established
- 199-2 Board of land and natural resources, delegation of authority
- 199-3 Conservation and resources enforcement officers, duties; other law enforcement officers
- 199-4 Board of land and natural resources, police powers
- 199-5 Summons or citation
- 199-6 Failure to obey a summons
- 199-7 Search and seizure; forfeiture of property

Cross References

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

" **§199-1 Board of land and natural resources, powers and duties.** The board of land and natural resources shall establish within the department of land and natural resources a conservation and resources enforcement program relating to the enforcement of title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder, and shall employ or appoint, and remove, the following persons, subject to chapter 76 and section 78-1, who shall be provided with suitable badges or insignia of office by the department of land and natural resources:

- (1) An enforcement chief of the department of land and natural resources, who shall be the head of the conservation and resources enforcement program and shall have charge, direction, and control, subject to the direction and control of the board, of all matters relating to the enforcement of title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder and such other matters as the board may from time to time direct. The enforcement chief shall be an administrator experienced in conservation and resources law enforcement and management; and
- (2) Personnel and enforcement officers of the conservation and resources enforcement program, including but not limited to enforcement officers on a voluntary basis and without pay. [L 1978, c 171, pt of §1; am L 2000, c 253, §150; am L 2004, c 142, §8]

" **[§199-1.5] Conservation and resources enforcement special fund; established.** (a) There is hereby established in the state treasury a special fund known as the conservation and resources enforcement special fund, which shall be administered by the department.

(b) The following shall be deposited into the conservation and resources enforcement special fund:

- (1) Grants, awards, donations, gifts, transfers, or moneys derived from public or private sources for the purposes of enforcing the provisions of title 12; chapters 6D, 6E, and 6K; or any rule adopted thereunder;
- (2) Fees, reimbursements, administrative charges, and penalties collected for activities related to the enforcement of natural, cultural, and historic resources protection laws and rules, except as

otherwise provided by law that provides for deposits into other special funds administered by the department;

- (3) Moneys derived from interest, dividends, or other income from the above-mentioned sources; and
- (4) Appropriations by the legislature to the special fund.

(c) The conservation and resources enforcement special fund shall be used for expenditures, including but not limited to:

- (1) Training;
- (2) Research;
- (3) Equipment;
- (4) Preparation and dissemination of information to the public;
- (5) Data collection and development;
- (6) Information technology;
- (7) Safety;
- (8) Wireless communication;
- (9) Management;
- (10) Travel;
- (11) Equipment rental;
- (12) Repairs;
- (13) Planning;
- (14) Information;
- (15) Education;
- (16) Operations;
- (17) Maintenance functions authorized and deemed necessary by the department;
- (18) Funding for consultants or contractual hires related to the enforcement of:
 - (A) Title 12;
 - (B) Chapters 6D, 6E, and 6K; or
 - (C) Any rule adopted thereunder; and
- (19) Work performed in cooperation with enforcement authorities of the State, the counties, and the federal government.

(d) The fund shall be held separate and apart from all other moneys, funds, and accounts in the department, except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the department and agencies or persons from whom the moneys are received. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year.

(e) As used in this section, "department" means the department of land and natural resources. [L 2011, c 78, §1]

" **§199-2 Board of land and natural resources, delegation of authority.** The board of land and natural resources may delegate to enforcement officers within the conservation and resources enforcement program, such authority as may be required for enforcement of title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder. [L 1978, c 171, pt of §1; am L 2004, c 142, §9]

" **§199-3 Conservation and resources enforcement officers, duties; other law enforcement officers.** (a) The conservation and resources enforcement officers, with respect to all state lands, including public lands, state parks, forest reserves, forests, aquatic life and wildlife areas, Kaho'olawe island reserve, and any other lands and waters within the State, shall:

- (1) Enforce title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual aid agreements for conservation and resources enforcement activities within the State;
- (4) Cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for search and rescue activities within the State;
- (5) Check and verify all leases, permits, and licenses issued by the department of land and natural resources;
- (6) Enforce the laws relating to firearms, ammunition, and dangerous weapons contained in chapter 134;
- (7) Enforce the laws in chapter 291E relating to operating a vessel on or in the waters of the State while using intoxicants;
- (8) Whether through a specifically designated marine patrol or otherwise, enforce the rules in the areas of boating safety, conservation, and search and rescue relative to the control and management of boating facilities owned or controlled by the State, ocean waters, and navigable streams and any activities thereon or therein, and beaches encumbered with easements in favor of the public, and the rules regulating vessels and their use in the waters of the State; and

(9) Carry out other duties and responsibilities as the board of land and natural resources from time to time may direct.

(b) Every state and county officer charged with the enforcement of laws and ordinances shall enforce and assist in the enforcement of title 12, chapters 6E and 6K, and rules adopted thereunder and in the enforcement of chapters 266 and 267 and of all rules adopted thereunder. [L 1978, c 171, pt of §1; am L 1981, c 85, §112; am L 1987, c 364, §1; am L 1991, c 272, §5; am L 1996, c 296, §2; am L 1997, c 17, §1; am L 2000, c 189, §24; am L 2004, c 142, §10]

Note

Chapter 267 referred to in text is repealed.

" §199-4 Board of land and natural resources, police powers.

(a) The board of land and natural resources shall have police powers and may appoint and commission enforcement officers within the conservation and resources enforcement program. Persons appointed and commissioned under this section shall have and may exercise all of the powers and authority of a police officer, including the power of arrest, and in addition to enforcing title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder, may enforce all other state laws and rules, and county ordinances within all lands and waters of the State; provided that such powers shall remain in force and effect only while in actual performance of their duties, which shall include off-duty employment when such employment is for other state departments or agencies. These enforcement officers shall consist of personnel whose primary duty will be the enforcement of title 12, chapters 6D, 6E, and 6K, and the rules adopted thereunder within the areas under the jurisdiction of the department of land and natural resources.

