

ACT 174

S.B. NO. 2358

A Bill for an Act Relating to Protection of Forest Reserves.

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

PART I

SECTION 1. Chapter 183, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§183- General administrative penalties. (a) Except as otherwise provided by law, the board or its authorized representative may:

- (1) Set, charge, and collect administrative fines;
- (2) Bring legal action to recover administrative fines, fees, and costs, including attorney’s fees and costs and costs associated with land or habitat restoration; and

(3) Collect administrative fees and costs pursuant to paragraph (2), resulting from a violation of this chapter, any rule adopted, or permit issued thereunder.

(b) The administrative fines for violation of this chapter shall be as follows:

- (1) For a first violation, or any violation not preceded within a five-year period by a violation of this chapter, a fine of not more than \$2,500 per violation;
- (2) For a second violation within five years of a previous violation of this chapter, a fine of not more than \$5,000 per violation; and
- (3) For a third or subsequent violation within five years of the last violation of this chapter, a fine of not more than \$10,000 per violation.

(c) In addition:

- (1) A fine of up to \$10,000 per violation of section 183-17 may be levied for each destroyed or harvested koa tree, or portion thereof, larger than six inches in diameter at ground level; and
- (2) A fine of up to \$2,000 per violation of section 183-17 may be levied for each destroyed or harvested tree or plant, other than koa, or portion thereof, larger than six inches in diameter at ground level.

(d) Any criminal prosecution 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.

(e) No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to Article XII, Section 7 of the Hawaii State Constitution.

(f) The department shall submit an annual report outlining the revenues generated by the penalties to the legislature at least twenty days before the convening of each regular session.”

SECTION 2. Section 183-18, Hawaii Revised Statutes, is amended to read as follows:

“§183-18 [~~Penalty.~~] Criminal penalties. Any person who violates section 183-17, upon conviction thereof, is guilty of a misdemeanor and shall be fined not more than ~~[\$1,000]~~ \$2,000 or imprisoned not more than one year, or both. In addition to any other penalty imposed under this section, a fine of up to \$2,000 shall be levied for each tree illegally destroyed or harvested under section 183-17.”

PART II

SECTION 3. The legislature finds that the current statute requires that income from the harvest and sale of certain forest products and tree seedlings of the forest reserves be deposited into the forest stewardship fund, but provides that “other moneys accrued from any forest reserve or the products thereof” be deposited into the general fund.

The purpose of this part is to provide that all revenues derived from the forest reserves be deposited into the forest stewardship fund to, among other things, protect the forest reserves by:

- (1) Deleting confusing and contradictory language requiring the depository of “other moneys accrued from any forest reserve or the products thereof” into the general fund; and
- (2) Adding that other products, services, or values derived from the forest reserves and moneys from fines and penalties be deposited into the forest stewardship fund.

SECTION 4. Section 183-16, Hawaii Revised Statutes, is amended to read as follows:

“§183-16 [~~Income]~~ Revenue from forest reserves. [(a)] Any moneys accrued from:

- (1) The harvest of non-native forest products from forest reserves;
- (2) The harvest of native forest products from degraded forests as defined in section 186-5.5, within forest reserves;
- (3) The sale of forest products found dead and lying on the ground; [~~or~~]
- (4) The sale of tree seedlings from state nurseries;
- (5) The sale of any other products or services, or anything of value derived from forest reserves not described above; or
- (6) The imposition of fines or penalties for violations of this chapter and chapters 185 and 195F or any rule adopted thereunder,

shall be deposited into the forest stewardship fund.

~~[(b) Any other moneys accrued from any forest reserve or the products thereof shall be deposited into the general fund.]”~~

SECTION 5. Section 195F-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a special fund within the state treasury known as the forest stewardship fund which shall be used as follows:

- (1) Payments shall be made by the board pursuant to agreements entered into with qualified landowners to further the purposes of this chapter;
- (2) Moneys collected from [~~the~~]:
 - (A) The harvest of non-native forest products from forest reserves[;
from the];

- (B) The harvest of native forest products from degraded forests as defined in section 186-5.5, within forest reserves~~[, from];~~
- (C) The sale of forest products found dead and lying on the ground~~[, or from the];~~
- (D) The sale of tree seedlings from [the] state nurseries~~[,];~~
- (E) The sale of any other products or services, or anything of value derived from forest reserves not described above; or
- (F) The imposition of fines or penalties for violations of this chapter and chapters 185 and 195F or any rule adopted thereunder;

shall be used for ~~[the following activities: (A) Replanting,];~~

- (i) Replanting, managing, and maintaining designated timber management areas; ~~[(B) Enhancing]~~
- (ii) Enhancing the management¹ of public forest reserves with an emphasis on restoring degraded koa forests; and ~~[(C) Developing]~~
- (iii) Developing environmental education and training programs pertaining¹ to sustainable forestry;

provided that the activities described in ~~[subparagraphs (B) and (C)]~~ clauses (ii) and (iii) may not be funded unless the activities described in approved management plans pertaining to ~~[subparagraph (A)]~~ clause (i) are adequately funded; and

- (3) Moneys deposited into the fund as authorized by section 247-7 may also be used by the department to administer the program~~[.]~~ and manage the forest reserve system.²

PART III

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 8. This Act shall take effect upon its approval.

(Approved June 6, 2006.)

Notes

- 1. Should not be underscored.
- 2. Edited pursuant to HRS §23G-16.5.