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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

January 9, 2008

MEMORANDUM

TO: All Legislators

FROM: Ted Baker
Researcher

SUBJECT: Act 124, Session Laws of Hawaii 2005, Decriminalization of Nonserious Offenses

The Legislature has been engaged in an ongoing effort to make resolution of minor criminal offenses, including traffic violations, as simple as possible for the average citizen and to ensure that police, prosecutor, and judicial resources are focused on the most serious criminal offenses. Since 1978, the Legislature has undertaken comprehensive attempts to adjust the penalties for various minor criminal offenses, particularly those found outside the Hawaii Penal Code, such that they are consistent with the nature of the offense, the seriousness with which the offenses are viewed, and the need to deter and prevent commission of the offenses.

For example, Act 222, Session Laws of Hawaii 1978, and Act 214, Session Laws of Hawaii 1993, sought to delete criminal penalties for nonserious traffic offenses. Many offenses were changed from criminal offenses, which can result in a prison term, to violations, which are punishable by a maximum \$1,000 fine. These included operating a motor carrier vehicle without a safety inspection decal, leaving vehicles derelict or abandoned, failure to use a triangular emblem on a vehicle designed to move at slow speeds, and all offenses relating to the operation of bicycles. Act 214 also enacted a new set of procedural provisions, Chapter 291D, Hawaii Revised Statutes, designed to permit persons charged with minor offenses to pay fines by mail and to reduce the amount of time police officers and prosecutors spend in court.

Act 124, Session Laws of Hawaii 2005

In 2005, the Legislature adopted Act 124, Session Laws of Hawaii 2005 ("Act 124"), which called upon the Legislative Reference Bureau (Bureau) to "periodically identify . . . , review . . . ,

and analyz[e], to the extent possible, all state statutes (other than the Hawaii Penal Code) and rules that establish: (1) Criminal offenses specifically denominated as misdemeanors or petty misdemeanors; or (2) Criminal offenses that authorize imprisonment or fines in excess of \$1,000, or both, but that involve conduct for which, typically, only a fine is imposed." Act 124 calls upon the Judiciary to "identify any offenses that involve conduct for which, typically, only a fine is imposed and those that most frequently appear before the courts."

Thereafter, Act 124 requires the Bureau to "contact the state departments or agencies that have jurisdiction over the offenses identified by the judiciary and request their input as to whether and the extent to which the offenses can be decriminalized without undermining their ability to enforce laws within their jurisdiction." Finally, Act 124 requires the Bureau to "recommend changes to the penalties imposed by the state statutes and rules identified . . . that would make the penalties more consistent with the penalties imposed for decriminalized traffic infractions" and to suggest legislation accordingly.

Methodology

Pursuant to Act 124, the Bureau asked the Judiciary to provide the information called for by Act 124 for the five-year period from 2001 to 2005. The Judiciary provided the Bureau with information regarding misdemeanor and petty misdemeanor convictions from its District Court Criminal System. However, that information is limited by the fact that the District Court Criminal System did not track cases arising from violation of administrative rules; accordingly, those offenses, which have been reported to be numerous, were not included. Using the supplied data, we identified those offenses that we believe met the narrowest possible construction of the criteria established by the Legislature in Act 124. Specifically, these offenses are those for which a fine, but no prison time, was imposed during the five years from 2001 to 2005. That narrow construction was used because we thought it was important to be as cautious as possible in this first application of Act 124. We sent each of the executive branch departments a table that identified those offenses, by Hawaii Revised Statutes section number and offense name. We specifically advised the departments that they should not infer from our inclusion of an offense in the table that we had reached any conclusion as to whether that offense should be decriminalized.

To obtain the input of the departments with jurisdiction to enforce these statutory provisions, we asked them to review the list of offenses and determine which, if any, they believed could be decriminalized without undermining the ability to enforce laws within their jurisdiction. In doing so, we suggested that they consider, for example, whether there is an offense stated within the Penal Code that can be charged in those cases that require penal sanctions, including prison time, as opposed to any monetary and other sanctions that could be imposed if the offense were to be decriminalized. However, at least some of the offenses, e.g. those relating to regulation of firearms, do not fall within the purview of a single department or may be enforced primarily by the counties. Accordingly, we also sent the list to the Attorney General because, as the chief legal officer of the State, we believe he plays a unique role in this process. The Attorney General, in turn, sent the list on to the county prosecuting attorneys and police chiefs for input.

A table showing all of the offenses we identified to the departments, and the total number of cases involved, is attached as Table 1.

Proposed Legislation

The proposed legislation to implement the Bureau's recommendations is contained in the bill attached to this memorandum. We considered a number of factors before deciding which of the offenses should be included in the bill.

