

JAN 24 2019

A BILL FOR AN ACT

RELATING TO PENALTIES FOR VIOLATIONS ON CERTAIN STATE LANDS.

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

1 SECTION 1. The purpose of this Act is to make resolution
2 of traffic infractions, as simple as possible for the average
3 citizen and to ensure that police, prosecutor, and judicial
4 resources are focused on the most serious criminal offenses.
5 This Act decriminalizes traffic infractions within the
6 department of land and natural resources' natural area reserves,
7 game management areas, wildlife sanctuaries, and public hunting
8 areas so that they are consistent with the penalties for similar
9 infractions established for the state park system by Act 101,
10 Session Laws of Hawaii 2008.

11 SECTION 2. Section 183D-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§183D-5 Penalties. (a) Any person violating section
14 183D-21, 183D-25, 183D-33, or 183D-63 or any rule adopted under
15 this chapter shall be guilty of a petty misdemeanor, and upon
16 conviction thereof, shall be punished as follows:

S.B. NO. 1253

- 1 (1) For a first conviction, by a mandatory fine of not
2 less than \$100, or imprisonment of not more than
3 thirty days, or both;
- 4 (2) For a second conviction within five years of a
5 previous conviction, by a mandatory fine of not less
6 than \$500, or by imprisonment of not more than thirty
7 days, or both, and all firearms used in the commission
8 of the violations shall be considered contraband to be
9 forfeited to and disposed of by the State; and
- 10 (3) For a third or subsequent conviction within five years
11 of the first two or more convictions, by a mandatory
12 fine of not less than \$1,000, or by imprisonment of
13 not more than thirty days, or both, and all firearms
14 used in the commission of the violations shall be
15 considered contraband to be forfeited to and disposed
16 of by the State.
- 17 (b) Any person violating section [~~183D-66~~] 183D-25.5,
18 183D-26, 183D-27, 183D-32, 183D-62, [~~or~~] 183D-64, or 183D-66
19 shall be guilty of a misdemeanor, and upon conviction thereof,
20 shall be punished as follows:

- 1 (1) For a first conviction by a mandatory fine of not less
2 than \$200, or by imprisonment of not more than one
3 year, or both;
- 4 (2) For a second conviction within five years of a
5 previous conviction, by a mandatory fine of not less
6 than \$1,000, or by imprisonment of not more than one
7 year, or both, and all firearms, animal parts,
8 products, or items containing prohibited animal parts
9 or products used in the commission of the violations
10 shall be considered contraband to be forfeited to and
11 disposed of by the State; and
- 12 (3) For a third or subsequent conviction within five years
13 of the first two or more convictions, by a mandatory
14 fine of not less than \$2,000, or by imprisonment of
15 not more than one year, or both, and all firearms,
16 animal parts, products, or items containing prohibited
17 animal parts or products used in the commission of the
18 violations shall be considered contraband to be
19 forfeited to and disposed of by the State.
- 20 (c) Any person who violates section 183D-52 shall be
21 guilty of a misdemeanor, and upon conviction thereof, shall be
22 punished as follows:

S.B. NO. 1253

- 1 (1) For a first conviction, by a mandatory fine of not
2 less than \$10,000 and payment of any costs incurred in
3 the eradication of any deer and the deer's progeny
4 that has been possessed, transferred, transported, or
5 released after transport, or by imprisonment of not
6 more than one year, or both;
- 7 (2) For a second conviction within five years of a
8 previous conviction, by a mandatory fine of not less
9 than \$15,000 and payment of any costs incurred in the
10 eradication of any deer and the deer's progeny that
11 has been possessed, transferred, transported, or
12 released after transport, or by imprisonment of not
13 more than one year, or both; and
- 14 (3) For a third or subsequent conviction within five years
15 of the first two or more convictions, by a mandatory
16 fine of not less than \$25,000 and payment of any costs
17 incurred in the eradication of any deer and the deer's
18 progeny that has been possessed, transferred,
19 transported, or released after transport, or by
20 imprisonment of not more than one year, or both.
- 21 (d) Any person who violates section 183D-35, 183D-36,

1 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be guilty
2 of a petty misdemeanor~~[7]~~ and, upon conviction thereof, shall be
3 fined not less than \$100 or imprisoned not more than thirty
4 days, or both.

