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# A BILL FOR AN ACT

RELATING TO CERTAIN PENALTIES FOR VIOLATIONS OF SUBTITLE 4.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 183-5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " [+] §183-5 [+] General [~~administrative~~] penalties. (a)

4 Except as otherwise provided by law, the board or its authorized  
5 representative may:

6 (1) Set, charge, and collect administrative fines;

7 (2) Bring legal action to recover administrative fines,

8 fees, and costs, including attorney's fees and costs

9 and costs associated with land or habitat restoration;

10 and

11 (3) Collect administrative fees and costs pursuant to

12 paragraph (2),

13 resulting from a violation of this chapter, any rule adopted, or

14 permit issued thereunder.

15 (b) [The] Except as provided in subsection (d), the

16 administrative fines for violation of this chapter shall be as

17 follows:



1 (1) For a first violation, or any violation not preceded  
2 within a five-year period by a violation of this  
3 chapter, a fine of not more than \$2,500 per violation;

4 (2) For a second violation within five years of a previous  
5 violation of this chapter, a fine of not more than  
6 \$5,000 per violation; and

7 (3) For a third or subsequent violation within five years  
8 of the last violation of this chapter, a fine of not  
9 more than \$10,000 per violation.

10 (c) In addition[+

11 ~~(1)~~ A], a fine of an amount up to \$10,000 or three times  
12 the market value at the time and place of the violation, as  
13 determined by the department, for each tree or tree products,  
14 including koa, whichever is greater, per violation of section  
15 183-17 may be levied for each destroyed, damaged, or harvested  
16 [koa] tree, or portion thereof, larger than six inches in  
17 diameter at ground level [+, and

18 ~~(2)~~ A fine of up to \$2,000 per violation of section 183-17  
19 may be levied for each destroyed or harvested tree or plant,  
20 other than koa, or portion thereof, larger than six inches in  
21 diameter at ground level.], in addition to any costs associated



1 with restoration or replacement of habitat and damages to public  
2 land or natural resources, or any combination thereof.

3 (d) Any person who violates any rule adopted by the  
4 department under this chapter regulating vehicular parking or  
5 traffic movement shall have committed a traffic infraction as  
6 set forth in chapter 291D, the adjudication of which shall be  
7 subject to the provisions contained therein. A person found to  
8 have committed such a traffic infraction shall be fined not more  
9 than:

- 10 (1) \$100 for a first violation;
- 11 (2) \$200 for a second violation; and
- 12 (3) \$500 for a third or subsequent violation.

13 ~~[(d)]~~ (e) Any criminal [prosecution] action against a  
14 person for any violation of this chapter or any rule adopted  
15 thereunder shall not be deemed to preclude the State from  
16 [recovering additional] pursuing civil legal action to recover  
17 administrative fines, fees, and costs, including attorney's fees  
18 and costs[-], or monetary assessments against that person. Any  
19 civil legal action against a person to recover administrative  
20 fines, fees, and costs, including attorney's fees and costs, or  
21 monetary assessments for any violation of this chapter or any



1 rule adopted thereunder shall not be deemed to preclude the  
2 State from pursuing any criminal action against that person.

3       ~~[(e)]~~ (f) No person shall be sanctioned pursuant to this  
4 section for the exercise of native Hawaiian gathering rights and  
5 traditional cultural practices as authorized by law or as  
6 permitted by the department pursuant to article ~~[xii]~~ XII,  
7 section 7, of the ~~[Hawaii]~~ state constitution.

8       ~~[(f)]~~ (g) The department shall submit an annual report  
9 outlining the revenues generated by the penalties to the  
10 legislature at least twenty days before the convening of each  
11 regular session."

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

14       "**§183-18 Criminal penalties.** ~~[Any person who violates~~  
15 ~~section 183-17, upon conviction thereof, is guilty of a~~  
16 ~~misdemeanor and shall be fined not more than \$2,000 or~~  
17 ~~imprisoned not more than one year, or both. In addition to any~~  
18 ~~other penalty imposed under this section, a fine of up to \$2,000~~  
19 ~~shall be levied for each tree illegally destroyed or harvested~~  
20 ~~under section 183-17.]~~ (a) Unless otherwise specified, any  
21 person who violates a provision of this part or a rule adopted



1 pursuant to this part shall be guilty of a petty misdemeanor. A  
2 person convicted of violating a provision of this part or a rule  
3 adopted pursuant to this part shall be sentenced, without the  
4 possibility of probation or suspension of sentence, as follows:

5       (1) A mandatory fine of not less than \$100, or  
6       imprisonment of not more than thirty days, or both,  
7       for a first offense, or any offense not preceded  
8       within a five-year period by a conviction for a prior  
9       offense;

10       (2) A mandatory fine of not less than \$500, or by  
11       imprisonment of not more than thirty days, or both,  
12       for an offense that occurs within five years of a  
13       conviction for a prior offense; and

14       (3) A mandatory fine of \$1,000, or imprisonment of not  
15       more than thirty days, or both, for an offense that  
16       occurs within five years of two or more convictions  
17       for prior offenses.

18 For purposes of this subsection, "offense" means a violation of  
19 any provision of this part or any rules adopted pursuant  
20 thereto.



1        (b) A person who is convicted for violating section 183-17  
2 is guilty of a misdemeanor and shall be fined not more than  
3 \$2,000 or imprisoned not more than one year, or both."

4        SECTION 3. Section 183-4, Hawaii Revised Statutes, is  
5 repealed.

6        [~~"§183-4 General penalty. Any person violating any of the~~  
7 ~~provisions of chapters 183 to 185, for which violation a penalty~~  
8 ~~is not otherwise provided, or violating any rule or regulation~~  
9 ~~of the department of land and natural resources, and any master~~  
10 ~~of any vessel which brings into the State any article which the~~  
11 ~~department shall at any time prohibit from being imported into~~  
12 ~~the State, and the master of any vessel from which is landed any~~  
13 ~~article required in chapters 183 to 185 to be inspected, before~~  
14 ~~the master has received a permit to land the articles from the~~  
15 ~~department or its officer or inspector, as in such chapters~~  
16 ~~provided, shall be fined not more than \$500."~~]

17        SECTION 4. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun before its effective date.

20        SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on December 31,  
2 2050.  
3



**Report Title:**

Destruction or Harvesting of Trees including Koa on State Lands;  
Forest Reserves Violations; Penalties

**Description:**

Amends fines for destroying or harvesting trees or tree products, including koa, on state forest reserves lands to an amount up to \$10,000 or three times the market value at the time and place of the violation for each tree, whichever is greater, in addition to any costs associated with restoration or replacement of the habitat and damages to public land or natural resources, or any combination thereof. Clarifies that any person violating any provision of part II (Forest Reserves) of chapter 183, Hawaii Revised Statutes, or any rule adopted pursuant thereto, other than section 183-17, Hawaii Revised Statutes, shall be guilty of a petty misdemeanor. Decriminalizes traffic infractions within forest reserves and sets fine amounts. Repeals the general penalty provision of section 183-4, Hawaii Revised Statutes. Takes effect 12/31/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

