

ACT 296

S.B. NO. 2458

A Bill for an Act Relating to Marine Patrol.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the increased use of the State's shores and ocean waters for commercial and recreational activity has resulted in a need for expanded and more effective enforcement programs to preserve and protect Hawaii's natural resources. While the legislature has authorized additional positions for the State's marine patrol program to mitigate the enforcement staffing shortage problem, the legislature finds that inadequacies still exist as the responsibilities for the enforcement of the shorelines and ocean waters are split between the department of land and natural resources and the department of public safety. The Auditor's report of December, 1992, which examined this issue revealed that the marine patrol unit belongs more properly in the department of land and natural resources rather than the department of public safety. The purpose of this Act is to provide for a better coordinated shoreline and ocean waters enforcement program by transferring the functions of the marine patrol program from the department of public safety to the department of land and natural resources.

SECTION 2. Section 199-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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, and any other lands and waters subject to the jurisdiction of the department of land and natural resources, shall:

- (1) Enforce title 12, and chapter 6E, 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 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] 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
- (8) Carry out such other duties and responsibilities as the board of land and natural resources from time to time may direct."

SECTION 3. Section 200-2, Hawaii Revised Statutes, is amended to read as follows:

"[§200-2] Board of land and natural resources, powers and duties. The board shall [establish within the department a separate administrative unit which shall] have the primary responsibility for administering the ocean recreation and coastal areas programs and performing the functions heretofore performed by the department of transportation[.] and the department of public safety in the areas of boating safety, conservation, search and rescue, and security of small boat harbor environs."

SECTION 4. Section 266-24, Hawaii Revised Statutes, is amended to read as follows:

"§266-24 Enforcement. The director of transportation shall enforce this chapter and all rules thereunder, except for the rules relative to the control and management of the beaches encumbered with easements in favor of the public and ocean waters which shall be enforced by the department of land and natural resources. For the purpose of the enforcement of this chapter and of all rules adopted pursuant to this chapter the powers of police officers are conferred upon the director of transportation and any officer, employee, or representative of the department of transportation. Without limiting the generality of the foregoing, the director and any person appointed by the director hereunder may serve and execute warrants, arrest offenders, and serve notices and orders. Every state and county officer charged with the enforcement of laws and ordinances shall enforce and assist in the enforcement of this chapter and of all rules adopted pursuant to this chapter."

SECTION 5. Act 272, Session Laws of Hawaii 1991, is amended by repealing section 31.

[**"SECTION 31. Enforcement by the marine patrol.** Pursuant to section 1 of Act 211, Session Laws of Hawaii 1989, the law enforcement and security functions and employees of the department of transportation shall be transferred to the department of public safety effective July 1, 1991. It is the intent of the legislature that the marine patrol, which is currently under the department of transportation and will be transferred to the department of public safety on July 1, 1991, shall be primarily responsible for the enforcement of boating, ocean, recreational, and coastal area programs pursuant to chapter . The department of land and natural resources shall cooperate with the department of public safety to ensure the effective coordination of resource management, conservation, education, enforcement, and control with regard to the enforcement of chapter ."]

SECTION 6. All rights, powers, functions, and duties of the department of public safety, maritime law enforcement division, marine patrol branch, are transferred to the department of land and natural resources, conservation and resources enforcement program under chapter 199, Hawaii Revised Statutes.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided, however, nothing in this Act shall be construed to exempt any officer or employee of the State involved in this transfer from any type of employment action, including, without limitation, any reduction in force.

SECTION 7. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other property heretofore made, used, acquired, or held by the department of public safety, maritime law enforcement division, marine patrol branch, shall be transferred to the department of land and natural resources, conservation and resources enforcement program under chapter 199, Hawaii Revised Statutes.

SECTION 8. The chairperson of the board of land and natural resources shall submit a report to the legislature on the need for any additional enforcement duties under chapter 199, Hawaii Revised Statutes, that may be necessary for enforcement of the department of land and natural resources's boating, ocean recreation, and coastal area programs under chapter 200, Hawaii Revised Statutes. The report shall specify:

- (1) How enforcement duties under chapter 199, Hawaii Revised Statutes, have been integrated and exercised within the department's boating, ocean recreation, and coastal area programs under chapter 200, Hawaii Revised Statutes;
- (2) The specific training, qualifications, job descriptions, and duties of conservation and resources enforcement officers under chapter 199, Hawaii Revised Statutes, necessary for the enforcement of boating, ocean recreation, and coastal area programs under chapter 200, Hawaii Revised Statutes; and
- (3) Recommended legislation necessary for any additional enforcement duties necessary for boating, ocean recreation, and coastal area programs under chapter 200, Hawaii Revised Statutes.

The chairperson of the board of land and natural resources shall submit the report to the legislature no later than twenty days prior to the convening of the regular session of 1997.

SECTION 9. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefore to the legislature at its next session thereafter for review by the legislature.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved July 1, 1996.)