- (1) We gave the most weight to the recommendation of the department with primary jurisdiction over the offense. Thus, where a department supported decriminalization but the prosecutors and police chiefs did not, we deferred to the department. We take no position on the merits of the respective positions and believe that is a decision the Legislature should make. The instances of disagreement were relatively rare and are noted in the discussion below.
- (2) Whenever the department opposed decriminalization we eliminated it from consideration, even if the prosecutors and police chiefs took no position.
- (3) In several instances, neither the department nor the prosecutors and police chiefs gave a response to a specific section; accordingly, those were included in the bill. Again, we believe that the Legislature should make the decision as to these offenses.
- (4) In several instances, either the departments or the prosecutors and police chiefs identified certain rule violations, for which the Judiciary was not able to give us information, but that fell into the class of traffic-like offenses that the Legislature has already decriminalized in other contexts. We included these offenses, which comprise, for example, parking violations in state parks and harbors.
- (5) Finally, several offenses were not included because it is unclear whether they are, in fact, criminal or because they are no longer being used to sanction the conduct that led to their inclusion on the list sent to the departments. The latter group includes HOV-lane violations which had been penalized under section 264-64, HRS, but which are now penalized under section 291C-222, HRS.

A table showing the response of the departments is attached as Table 2. The footnotes to the table explain why the bill proposes to amend Hawaii Revised Statutes sections other than those identified in the table. Typically, the penalty for a particular offense to be decriminalized appears in a statutory section other than the one that defines the offense. Accordingly, the bill proposes to amend the applicable penalty section, not the section shown in the table that defines the offense. The sections to be amended by the bill are discussed below.

- (1) Section 150A-14, HRS: This section provides the penalty for offenses committed in violation of statutes governing the importation of plants, nondomestic animals, and microorganisms by, for example, airlines, under section 150A-5, HRS. This change would decriminalize these violations. The Department of Agriculture supports decriminalization. The prosecutors and police chiefs do not.
- (2) Section 184-5, HRS: This section provides the penalty for offenses committed in violation of statutes and administrative rules governing the state park system. The bill would amend this section to make all traffic offenses committed in the state parks traffic infractions, to be disposed of like other traffic offenses disposed of pursuant to chapter 291D, HRS, with similar fines. Other rule violations including, for example, alcohol offenses, would remain petty misdemeanors. This change was suggested by the Department of Land and Natural Resources as well as the prosecutors and police chiefs. It does not appear in the table because the Judiciary could not provide data or rule violations.
- (3) Section 200-14, HRS: This section provides the penalty for offenses committed in violation of statutes and administrative rules governing the use of small boat harbors. The bill would amend this section to make all traffic offenses committed in small boat harbors traffic infractions to be disposed of like other traffic offenses disposed of pursuant to chapter 291D, HRS, with similar fines. This change was suggested by the Department of Land and Natural Resources. It does not appear in the table because the Judiciary could not provide data or rule violations.
- (4) Section 200-25, HRS: This section provides the penalty for violation of statutes and administrative rules governing the operation of vessels in state waters. The bill would decriminalize these offenses. Other rule violations including, for example, alcohol offenses, would not be changed. This change was suggested by the Department of Land and Natural Resources. It does not appear in the table because the Judiciary could not provide data or rule violations.
- (5) Section 200-26, HRS: This section prescribes the procedure for arresting offenders who violate statutes and rules penalized under section 200-25, HRS. Since the bill would decriminalize those offenses, the amendment to this section would delete the authority to arrest for these offenses and authorize issuance of citations instead. This change was suggested by the Department of Land and Natural Resources.
- (6) Section 200-74, HRS: This section provides penalties for violation of statutes governing vessel identification. The bill would decriminalize these offenses and establish fines consistent with those provide by section 200-25, HRS. This change was suggested by the Department of Land and Natural Resources.