5 (e) In addition to any other penalty imposed under this
6 section, a mandatory fine of \$100 shall be levied for each bird
7 illegally taken under this chapter and a mandatory fine of \$500
8 shall be levied for each mammal illegally taken under this
9 chapter.

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

- 17 (1) \$100 for a first violation;
18 (2) \$200 for a second violation; and
19 (3) \$500 for a third or subsequent violation.

20 ~~[(f)]~~ (g) Any person who is convicted of violating any of
21 the game laws of the State, except as provided in subsection

1 (f), shall immediately have the person's hunting license
2 forfeited and any person convicted for a second offense shall
3 not be granted a license to hunt for a period of three years
4 after the date of the second conviction.

5 ~~[(g)]~~ (h) The environmental court, in lieu of the actual
6 cash payment of any mandatory fine, may allow the defendant to
7 perform the community service as directed by the department of
8 land and natural resources at the rate of one hour of service
9 for every \$10 of mandatory fine imposed.

10 ~~[(h)]~~ (i) Any criminal action against a person for any
11 violation of this chapter or any rule adopted thereunder shall
12 not be deemed to preclude the State from pursuing civil legal
13 action to recover administrative fines and costs or monetary
14 assessments against that person. Any civil legal action against
15 a person to recover administrative fines and costs or monetary
16 assessments, for any violation of subtitle 4 of title 12 or any
17 rule adopted thereto, or the conditions and restrictions of any
18 license, permit, or check station thereunder shall not be deemed
19 to preclude the State from pursuing any criminal action against
20 that person."

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

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

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

14 (1) \$100 for a first violation;

15 (2) \$200 for a second violation; and

16 (3) \$500 for a third or subsequent violation.

17 ~~(b)~~ (c) Except as otherwise provided by law, the board or
18 its authorized representative by proper delegation is authorized
19 to set, charge, and collect administrative fines or bring legal
20 action to recover administrative fees and costs as documented by
21 receipts or affidavit, including [~~attorneys~~] attorney's fees

1 and costs; or bring legal action to recover administrative
2 fines, fees, and costs, including [~~attorneys'~~] attorney's fees
3 and costs, or payment for damages or for the cost to correct
4 damages resulting from a violation of this chapter or any rule
5 adopted thereunder. The administrative fines shall be as
6 follows:

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

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

S.B. NO. 1253

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

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

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INTRODUCED BY: *Ann D. M.*

9

BY REQUEST

Report Title:

Traffic Infractions; Decriminalization

Description:

Decriminalizes traffic infractions within natural area reserves, game management areas, wildlife sanctuaries, and public hunting areas.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO PENALTIES FOR VIOLATIONS ON CERTAIN STATE LANDS.

PURPOSE: To decriminalize traffic infractions within natural area reserves, game management areas, wildlife sanctuaries, and public hunting areas.

MEANS: Amend sections 183D-5 and 195-8, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Legislature has been engaged in an ongoing effort to make resolution of minor criminal offenses, including traffic violations, as simple as possible for the average citizen and to ensure that police, prosecutor, and judicial resources are focused on the most serious criminal offenses.

This bill seeks to decriminalize traffic infractions within natural area reserves, game management areas, wildlife sanctuaries, and public hunting areas so that they are comparable with the penalties for similar infractions established for the State Park System. The proposed amendments create a new type of offense for traffic infractions adjudicated pursuant to chapter 291D, HRS. The reference to "monetary assessment" would be consistent with the terminology used in chapter 291D, HRS.

Impact on the public: The bill would simplify resolution of traffic violations occurring on certain state lands.

Impact on the department and other agencies: The bill would reduce effort and resources expended to resolve minor traffic violations occurring on certain state lands for the Department, the police, the prosecutors, and the Judiciary.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 402, 407, and 804.

OTHER AFFECTED
AGENCIES: Police departments, Judiciary, Prosecuting
Attorney offices.

EFFECTIVE DATE: Upon approval.