

A Bill for an Act Relating to Ocean Recreation.

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

SECTION 1. The legislature finds that small boat harbors and boating facilities are some of the most heavily trafficked facilities in the State, used by residents and tourists alike. The division of conservation and resources enforcement of the department of land and natural resources is responsible for enforcing all statutes and administrative rules of the department but spends a large part of its time responding to violations in small boat harbors and boating facilities.

Much of the enforcement effort at small boat harbors and boating facilities is necessary to ensure public health and safety, such as responding to vandalism, theft, trespassing, and squatting. In order to deter violators and repeat offenders, stricter penalties are needed. The provisions of section 200-14, Hawaii Revised Statutes, are unclear regarding whether criminal penalties are authorized for violations of the section, which has hindered enforcement efforts.

Therefore, the purpose of this Act is to clarify that criminal penalties are authorized for certain violations of ocean recreation laws.

SECTION 2. Section 200-14, Hawaii Revised Statutes, is amended to read as follows:

“§200-14 Violation of chapter or rules; penalty. (a) ~~[Except as provided in subsection (b), any person who violates any rule adopted by the department under this part or who violates this part, shall be fined not more than \$1,000 or less than \$50 for each violation, and any vessel, the agents, owner, or crew of which violate the rules of the department or this part, shall be fined not more than \$1,000 or less than \$50 for each violation; provided that in addition to or as a condition to the suspension of the fines and penalties, the environmental court may deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than thirty days.]~~ Any person who violates any provision in this chapter, or rule adopted by the department, relating to boating accidents, reckless or unauthorized operation of a vessel, unauthorized mooring of a vessel, unauthorized commercial activity, unauthorized camping within state small boat harbors or boating facilities, animal abandonment within state small boat harbors or boating facilities, or creation of animal colonies within state small boat harbors or boating facilities shall be guilty of a petty misdemeanor and shall be fined not more than \$1,000.

(b) Any person who violates any rule adopted by the department under this part regulating vehicular parking or traffic movement shall have committed a traffic infraction as set forth in chapter 291D, the adjudication of which shall be subject to the provisions contained therein. A person found to have committed ~~[such]~~ a traffic infraction shall be fined not more than:

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

(c)¹ Notwithstanding the provisions of subsection (a) ~~[establishing a fine of not more than \$1,000 or less than \$50 for each violation]~~, any person who knowingly or intentionally violates any rule adopted by the department relating to unauthorized discharge, dumping, or abandoning, in any state boating facility or state waters, of any petroleum product, hazardous material, or sewage in

violation of the state water quality standards established by the department of health, shall be fined not more than \$10,000 for each day of violation, and any vessel, the agents, owner, or crew of which violate the rules of the department shall be fined not more than \$10,000 for each day or instance of violation, ~~and any vessel,]~~ or sentenced to a term of imprisonment of not more than thirty days, or both. Each day or instance of each violation shall be deemed a separate offense. Additionally, the agents, owner, or crew of [which violate] any vessel that violates the rules of the department shall be fined not more than \$10,000 for each day of violation.

(d) As a condition of probation pursuant to sections 706-623 and 706-624, or as a condition to the suspension of any criminal penalties, the environmental court may provide that the defendant refrain from operating any vessel, including but not limited to any thrill craft or vessel engaged in parasailing or water sledding, in specified geographical areas of the waters of the State.

(e) For the purposes of this section, “operate”, “parasailing”, “thrill craft”, “vessel”, “water sledding”, and “waters of the State” have the same meaning as those terms are defined in section 200-23.”

SECTION 3. Section 200-14.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§200-14.5~~ **General administrative penalties.** (a) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney’s fees and costs, or bring legal action to recover administrative fines and 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 ~~[sub~~ title 8 of title 12] this chapter, chapter 200A or 200D, or any rule adopted thereunder.

(b) In addition to, or as a condition to the suspension of, any administrative fines and penalties, the board may deprive the offender of the privilege of registering or titling any vessel for use on waters of the State, or mooring any vessel in any state small boat harbor, boating facility, or waters of the State, for a period of not more than twenty-four months. Each day or instance of violation shall constitute a separate offense.

~~(b) For violations involving pollution of the waters of the State, the administrative fine shall be as follows:~~

- ~~(1) For a first violation or a violation beyond five years of a previous violation, a fine of not more than \$10,000;~~
- ~~(2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and~~
- ~~(3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.]~~

~~(c) For all violations, the administrative fine shall be as follows:~~

- ~~(1) For a first violation or a violation beyond five years of a previous violation, a fine of not more than \$5,000;~~
- ~~(2) For a second violation within five years of a previous violation, [by] a fine of not more than \$10,000; and~~
- ~~(3) For a third or subsequent violation within five years of the last violation, [by] a fine of not more than \$15,000.~~

~~(d) Any criminal action against a person for any violation of [sub~~ title 8 of title 12] this chapter, chapter 200A or 200D, or any rule adopted thereunder shall not preclude the State from pursuing civil legal action to recover administrative fines, fees and costs, or damages against that person. Any civil legal action

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to recover administrative fines, fees and costs, or damages for any violation of ~~[subtitle 8 of title 12]~~ this chapter, chapter 200A or 200D, or any rule adopted thereunder shall not preclude the State from pursuing any appropriate criminal action against that person. All fines, fees and costs, or damages recovered by the department under this section shall be deposited in the boating special fund.

(e) For the purposes of this section, “vessel” and “waters of the State” have the same meaning as those terms are defined in section 200-23.”

SECTION 4. Section 200-34, Hawaii Revised Statutes, is amended to read as follows:

“§200-34 Disposition of revenues. All fees and penalties collected pursuant to sections 200-10, 200-14, 200-14.5, ~~[200-25,]~~ and 200-32, and all fees and penalties established by rules adopted pursuant to sections 200-4 and 200-24, shall be deposited in the boating special fund.”

SECTION 5. Section 200-37.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) [Notwithstanding the provisions of section 200-25, any] Any person who violates this section shall be fined not more than \$100 for each separate offense. Each day of each violation constitutes a separate offense. Any action taken to impose or collect the fine provided by this section shall be considered a civil action.”

SECTION 6. Section 200-25, Hawaii Revised Statutes, is repealed.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 9. This Act shall take effect upon its approval.

(Approved July 8, 2024.)

Notes

1. Subsection printed as enacted.
2. Edited pursuant to HRS §23G-16.5.