- (7) Section 261-21, HRS: This section provides penalties for offenses of statutes and rules governing safety, security, and commercial activities in public airports. While violation of rules governing motor vehicles and traffic movement in public airports is subject to only a fine, other offenses, including those involving baggage carts are a misdemeanor. This bill would decriminalize offenses involving baggage carts, dollies, and other similar devices and make them traffic infractions subject to chapter 291D, HRS. This change was suggested by the prosecutors and police chiefs. It does not appear in the table because the Judiciary could not provide data or rule violations.
- (8) Section 264-12, HRS: This section provides the penalty for violation of section 264-6, HRS, which typically involves unauthorized excavation or leaving a car parked or abandoned adjacent to a public highway. The bill would decriminalize this conduct but leave the \$250 maximum fine intact. Unauthorized excavation can be charged as criminal property damage under the Penal Code in the case of, for example, copper thieves, and the parking offense can be charged as a traffic infraction. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.
- (9) Section 264-102, HRS: This section provides the penalty for violation of section 264-111, HRS, which typically involves leaving a car parked with a "For Sale" sign adjacent to a public highway. The bill would decriminalize this conduct but leave the \$1,000 maximum fine intact. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.
- (10) Section 286-8, HRS: This section makes it a misdemeanor to violate rules governing the use of traffic control devices at highway work sites by those engaged in the highway work. Acts of recklessness or negligence at highway job sites that result in injury or death can be charged as crimes under the Penal Code. The bill would decriminalize this offense but leave the maximum \$1,000 fine intact. The Department of Transportation did not object to this change.
- (11) Section 286-29, HRS: This section makes it a misdemeanor for anyone to issue a vehicle inspection certificate if not authorized by the Department of Transportation to do so. This conduct can be charged under the Penal Code as forgery. The bill would decriminalize this offense but leave the \$1,000 maximum fine intact. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.
- (12) Section 286-136, HRS: This section provides the penalties for failure to surrender a driver's license after it is suspended by the court in violation of section 286-122, HRS, and hiring an unlicensed driver in violation of section 286-134, HRS. The bill would decriminalize the offenses but leave the \$1,000

maximum fine intact. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.

- (13) Section 286-214, HRS: This section makes it a misdemeanor to make or use a counterfeit motor carrier inspection certificate, to use the certificate on another vehicle, or to issue the certificate without an inspection. This conduct can be charged under the Penal Code as forgery. The bill would decriminalize the offense but leave the \$1,000 maximum fine intact. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.
- (14) Section 286-249, HRS: This section prohibits driving a commercial vehicle without a commercial driver's license or while the license is suspended. The bill would decriminalize driving a commercial vehicle without a commercial driver's license but leave intact the maximum lifetime disqualification from driving a commercial vehicle and the \$1,000 maximum fine. It would not change the penalty for driving a commercial vehicle while the commercial driver's license is suspended. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.
- (15) Section 291-52.7, HRS: This section makes it a misdemeanor to fraudulently manufacture, alter, or use a removable "handicapped" parking placard. The bill would decriminalize this offense but impose a maximum \$1,000 fine, consistent with the false certificate fines in sections 286-29 and 286-214, HRS. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.
- (16) Section 291C-205, HRS: This section makes it a misdemeanor to possess a moped or certain moped parts, knowing that the serial number has been altered or erased. The bill would decriminalize the offense but impose a maximum \$1,000 fine. The Department of Transportation did not object to this change. The prosecutors and police chiefs did object.

If you have any questions, please contact me by phone at 587-0666 or by email at tbaker@capitol.hawaii.gov.

APPROVED:



Ken H. Takayama
Acting Director

Enc.

TABLE 1**LIST OF OFFENSES SENT TO DEPARTMENTS**

HRS §	OFFENSE	TOTAL CASES
11-202	Campaign contribution made in false name	1
132D-5	Fireworks prohibitions	4
134-2	Permit to acquire firearm	1
134-3	Firearm registration required	10
134-4	Firearm possession transfer	1
134-8	Possession of detachable ammunition magazine with capacity in excess of 10 rounds	3
142-4	Importation of animals without inspection	2
142-8	Failure of aircraft/vessel captain to give notice of live animal import	1
142-12	Animal importation and possession penalties	2
142-74	Damage done by dog	2
143-2	Dog license required	1
150A-5	Conditions of importation of plants and animals	18
150A-6	Importation or possession of prohibited plants or animals	1
150A-7	Importation of restricted plants	1
150A-14	General prohibition penalties	6
183D-21	Hunting license required	21
183D-26	Hunting on private lands prohibited	2
183D-27	Night hunting on private lands prohibited	1
185-7	Prohibited fires on public lands	1
188-31	Permits to take aquatic life	2
188-35	Fishing in certain waters prohibited	4
188-44	Licenses for mullet	1
188-57	Licenses for certain crustaceans	1
189-2	Commercial marine license	12
189-3	Monthly catch report	12
189-10	Commercial marine life dealer license	3

