

JAN 27 2021

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# 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:

17       (1) For a first conviction, by a mandatory fine of not  
18       less than \$100, or imprisonment of not more than

thirty days, or both and all animal parts, products, or items containing prohibited animal parts or products involved in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State;

(2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; and

(3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State.

(b) Any person violating section [~~183D-66,~~] 183D-25.5, 183D-26, 183D-27, 183D-32, 183D-62, [~~or~~] 183D-64, or 183D-66 shall be guilty of a misdemeanor, and upon conviction thereof, 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 and all animal parts, products, or items  
4       containing prohibited animal parts or products  
5       involved in the commission of the violations shall be  
6       considered contraband to be forfeited to and disposed  
7       of by the State;

8       (2) For a second conviction within five years of a  
9       previous conviction, by a mandatory fine of not less  
10      than \$1,000, or by imprisonment of not more than one  
11      year, or both, and all firearms, animal parts,  
12      products, or items containing prohibited animal parts  
13      or products used in the commission of the violations  
14      shall be considered contraband to be forfeited to and  
15      disposed of by the State; and

16      (3) For a third or subsequent conviction within five years  
17      of the first two or more convictions, by a mandatory  
18      fine of not less than \$2,000, or by imprisonment of  
19      not more than one year, or both, and all firearms,  
20      animal parts, products, or items containing prohibited  
21      animal parts or products used in the commission of the

violations shall be considered contraband to be  
forfeited to and disposed of by the State.

(c) Any person who violates section 183D-52 shall be  
guilty of a misdemeanor, and upon conviction thereof, shall be  
punished as follows:

(1) For a first conviction, by a mandatory fine of not  
less than \$10,000 and payment of any costs incurred in  
the eradication of any deer and the deer's progeny  
that has been possessed, transferred, transported, or  
released after transport, or by imprisonment of not  
more than one year, or both;

(2) For a second conviction within five years of a  
previous conviction, by a mandatory fine of not less  
than \$15,000 and payment of any costs incurred in the  
eradication of any deer and the deer's progeny that  
has been possessed, transferred, transported, or  
released after transport, or by imprisonment of not  
more than one year, or both; and

(3) For a third or subsequent conviction within five years  
of the first two or more convictions, by a mandatory  
fine of not less than \$25,000 and payment of any costs  
incurred in the eradication of any deer and the deer's

1 progeny that has been possessed, transferred,  
2 transported, or released after transport, or by  
3 imprisonment of not more than one year, or both.

4 (d) Any person who violates section 183D-35, 183D-36,  
5 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be guilty  
6 of a petty misdemeanor, and upon conviction thereof, shall be  
7 fined not less than \$100 or imprisoned not more than thirty  
8 days, or both.

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

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

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

22 (2) \$200 for a second violation; and

1        (3) \$500 for a third or subsequent violation.

2        [~~(f)~~] (g) Any person who is convicted of violating any of  
3 the game laws of the State, except as provided in subsection  
4 (f), shall immediately have the person's hunting license  
5 forfeited and any person convicted for a second offense shall  
6 not be granted a license to hunt for a period of three years  
7 after the date of the second conviction.

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

13        [~~(h)~~] (i) 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 subtitle 4 of title 12 or any  
20 rule adopted thereunder, or the conditions and restrictions of  
21 any license, permit, or check station issued or operated

1 pursuant thereto, shall not be deemed to preclude the State from  
2 pursuing any criminal action against that person."

3 SECTION 3. 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 section of this chapter or  
12 rule adopted by the department under this chapter regulating  
13 vehicular parking or traffic movement shall have committed a  
14 traffic infraction as set forth in chapter 291D, the  
15 adjudication of which shall be subject to the provisions  
16 contained therein. A person found to have committed such a  
17 traffic infraction shall be fined not more 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.

21 ~~[(b)]~~ (c) Except as otherwise provided by law, the board or  
22 its authorized representative by proper delegation is authorized

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

10 (1) For a first violation, a fine of not more than \$2,500;

11 (2) For a second violation within five years of a previous  
12 violation, a fine of not more than \$5,000; and

13 (3) For a third or subsequent violation within five years  
14 of the last violation, a fine of not more than  
15 \$10,000.

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



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1 adopted thereunder shall not be deemed to preclude the State  
2 from pursuing any criminal action against that person."

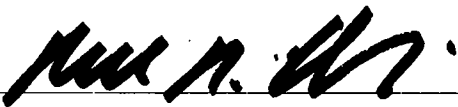
3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

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7

INTRODUCED BY:



8

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.*

# SB. NO. 1161

## 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.

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.

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

Impact on the department and other agencies: This bill will 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 172, 402, and 407.

OTHER AFFECTED

AGENCIES: Police departments, Judiciary, Prosecuting  
Attorney offices.

EFFECTIVE DATE: Upon approval.