(b) An enforcement officer, upon arresting any person for violation of title 12, chapter 6D, 6E, or 6K, or any rule adopted thereunder, may immediately take the person arrested to a police station or before a district judge, or take the name, address, and the number of the fishing, hunting, or other licenses or permits, if any, of the person, and note the violation of the law or rule by the person, and issue the person a summons or citation, printed in the form described in section 199-5, warning the person to appear and to answer to the charge against the person at a certain place and time within seven days after the arrest. Any person failing to obey a summons issued pursuant to this section shall be subject to section 199-6. [L

1978, c 171, pt of §1; am L 1981, c 226, §1; am L 1982, c 147, §10; gen ch 1985; am L 2004, c 142, §11]

" **§199-5 Summons or citation.** There shall be a form of summons or citation for use in citing violators of title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder, which do not mandate the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citation used in modern methods of arrest and shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and content of the summons or citation shall be adopted or prescribed by the district courts.

In every case where a summons or citation is issued, the original of the same shall be given to the violator; provided that the district courts may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies. Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original. [L 1978, c 171, pt of §1; am L 1981, c 85, §113; am L 1997, c 17, §2; am L 2004, c 142, §12]

" **§199-6 Failure to obey a summons.** Any person who fails to appear at the place and within the time specified in the summons or citation issued by the officers or their agents or subordinates, upon that person's arrest for violation of title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder, shall be guilty of a petty misdemeanor and, upon conviction, shall be fined not more than \$500 or be imprisoned not more than thirty days, or both.

If any person fails to comply with a summons or citation issued, or if any person fails or refuses to deposit bail as required and within the time permitted, the officers shall cause a complaint to be entered against the person and secure the issuance of a warrant for the person's arrest.

When a complaint is made to any prosecuting officer of the violation of title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder, the officer who issued the summons or citation shall subscribe to it under oath administered by another official or officials of the department of land and natural resources whose names have been submitted to the prosecuting officer and who have been designated by the chairperson of the board of land and natural resources to administer the same. [L 1978, c 171, pt of §1; am L 1981, c 85, §114; gen ch 1985, 1993; am L 1997, c 17, §3; am L 2004, c 142, §13]

" **§199-7 Search and seizure; forfeiture of property.** (a)

Any police officer or agent of the department of land and natural resources upon whom the board of land and natural resources has conferred powers of police officers, shall have the authority to conduct searches on probable cause as provided by law and to seize any equipment, article, instrument, aircraft, vehicle, vessel, business records, or natural resource used or taken in violation of the provisions contained in chapters 6D, 6E, and 6K, or title 12, or any rules adopted thereunder. For purposes of this section, "natural resource" includes any archaeological artifacts, minerals, any aquatic life or wildlife or parts thereof, including their eggs, and any land plants or parts thereof, including seeds.

(b) Any equipment, article, instrument, aircraft, vehicle, vessel, business records, or natural resource seized is subject to forfeiture pursuant to chapter 712A. Unless otherwise directed by the environmental court pursuant to chapter 712A, any item, other than a natural resource, seized shall be ordered forfeited to the State for disposition as determined by the department, or may be destroyed, or may be kept and retained and utilized by the department or any other state agency. If not needed or required by the department or other state agency, the forfeited items shall be disposed of as provided by chapter 712A. Notwithstanding any other law to the contrary, any live natural resource seized may be immediately returned to its natural environment or suitable habitat or may be disposed of as determined by the department; provided that if the natural resource disposed of was unlawfully seized, the department shall be liable to the owner for the fair market value of the items disposed of.

(c) The department of land and natural resources shall compile a list of all equipment, articles, instruments, aircraft, vehicles, vessels, or any natural resource forfeited as provided in this section and shall publish the list in its annual report.

(d) Notwithstanding any other law to the contrary, the department of land and natural resources may sell or take actions to cause the sale of any perishable natural resource that is seized to prevent the waste of the natural resource and to ensure the economic value of such natural resource; provided that the department may not sell or cause the sale of any threatened or endangered species or any other species whose sale is prohibited by law. The department of land and natural resources may require the person or persons who took the natural resources to sell the seized natural resources at fair market value. The department of land and natural resources may require

any person purchasing any seized natural resource to deliver the proceeds of the sale to the department of land and natural resources or its authorized representative. Any person who refuses to sell the seized natural resources at fair market value or any person who fails to deliver the proceeds of the sale, as directed by the department of land and natural resources, shall be in violation of this subsection and punishable as provided by law. The department of land and natural resources shall deposit and keep the proceeds of the sale in an interest bearing account until such time as the suspected violation is settled between the person or persons who took the natural resource, consignee or consignees, if any, and the department of land and natural resources. Should a settlement not be reached, the department of land and natural resources shall submit the proceeds of the sale to the environmental court. The proceeds of the sale, after deducting any reasonable costs of the sale incurred by the department of land and natural resources, shall be subject to any administrative or judicial proceedings in the same manner as the seized natural resource would have been, including an action in rem for the forfeiture of the proceeds. Seizure and sale of a natural resource is without prejudice to any other remedy or sanction authorized by law. [L 1978, c 171, pt of §1; am L 1983, c 99, §1; am L 1985, c 222, §1; am L 1989, c 122, §1 and c 261, §9; am L 1997, c 17, §4; am L 1998, c 2, §53; am L 1999, c 233, §1; am L 2004, c 142, §14; am L 2014, c 218, §8]