HRS §	OFFENSE	TOTAL CASES
189-11	Commercial marine life dealer receipts required	8
264-6	Permit required for work on state highway	1
264-64	HOV lane violation	313
264-101	Vending from highways prohibited	6
281-84	Exclusion of intoxicated person from licensed premises	6
286-8	Construction in violation of highway traffic control devices	7
286-29	Improper representation as official inspection station	1
286-122	Failure to surrender driver's license after suspension	6
286-134	Employing unlicensed driver	19
286-214	Making issuing, or using false official inspection certificate	1
286-233	Failure of commercial driver to notify examiner of licenses of foreign state conviction	1
286-235	Driving commercial vehicle without commercial driver's license	7
291-52.7	Fraudulent or altered windshield placard	3
291C-205	Unlawful possession of certain mopeds or moped parts	3
431:10G-102	Motorcycle liability insurance required	1
439-2	Beauty operator license required	9
439-22	Cosmetology license required	1
445-114	Unlawful posting in public places	1
452-2	Massage license required	12
486-75	Properly functioning odometer required	1
486-77	Tampering with odometer; misrepresentation of mileage	3
	TOTAL	524

TABLE 2**DEPARTMENT RESPONSES**

HRS §	AG	DOA	DOT	DCCA	DLNR
11-202	No				
132D-5	No				
134-2	No				
134-3	No				
134-4	No				
134-8	No				
142-4	No	No			
142-8	N/R	No			
142-12	N/R	No			
142-74	N/R	No			
143-2	N/R	N/A			
150A-5	N/R	Yes ¹			
150A-6	No	No			
150A-7	N/R	No			
150A-14	No	Yes/No ²			
183D-21	No				No
183D-26	No				No
183D-27	No				No
185-7	No				No
188-31	No				No
188-35	No				No
188-44	No				No
188-57	No				No
189-2	N/R				No
189-3	N/R				No
189-10	N/R				No
189-11	N/R				No
264-6	No		Yes ³		
264-64	N/R		N/A		

HRS §	AG	DOA	DOT	DCCA	DLNR
264-101	No		Yes ⁴		
281-84	No		N/A		
286-8	N/R		Yes		
286-29	No		Yes		
286-122	No		Yes ⁵		
286-134	No		Yes ⁶		
286-214	No		Yes		
286-233	No		Yes ⁷		
286-235	No		Yes ⁸		
291-52.7	No		Yes		
291C-205	No		Yes		
431:10G-102	No			No	
439-2	No			No	
439-22	No			No	
445-114	N/R			N/R	
452-2	No			No	
486-75	N/R			N/A	
486-77	No			N/A	

N/R: No response. The Attorney General's response was limited to those offenses for which the county prosecutors and police chiefs objected to decriminalization. We declined to infer support for decriminalization of offenses as to those offenses for which no response was given. The response of the Director of Land and Natural Resources included both support and opposition to decriminalization, as noted, but no response as to some offenses.

N/A: Not applicable. The offense was deemed either outside the department's jurisdiction or not criminal in nature.

¹ The Department of Agriculture supported decriminalization of this section. However, because the penalties appear in section 150A-14, HRS, the bill proposes to amend that section, not section 150A-5, HRS.

² The Department of Agriculture supported decriminalization only of the offenses established by section 150A-5, HRS. They opposed decriminalization of the other offenses penalized by section 150A-14, HRS.

³ The Department of Transportation did not object to decriminalization of section 264-6, HRS. However, because the penalty for that section appears in section 264-12, HRS, the bill proposes to amend only the latter section.

⁴ The Department of Transportation did not object to decriminalization of section 264-101, HRS. However, because the penalty for that section appears in section 264-102, HRS, the bill proposes to amend only the latter section.

⁵ The Department of Transportation did not object to decriminalization of section 286-122, HRS. However, because the penalty for that section appears in section 286-136, HRS, the bill proposes to amend only the latter section.

⁶ The Department of Transportation did not object to decriminalization of section 286-134, HRS. However, because the penalty for that section appears in section 286-136, HRS, the bill proposes to amend only the latter section.

⁷ The Department of Transportation did not object to decriminalization of section 286-233, HRS. However, because the penalty for that section appears in section 286-249, HRS, the bill proposes to amend only the latter section.

⁸ The Department of Transportation did not object to decriminalization of section 286-235, HRS. However, because the penalty for that section appears in section 286-249, HRS, the bill proposes to amend only the latter section.

Report Title:

Minor Offenses; Decriminalization

Description:

Decriminalizes minor offenses outside the Penal Code pursuant to Act 124, SLH 2005.

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1 fine. These included operating a motor carrier vehicle without
2 a safety inspection decal, leaving vehicles derelict or
3 abandoned, failure to use a triangular emblem on a vehicle
4 designed to move at slow speeds, and all offenses relating to
5 the operation of bicycles. Act 214 also enacted a new set of
6 procedural provisions, chapter 291D, Hawaii Revised Statutes,
7 designed to permit persons charged with minor offenses to pay
8 fines by mail and to reduce the amount of time police officers
9 and prosecutors spend in court.

