

JAN 18 2019

A BILL FOR AN ACT

RELATING TO TRAILS.

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

1 SECTION 1. Section 137-2, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Whenever any government entity engages in a search or
4 rescue operation for the purpose of searching for or rescuing a
5 person, and incurs search and rescue expenses therein, the
6 government entity [~~may~~] shall seek reimbursement from the
7 following:

8 (1) The person on whose behalf search or rescue operations
9 were conducted, including the person's estate,
10 guardians, custodians, or other entity responsible for
11 the person's safety;

12 (2) A person who ultimately benefited from a search or
13 rescue operation by being rescued; or

14 (3) Any entity responsible for placing the person in the
15 position of danger for which the search or rescue
16 operation was initiated."



1 SECTION 2. Section 184-5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§184-5 Rules and enforcement; penalty. (a) The
4 department may, subject to chapter 91, make, amend, and repeal
5 rules having the force and effect of law, governing the use and
6 protection of the state park system, including state monuments
7 as established under section 6E-31, and including any private
8 property over which there has been granted to the State any
9 right of free public access or use for recreational, park,
10 viewing of any historical, archaeological, natural, or
11 scientific feature, object, or site, or related purpose, or
12 property thereon, and also governing the use and protection of
13 any recreational, scenic, historical, archaeological, natural,
14 scientific, and related resources of state and private lands,
15 and enforce those rules. Any person who violates any of the
16 rules so prescribed shall be held liable for restoration of or
17 restitution for any damages to public or private property and
18 shall also be subject to the confiscation of any tools and
19 equipment used in the violation and of any plants, objects, or
20 artifacts removed illegally from such properties. Except as
21 otherwise provided by the department, the more restrictive rules



1 of the department shall apply in any unit of the state park
2 system or any public use area which is also governed by the
3 rules of any forest reserve, public hunting ground, or other
4 department district or area.

5 (b) Except as provided in [~~subsection~~] subsections (c) [7]
6 and (d), any person violating this chapter, any rule adopted
7 pursuant thereto, or the terms and conditions of any permit
8 issued thereunder, in addition to any other penalties, shall be
9 guilty of a petty misdemeanor and shall be fined not less than:

- 10 (1) \$100 for a first offense;
- 11 (2) \$200 for a second offense; and
- 12 (3) \$500 for a third or subsequent offense.

13 (c) Any person violating this chapter, any rule adopted
14 pursuant thereto, or the terms and conditions of any permit
15 issued thereunder, regulating vehicular parking or traffic
16 movement shall have committed a traffic infraction as set forth
17 in chapter 291D, the adjudication of which shall be subject to
18 the provisions contained therein. A person found to have
19 committed such a traffic infraction shall be fined not more
20 than:

- 21 (1) \$100 for a first violation;



1 (2) \$200 for a second violation; and

2 (3) \$500 for a third or subsequent violation.

3 (d) Any person violating this chapter, any rule adopted
4 pursuant thereto, or the terms and conditions of any permit
5 issued thereunder, restricting public access to a trail, shall
6 be guilty of a petty misdemeanor and shall be fined not less
7 than:

8 (1) \$500 for a first violation;

9 (2) \$750 for a second violation; and

10 (3) \$1,000 for a third or subsequent violation.

11 [~~d~~] (e) The fines specified in this section shall not be
12 suspended or waived. Each day of each violation shall
13 constitute a separate offense.

14 [~~e~~] (f) Any civil penalty for any violation of this
15 chapter or any rule adopted thereunder shall not be deemed to
16 preclude the State from pursuing any criminal action against
17 that person.

18 [~~f~~] (g) The department may confer on the director of
19 state parks and upon other employees of the division the powers
20 of police officers, including the power to serve and execute
21 warrants and arrest, or issue summons or citations to, offenders



1 in all matters relating to the enforcement, in any state park,
2 parkway, or state monument, or in any private property over
3 which there has been granted to the State any right of free
4 public access or use for recreational, park, viewing of any
5 historical, archaeological, natural, or scientific feature,
6 object, or site, or related purpose of:

- 7 (1) The laws applicable to the state parks and parkways
8 and to historical objects and sites and the rules
9 adopted under the provisions of this section; and
- 10 (2) Traffic laws and ordinances.

11 Those police powers shall also extend to the enforcement of laws
12 of the State and the rules of the department relative to the
13 protection and proper use of the recreational, scenic,
14 historical, natural, and archaeological, scientific, and related
15 resources of state and private lands. The conferring of powers
16 shall include the designation of those employees as state parks
17 enforcement officers."

18 SECTION 3. Section 198D-13, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§198D-13[+] **Criminal penalties.** (a) [~~In~~] Except as
21 provided in subsection (b), in addition to any other penalties,



1 any person violating this chapter, any rule adopted pursuant to
2 this chapter, or the terms and conditions of any permit issued
3 in accordance with this chapter shall be guilty of a petty
4 misdemeanor and shall be fined not less than:

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

8 (b) Any person violating this chapter, any rule adopted
9 pursuant to this chapter, or the terms and conditions of any
10 permit issued in accordance with this chapter, restricting
11 public access to a trail, shall be guilty of a petty misdemeanor
12 and shall be fined not less than:

- 13 (1) \$500 for a first offense;
- 14 (2) \$750 for a second offense; and
- 15 (3) \$1,000 for a third or subsequent offense.

