

ACT 34

H.B. NO. 691

A Bill for an Act Relating to Penalties for the Statewide Trail and Access Program.

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

SECTION 1. Chapter 198D, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§198D- General administrative penalties. (a) Except as otherwise provided by law, the board or its authorized representative by proper delegation may set, charge, and collect administrative fines or bring legal action to recover administrative fees and costs as documented by receipts or affidavit, including attorneys’ fees and costs; or bring legal action to recover administrative fines, fees, and costs, including attorneys’ fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter or any rule adopted pursuant to this chapter. The administrative fines shall be as follows:

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

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

(b) Any criminal action against a person for any violation of this chapter or any rule adopted pursuant to this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter or any rule adopted pursuant to this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.

§198D- Criminal penalties. (a) In addition to any other penalties, any person violating this chapter, any rule adopted pursuant to this chapter, or the terms and conditions of any permit issued in accordance with this chapter shall be guilty of a petty misdemeanor and shall be fined not less than:

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

(b) The fines specified in this section shall not be suspended or waived. Each day of each violation shall constitute a separate offense.

(c) Any criminal action against a person for any violation of this chapter or any rule adopted pursuant to this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter or any rule adopted pursuant to this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 2001.)

Note

- 1. Edited pursuant to HRS §23G-16.5.