10 The legislature also adopted Act 124, Session Laws of
11 Hawaii 2005, which called upon the legislative reference bureau
12 to "periodically identify . . . , review . . . , and analyz[e],
13 to the extent possible, . . . state statutes (other than the
14 Hawaii Penal Code) and rules that establish: (1) Criminal
15 offenses specifically denominated as misdemeanors or petty
16 misdemeanors; or (2) Criminal offenses that authorize
17 imprisonment or fines in excess of \$1,000, or both, but that
18 involve conduct for which, typically, only a fine is imposed."
19 Act 124, Session Laws of Hawaii 2005, calls upon the judiciary
20 to review the list of offenses developed by the bureau and to
21 then "identify any offenses that involve conduct for which,

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1 typically, only a fine is imposed and those that most frequently
2 appear before the courts."

3 Thereafter, Act 124, Session Laws of Hawaii 2005, requires
4 the legislative reference bureau to "contact the state
5 departments or agencies that have jurisdiction over the offenses
6 identified by the judiciary and request their input as to
7 whether and the extent to which the offenses can be
8 decriminalized without undermining their ability to enforce laws
9 within their jurisdiction." Finally, Act 124, Session Laws of
10 Hawaii 2005, requires the legislative reference bureau to
11 "recommend changes to the penalties imposed by the state
12 statutes and rules identified . . . that would make the
13 penalties more consistent with the penalties imposed for
14 decriminalized traffic infractions."

15 This Act represents the effort of the judiciary, various
16 state departments, and the legislative reference bureau to
17 fulfill the mandate of Act 124, Session Laws of Hawaii 2005, to
18 identify minor criminal offenses for which typically only a fine
19 is imposed and which may be decriminalized without undermining
20 the ability of government to enforce laws within its
21 jurisdiction. The purpose of this Act is to make resolution of
22 minor criminal offenses, including traffic violations, as simple

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1 as possible for the average citizen and to ensure that police,
2 prosecutor, and judicial resources are focused on the most
3 serious criminal offenses.

4 PART II. AGRICULTURE AND ANIMALS

5 SECTION 2. Section 150A-14, Hawaii Revised Statutes, is
6 amended by amending subsections (a) and (b) to read as follows:

7 "(a) Any person who violates any provision of this chapter
8 other than sections 150A-5[~~(2)(B)~~, ~~150A-5(2)(C)~~], 150A-6(3), and
9 150A-6(4) or who violates any rule adopted under this chapter
10 other than those rules involving an animal that is prohibited or
11 a plant, animal, or microorganism that is restricted, without a
12 permit, shall be guilty of a misdemeanor and fined not less than
13 \$100. The provisions of section 706-640 notwithstanding, the
14 maximum fine shall be \$10,000. For a second offense committed
15 within five years of a prior offense, the person or organization
16 shall be fined not less than \$500 and not more than \$25,000.

17 (b) Any [~~transportation company that~~] person who violates
18 section 150A-5[~~(2)(B)~~ or ~~section 150A-5(2)(C)~~] shall be [~~guilty~~
19 ~~of a misdemeanor and~~] fined not less than \$100[~~. The provisions~~
20 ~~of section 706-640 notwithstanding, the maximum fine shall be~~
21 and not more than \$10,000. For a second [~~offense~~] violation
22 committed within five years of a prior [~~offense,~~] violation, the

1 company may be fined not less than \$500 and not more than
2 \$25,000."

3 PART III. CONSERVATION AND RESOURCES

4 SECTION 3. Section 184-5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§184-5 Rules and enforcement; penalty.** (a) The
7 department [~~may~~], subject to chapter 91, may make, amend, and
8 repeal rules having the force and effect of law, governing the
9 use and protection of the state park system, including state
10 monuments as established under section 6E-31, and including any
11 private property over which there has been granted to the State
12 any right of free public access or use for recreational, park,
13 viewing of any historical, archaeological, natural, or
14 scientific feature, object, or site, or related purpose, or
15 property thereon, and also governing the use and protection of
16 any recreational, scenic, historical, archaeological, natural,
17 scientific, and related resources of state and private lands,
18 and enforce [~~such~~] those rules. Any person who violates any of
19 the rules so prescribed shall be held liable for restoration of
20 or restitution for any damages to public or private property and
21 shall also be subject to the confiscation of any tools and
22 equipment used in [~~such~~] the violation and of any plants,

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1 objects, or artifacts removed illegally from such properties.
2 Except as otherwise provided by the department, the more
3 restrictive rules of the department shall apply in any unit of
4 the state park system or any public use area which is also
5 governed by the rules of any forest reserve, public hunting
6 ground, or other department district or area.

