

A Bill for an Act Relating to State Parks Penalties.

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

SECTION 1. Chapter 184, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§184- 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 to recover administrative fees and costs as documented by receipts or affidavits, including attorney’s fees and costs; or bring legal action to recover administrative fines, fees, and costs, including attorney’s fees and costs; or payment for damages or for the cost to correct damages resulting from a violation of this chapter, any rule adopted, or permit issued thereunder.

(b) 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, by a fine of not more than \$10,000.

(c) In addition, a fine of up to \$5,000 may be levied for each:

- (1) Archaeological or historical feature appropriated, damaged, removed, excavated, disfigured, defaced, or destroyed;
- (2) Geological feature destroyed, disturbed, mutilated, dug, removed, excavated, quarried, blasted, or exploded;
- (3) Public property destroyed, defaced, removed, damaged, or possessed;
- (4) Wildlife molested, disturbed, injured, trapped, taken, caught, possessed, poisoned, introduced, or killed; or
- (5) Habitat disturbed,

in violation of this chapter or any rule adopted thereunder.

(d) Any criminal penalty for any violation of this chapter or any rule adopted thereunder shall not be deemed to preclude the State from recovering additional administrative fines, fees, and costs, including attorney’s fees and costs.”

SECTION 2. Section 184-5, Hawaii Revised Statutes, is amended to read as follows:

“§184-5 Rules and enforcement; penalty. (a) The department may, subject to chapter 91, make, amend, and repeal rules ~~[and regulations]~~ having the force and effect of law, governing the use and protection of the state park system, including state monuments as established under section 6E-31, and including any private property over which there has been granted to the State any right of free public access or use for recreational, park, viewing of any historical, archaeological, natural, or scientific feature, object, or site, or related purpose, or property thereon, and also governing the use and protection of any recreational, scenic, historical, archaeological, natural, scientific, and related resources of state and private lands, and enforce such rules ~~[and regulations]~~. Any person who violates any of the rules ~~[and regulations]~~ so prescribed shall be held liable for restoration of or restitution for any damages to public or private property and shall also be subject to the confiscation of any tools and equipment used in such violation and of any plants, objects, or artifacts removed illegally from such properties~~[-, and shall be guilty of a petty misdemeanor]~~. Except as otherwise provided by the department, the more restrictive

rules ~~[and regulations]~~ of the department shall apply in any unit of the state park system or any public use area which is also governed by the rules ~~[and regulations]~~ of any forest reserve, public hunting ground, or other department district or area.

(b) Any person violating this chapter, any rule adopted pursuant thereto, or the terms and conditions of any permit issued thereunder, in addition to any other penalties, 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.

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

(d) Any civil penalty 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.

(e) The department may confer on the director of state parks and upon other employees of the division the powers of police officers, including the power to serve and execute warrants and arrest offenders in all matters relating to the enforcement, in any state park, parkway, or state monument, or in any private property over which there has been granted to the State any right of free public access or use for recreational, park, viewing of any historical, archaeological, natural, or scientific feature, object, or site, or related purpose of:

- (1) ~~[the]~~ The laws applicable to the state parks and parkways and to historical objects and sites and the rules ~~[and regulations]~~ adopted under the provisions of this section; and
- (2) ~~[traffic]~~ Traffic laws and ordinances.

Such police powers shall also extend to the enforcement of¹ laws of the State and the rules ~~[and regulations]~~ of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural, and archaeological, scientific, and related resources of state and private lands. Such conferring of powers shall include the designation of such employees as state parks enforcement officers.’’

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 2002.)

Notes

1. Prior to amendment “the” appeared here.
2. Edited pursuant to HRS §23G-16.5.