

ACT 93

S.B. NO. 1165

A Bill for an Act Relating to Penalties for Natural Resources.

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

SECTION 1. Section 195-8, Hawaii Revised Statutes, is amended to read as follows:

“§195-8 Penalty. (a) Any person who violates any of the laws and rules applicable to the reserves system, upon conviction thereof, shall be guilty of a misdemeanor and shall be fined not [~~more~~] less than \$1,000 or imprisoned not more than one year, or both, for each offense.

(b) Except as otherwise provided by law, the board or its authorized representative by proper delegation is authorized to 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 thereunder. 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.

(c) Any criminal action against a person for any violation of this chapter or any rule adopted thereunder 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 thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.”

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SECTION 2. Section 195D-9, Hawaii Revised Statutes, is amended to read as follows:

“§195D-9 Penalty. (a) Any person who violates any of the provisions of this chapter of the provisions of any rule adopted hereunder shall be guilty of a misdemeanor and shall be punished as follows:

- (1) For a first [~~conviction~~] offense by a fine of not less than \$250 [~~nor more than \$1,000~~] or by imprisonment of not more than one year, or both; and
- (2) For a second or subsequent [~~conviction~~] offense within five years of a previous conviction by a fine of not less than \$500 [~~nor more than \$1,000~~] or by imprisonment of not more than one year, or both.

(b) In addition to the above penalties, except for violations under approved habitat conservation plans under section 195D-21 or approved safe harbor agreements under section 195D-22 as determined by the board, a fine of [~~\$500~~] \$5,000 for each specimen of a threatened species and [~~\$1,000~~] \$10,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to section 183D-10.5.

(d) Except as otherwise provided by law, the board or its authorized representative by proper delegation is authorized to 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 thereunder. 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.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife or plant taken, killed, injured, or damaged in violation of this chapter or any rule adopted thereunder.

(f) Any criminal action against a person for any violation of this chapter or any rule adopted thereunder 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 thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.”

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

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

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

(Approved May 17, 2001.)