7 (b) ~~[Any]~~ Except as provided in subsection (c), any person
8 violating this chapter, any rule adopted pursuant thereto, or
9 the terms and conditions of any permit issued thereunder, in
10 addition to any other penalties, shall be guilty of a petty
11 misdemeanor and shall be fined not less than:

- 12 (1) \$100 for a first offense;
- 13 (2) \$200 for a second offense; and
- 14 (3) \$500 for a third or subsequent offense.

15 (c) Any person violating this chapter, any rule adopted
16 pursuant thereto, or the terms and conditions of any permit
17 issued thereunder, regulating vehicular parking or traffic
18 movement shall have committed a traffic infraction as set forth
19 in chapter 291D, the adjudication of which shall be subject to
20 the provisions contained therein. A person found to have
21 committed such a traffic infraction shall be fined not more
22 than:

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1 (1) \$100 for a first violation;

2 (2) \$200 for a second violation; and

3 (3) \$500 for a third or subsequent violation.

4 [~~(d)~~] (d) The fines specified in this section shall not be
5 suspended or waived. Each day of each violation shall
6 constitute a separate offense.

7 [~~(d)~~] (e) Any civil penalty for any violation of this
8 chapter or any rule adopted thereunder shall not be deemed to
9 preclude the State from pursuing any criminal action against
10 that person.

11 [~~(e)~~] (f) The department may confer on the director of
12 state parks and upon other employees of the division the powers
13 of police officers, including the power to serve and execute
14 warrants and arrest, or issue summons or citations to, offenders
15 in all matters relating to the enforcement, in any state park,
16 parkway, or state monument, or in any private property over
17 which there has been granted to the State any right of free
18 public access or use for recreational, park, viewing of any
19 historical, archaeological, natural, or scientific feature,
20 object, or site, or related purpose of:

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

5 [~~Such~~] Those police powers shall also extend to the enforcement
6 of laws of the State and the rules of the department relative to
7 the protection and proper utilization of the recreational,
8 scenic, historical, natural, and archaeological, scientific, and
9 related resources of state and private lands. [~~Such~~] The
10 conferring of powers shall include the designation of [~~such~~]
11 those employees as state parks enforcement officers."

12 SECTION 4. Section 200-14, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§200-14 Violation of rules; penalty.** (a) [~~Any~~] Except
15 as provided in subsection (b), any person who violates any rule
16 adopted by the department under this part or who violates this
17 part, shall be fined not more than \$1,000 or less than \$50 for
18 each violation, and any vessel, the agents, owner, or crew of
19 which violate the rules of the department or this part, shall be
20 fined not more than \$1,000 or less than \$50 for each violation;
21 provided that in addition to or as a condition to the suspension
22 of the fines and penalties, the court may deprive the offender

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1 of the privilege of operating or mooring any vessel in state
2 waters for a period of not more than thirty days.

3 (b) Any person who violates any rule adopted by the
4 department under this part 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 [~~b~~] (c) Notwithstanding the provisions of subsection (a)
14 establishing a fine of not more than \$1,000 or less than \$50 for
15 each violation, any person who violates any rule adopted by the
16 department relating to unauthorized discharge, dumping, or
17 abandoning, in any state boating facility or state waters, of
18 any petroleum product, hazardous material, or sewage in
19 violation of the state water quality standards established by
20 the department of health, shall be fined not more than \$10,000
21 for each day of violation, and any vessel, the agents, owner, or

.B. NO.

1 crew of which violate the rules of the department shall be fined
2 not more than \$10,000 for each day of violation."

3 SECTION 5. Section 200-25, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§200-25 Fines and penalties.** Any person violating this
6 part, or any rule adopted pursuant to this part, shall be fined
7 not less than \$50 and not more than \$1,000 [~~or sentenced to a~~
8 ~~term of imprisonment of not more than thirty days, or both,~~] for
9 each violation; provided that in addition to, or as a condition
10 to the suspension of, the fines and penalties, the court may
11 deprive the offender of the privilege of operating any vessel,
12 including but not limited to any thrill craft or vessel engaged
13 in parasailing or water sledding, in the waters of the State for
14 a period of not more than thirty days."

15 SECTION 6. Section 200-26, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending the title and subsection (a) to read:

18 "~~[§200-26] **Arrest or citation.**~~ Citation. (a) [~~Except~~
19 ~~when required by state law to take immediately before a district~~
20 ~~judge a person arrested for a violation of any provision of this~~
21 ~~part, including any rule adopted pursuant to this part, any] Any
22 person authorized to enforce this part, hereinafter referred to~~

.B. NO.

