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GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committees on  
WATER AND LAND  
and  
JUDICIARY AND LABOR**

**Monday, February 6, 2017  
2:45 PM  
State Capitol, Conference Room 224**

**In consideration of  
SENATE BILL 411  
RELATING TO CHAPTER 183, HAWAII REVISED STATUTES**

Senate Bill 411 proposes to: (1) amend fines for destroying or harvesting koa trees and other trees and plants on state lands to an amount up to current market value of each tree or plant at that location and the cost of restoration or replacement of the habitat; (2) clarifies that any person who violates a provision of Part II (Forest Reserves) of Chapter 183, Hawaii Revised Statutes (HRS), or any rule adopted pursuant thereto, other than Section 183-17, HRS, shall be guilty of a petty misdemeanor; and (3) repeals the general penalty provision of Chapter 183, HRS. **The Department of Land and Natural Resources (Department) supports this bill with a recommended amendment.**

Senate Bill 411 proposes to amend Subsection 183-5(c), HRS, regarding general administrative penalties for violation of Section 183-17, HRS, to update the fines for destroying or harvesting trees or plants on state forest reserve lands to amount up to market value of that tree or plant. The Department acknowledges that the existing, authorized fines under the statute are dated and do not equal or are, in some cases, less than the market value of the natural resource. Thus the current fines are not an effective deterrent to theft or destruction of the public's resources. After consultation with the Department of the Attorney General, the general forestry community, and review of other States' forest product theft regulations, the Department recommends a fine amount up to \$10,000 or three times of the market value at the time and place of the violation of each tree or plant, whichever is greater, in addition to other administrative fines associated with restoration or replacement of the natural resources or damage to public land.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Currently, Part II (Forest Reserves) of Chapter 183, HRS, does not allow for criminal penalties, except for timber trespass offenses. There are other types of offenses, including violations of administrative rules that warrant the imposition of a stricter penalty.

Establishing statutory authority for a criminal penalty to apply to any violation of Forest Reserves, or any rules adopted pursuant thereto, would strengthen the Department's enforcement capabilities, and allow for greater protection of the State's natural resources. This bill ensures a mechanism for pursuing enforcement actions when warranted, as well as providing a stronger deterrent for unauthorized and illegal use of public resources.

Section 183-4, HRS, authorizes general (civil) penalties for violations of Chapters 183 to 185, HRS; however, civil penalties are already provided in Section 183-5, HRS, and Section 184-5.5, HRS. Further while Chapter 185, HRS, pertaining to land fire protection, does not include a civil penalty, it does provide for criminal penalties under Section 185-7, HRS. Due to the serious risk of harm to people, the environment, wildlife, and habitat, the Department feels that violations of Chapter 185, HRS, should carry only criminal penalties - given the above, Section 183-4, HRS, is proposed for repeal.

Thank you for the opportunity to provide comments

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 8:43 PM  
**To:** WTL Testimony  
**Cc:** jamesjtz@aol.com  
**Subject:** \*Submitted testimony for SB411 on Feb 6, 2017 14:45PM\*

**SB411**

Submitted on: 2/2/2017

Testimony for WTL/JDL on Feb 6, 2017 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James Gauer	Individual	Support	No

Comments:

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