16 [~~b~~] (c) The fines specified in this section shall not be
17 suspended or waived. Each day of each violation shall
18 constitute a separate offense.

19 [~~e~~] (d) Any criminal action against a person for any
20 violation of this chapter or any rule adopted pursuant to this
21 chapter shall not be deemed to preclude the State from pursuing



1 civil legal action to recover administrative fines and costs
2 against that person. Any civil legal action against a person to
3 recover administrative fines and costs for any violation of this
4 chapter or any rule adopted pursuant to this chapter shall not
5 be deemed to preclude the State from pursuing any criminal
6 action against that person."

7 SECTION 4. Section 708-814.7, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (1) to read:

10 "(1) Except for lands owned by the office of Hawaiian
11 affairs, and except for improved state lands that are designated
12 safe havens by state departments or agencies, or that are under
13 executive order by the governor to be used as a safe haven and
14 have a department of health component and adequate space, not to
15 include state hospitals, a person commits the offense of
16 criminal trespass onto state lands if:

17 (a) The person enters or remains unlawfully in or upon any
18 improved state land when:

19 (i) The land is closed to public use and its closure
20 hours are posted on a sign or signs on the
21 improved state land, and after a request to leave



1 is made by any law enforcement officer the person
2 remains in or upon the land; or

3 (ii) The land is not open to the public and there are
4 signs that are sufficient to give reasonable
5 notice that read: "Government Property - No
6 Trespassing"; provided that these signs shall
7 contain letters no less than two inches in height
8 and shall be placed at reasonable intervals no
9 less than three signs to a mile along the
10 boundary line of the land and at all roads and
11 trails entering the land in a manner and position
12 as to be clearly noticeable from outside the
13 boundary; [~~or~~]

14 (b) The person enters or remains unlawfully in or upon any
15 state land on or under any highway, and the state land
16 has a sign or signs displayed upon the land that are
17 sufficient to give reasonable notice that read:
18 "Government Property - No Trespassing"; provided that
19 the signs shall contain letters no less than two
20 inches in height and shall be placed at reasonable
21 intervals no less than three signs to a mile along the



1 boundary line of the land and at all roads and trails
2 entering the land in a manner and position as to be
3 clearly noticeable from outside the boundary[-]; or
4 (c) The person enters or remains unlawfully in or upon a
5 trail on state land that has been closed to public use
6 and has a sign or signs displayed across or adjacent
7 to the trail that are sufficient to give reasonable
8 notice of the closure; provided that the signs shall
9 contain letters no less than two inches in height and
10 shall be placed at the entry to the trail in a manner
11 and position as to be clearly noticeable from outside
12 the trail; provided further that a person who violates
13 this paragraph shall be fined:

- 14 (i) \$500 for a first offense;
- 15 (ii) \$750 for a second offense; and
- 16 (iii) \$1,000 for a third or subsequent offense."

17 2. By amending subsection (3) to read:

18 "(3) For the purposes of this section, unless the context
19 requires otherwise:

20 "Highway" has the same meaning as in section 286-2.

1 "Improved state land" means any state land, including but
2 not limited to harbors under the care and control of the
3 department of transportation under chapter 266, and small boat
4 harbors under the care and control of the department of land and
5 natural resources under chapter 200, upon which there is
6 improvement, including any structure, building, or facility; or
7 alteration of the land by grading, dredging, or mining that
8 would cause a permanent change in the land or that would change
9 the basic natural condition of the land. Land is not "improved
10 state land" if it only has minor improvements, including utility
11 poles, signage, and irrigation facilities or systems; or minor
12 alterations undertaken for the preservation or prudent
13 management of the unimproved or unused land, including fences,
14 trails, or pathways. Land is not "improved state land" solely
15 due to the performance of state maintenance activities on the
16 land, including forest plantings and the removal of weeds,
17 brush, rocks, boulders, or trees; or removal or securing of
18 rocks or boulders undertaken to reduce risk to downslope
19 properties.

20 "State lands" means all land owned by the State through any
21 of its departments or agencies.



1 "Trail" has the same meaning as in section 198D-1."

2 SECTION 5. This Act does not affect rights and duties that
3 matured, penalties that were incurred, and proceedings that were
4 begun before its effective date.

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

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

8

INTRODUCED BY:

Bill Johnson
Scott Sandage
Frank King
Bill Rievers

Mike Hubbard
Breene Hunt
Michelle
Clarence W. Smith
Karl Rhoads
Steve
Randy de Bevoise
Paul
Joe



S.B. NO. 248

Report Title:

Trails; State Land; Closed to the Public; Trespassing;
Penalties; Search and Rescue; Department of Land and Natural
Resources

Description:

Requires government entities that engage in search and rescue operations to seek reimbursement when the rescued person required search and rescue efforts because that person acted in disregard of that person's safety, including intentionally disregarding a warning or notice. Increases the penalty for unlawfully entering or remaining on a trail that has been closed to the public.

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