1 as an enforcement officer, upon [~~arresting a person for~~
2 determining that a person has committed a violation of any
3 provision of this part, including any rule adopted pursuant to
4 this part, [~~in the discretion of the enforcement officer,~~] shall
5 [~~either:~~

6 (1) ~~Issue~~ issue to the purported violator a summons or
7 citation, printed in the form described, warning the
8 purported violator to appear and answer to the charge
9 against the purported violator at a certain place and
10 at a time within seven days after [~~such~~] the arrest[~~+~~
11 ~~or~~

12 (2) ~~Take the purported violator without unnecessary delay~~
13 ~~before a district judge]."~~

14 2. By amending subsection (c) to read:

15 "(c) Any person who fails to appear at the place and
16 within the time specified in the summons or citation issued to
17 the person by the enforcement officer, [~~upon the person's arrest~~
18 ~~for violation of any provision of this part,~~] including any rule
19 adopted pursuant to this part, shall be guilty of a misdemeanor.

20 In the event any person fails to comply with a summons or
21 citation issued to that person, or if any person fails or
22 refuses to deposit bail as required, the enforcement officer

.B. NO.

1 shall cause a complaint to be entered against that person and
2 secure the issuance of a warrant for the person's arrest."

3 SECTION 7. Section 200-74, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]§200-74[+]~~ **Penalty.** Any person who violates this part
6 ~~[shall be guilty of a misdemeanor.]~~ shall be fined not less than
7 \$50 and not more than \$1,000."

8 PART IV. TRANSPORTATION AND UTILITIES

9 SECTION 8. Section 261-21, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§261-21 Penalties.** (a) ~~[Any]~~ Except as provided in
12 subsection (c), any person violating this chapter, or any of the
13 rules or orders issued pursuant thereto and relating to:

- 14 (1) Safety measures, practices, or requirements;
15 (2) Airport security measures or requirements; or
16 (3) The licensing and regulation of persons engaged in
17 commercial activities at public airports,
18 duly adopted or served, shall be guilty of a misdemeanor.

19 (b) Except as provided in subsection (c), any person
20 violating any rule relating to motor vehicles and traffic
21 control or the operation of any equipment or motor vehicle in or
22 on the operational area of the airport shall be guilty of an

.B. NO.

1 offense as defined under the Penal Code and be fined not more
2 than \$500.

3 (c) Any person violating any rule relating to parking of
4 motor vehicles or equipment at a public airport, including
5 baggage carts, dollies, and other similar devices, shall have
6 committed a traffic infraction as set forth in chapter 291D, the
7 adjudication of which shall be subject to the provisions
8 contained therein."

9 SECTION 9. Section 264-12, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§264-12 Penalty for violations.** Any person, including
12 any public officer or employee, who violates section 264-6[7]
13 shall be fined not more than \$250 [~~or imprisoned not more than~~
14 ~~three months, or both~~]."

15 SECTION 10. Section 264-102, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§264-102 Penalty.** Any person who violates section 264-
18 101 [~~is guilty of a petty misdemeanor and~~] shall be fined not
19 more than \$1,000 [~~or imprisoned not more than thirty days, or~~
20 ~~both~~]."

1 PART V. MOTOR AND OTHER VEHICLES

2 SECTION 11. Section 286-8, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "**§286-8 Rules [and regulations]**. In order to decrease the
5 deaths, injuries, damage, and losses resulting from highway
6 traffic accidents, the state director of transportation [~~shall~~],
7 subject to the requirements of chapter 91, shall adopt rules
8 [~~and regulations~~] dealing with: identification and surveillance
9 of accident locations; highway design, construction, and
10 maintenance; traffic control devices; pedestrian safety; police
11 traffic services; and debris hazard control and clean up.

12 Any person conducting construction, maintenance, surveying,
13 or other work on or adjacent to any public street or highway or
14 any street where traffic regulations are imposed by state or
15 county authority who violates the rules [~~and regulations~~]
16 governing the use of traffic control devices at [~~such~~] those
17 work sites [~~shall~~], in addition to any other penalty imposed by
18 law, shall be fined not more than \$1,000 [~~or imprisoned not more~~
19 ~~than one year, or both~~]."

20 SECTION 12. Section 286-29, Hawaii Revised Statutes, is
21 amended to read as follows:

.B. NO.

1 "~~§286-29~~ **Improper representation as official inspection**
2 **station.** Any person who [~~shall~~] in any manner [~~represent~~]
3 represents that the business operated at any location is an
4 official inspection station without a permit issued by the
5 department under section 286-27, or any person other than a
6 person operating an inspection station under a permit granted by
7 the department who issues a certificate of inspection, shall be
8 fined not more than \$1,000 [~~or imprisoned not more than one~~
9 ~~year, or both~~]."

10 SECTION 13. Section 286-136, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) Except as provided in subsection (b), any person who
13 violates section 286-102, [~~286-122,~~] 286-130, 286-131, 286-132,
14 or 286-133[~~, or 286-134~~] shall be fined not more than \$1,000 or
15 imprisoned not more than thirty days, or both. Any person who
16 violates any other section in this part shall be fined not more
17 than \$1,000.

18 (b) Any person who is convicted of violating section 286-
19 102, [~~286-122,~~] 286-130, 286-131, 286-132, or 286-133[~~, or 286-~~
20 ~~134~~] shall be subject to a minimum fine of \$500 and a maximum
21 fine of \$1,000, or imprisoned not more than one year, or both,

.B. NO.

1 if the person has two or more prior convictions for the same
2 offense in the preceding five-year period."

3 SECTION 14. Section 286-214, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~]**§286-214**[~~+~~] **False certificates.** Any person who makes,
6 issues, or knowingly uses any imitation or counterfeit of an
7 official certificate of inspection, or any person who displays
8 or causes or permits to be displayed upon any vehicle any
9 certificate of inspection knowing the same to be issued for
10 another vehicle or issued without an inspection having been made
11 or issued without authority as provided herein shall be fined
12 not more than \$1,000 [~~or imprisoned not more than one year, or~~
13 ~~both~~]."

14 SECTION 15. Section 286-249, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§286-249 Penalty.** (a) Any person who drives a
17 commercial motor vehicle in the State without a valid commercial
18 driver's license or permit[~~, or while the person's driving~~
19 ~~privileges are suspended, revoked, or canceled, or while~~
20 ~~disqualified from driving a commercial motor vehicle,~~] shall be:

.B. NO.

1 (1) Disqualified from driving a commercial motor vehicle
2 for a period of not less than one year and up to life;

3 and

4 (2) Fined not less than \$500 but not more than \$1,000[+;

5 and

6 ~~(3) Imprisoned not more than one year;~~

7 ~~provided that the court shall have discretion to impose either a~~
8 ~~fine or imprisonment, or both].~~

9 (b) Any person who drives a commercial motor vehicle in
10 the State while the person's driving privileges are suspended,
11 revoked, or canceled, or while disqualified from driving a
12 commercial motor vehicle shall be:

13 (1) Disqualified from driving a commercial motor vehicle
14 for a period of not less than one year and up to life;

15 and

16 (2) Fined not less than \$500 but not more than \$1,000; and

17 (3) Imprisoned not more than one year;

18 provided that the court shall have discretion to impose either a
19 fine or imprisonment, or both.

20 [~~b~~] (c) A driver who is convicted of violating an out-
21 of-service order shall be fined not less than \$1,100 nor more

.B. NO.

1 than \$2,750 in addition to the driving disqualification of
2 subsection (a)(1) and section 286-240(g) and (h)."

3 SECTION 16. Section 291-52.7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§291-52.7 Fraudulent manufacture or alteration of**
6 **placards and identification cards.** Any person who fraudulently
7 manufactures or alters a removable windshield placard, temporary
8 removable windshield placard, or identification card for
9 personal use, sale, or issuance to another person to circumvent
10 the issuance requirements of this part, or any person who uses a
11 fraudulently manufactured or altered placard or identification
12 card to circumvent the issuance requirements of this part, shall
13 be [~~guilty of a misdemeanor.~~] fined not more than \$1,000. The
14 fraudulent manufacture or alteration of each placard and of each
15 identification card for personal use, sale, or issuance or is
16 otherwise used in violation of this section shall constitute a
17 separate offense."

18 SECTION 17. Section 291C-205, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§291C-205 Unlawful to possess certain mopeds and moped**
21 **parts.** It shall be unlawful for any person to possess a moped,
22 a moped motor, or any moped part knowing that the serial or

.B. NO.

1 identification number placed thereon by the manufacturer has
2 been changed, altered, erased, or mutilated.

3 This section shall not prohibit the possession of a moped,
4 a moped motor, or any moped part whose original mark or number
5 has been restored when the restoration is authorized in writing
6 by the director of finance, nor prohibit any manufacturer from
7 placing in the ordinary course of business numbers or marks upon
8 new mopeds or new parts thereof. [~~Violation of~~] Any person who
9 violates this section shall be [~~a misdemeanor and shall result~~
10 ~~in a fine of not more than \$500.~~] fined not more than \$1,000."

11 SECTION 18. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 19. This Act shall take effect on October 1, 2008.

14

INTRODUCED BY: _____