

CHAPTER 184
STATE PARKS AND RECREATION AREAS

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PART I. STATE PARKS

§184-1 Definitions. As used in this part, unless otherwise indicated by the context:

"Department" means the department of land and natural resources;

"Land", without prejudice to the generality of the term, includes upland, land under water, beaches, water, and water rights;

"Park" means an area which, by reason of location, natural features, scenic beauty or legendary, historical, or scientific interest, possesses distinctive physical, aesthetic, intellectual, creative, or social values;

"Parkway" means an elongated park transversed by a pleasure vehicle road, but does not include the road;

"State park system" means the parks and parkways designated by the department, control of which is acquired by the department as provided in this part. [L 1949, c 185, pt of §1; RL 1955, §19-30; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §2; HRS §184-1]

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§184-2 State park system. The department of land and natural resources may designate and bring under its control and management, as parts of the state park system, parks and parkways as follows:

(1) Government owned land within the state forest reserves or otherwise under the jurisdiction of the department may be set aside as a state park or parkway by resolution of the department, subject to the approval of the governor by executive order setting the land aside for such purposes; provided that no lands within the state forest reserve areas that are the watersheds from which the domestic water supply of any city, town or community is or may be obtained shall be so set aside without the prior approval of the state department of health and the prior approval of the board of water supply or county council.

(2) County parks may be acquired for the state park system by consent of the council of the county, if such council and the department agree that the park is of such interest and importance to the people of the whole State as to make such action appropriate.

(3) New parks and parkways may be established:

(A) By acquisition of property in the name of the State, as the department may deem necessary or proper for the development, extension, or improvement of the state park system, and as provided in section 184-3.

(B) By the setting aside of government owned land for such purposes by the governor, as provided by law. [L 1949, c 185, pt of §1; RL 1955, §19-33; am L Sp 1959 2d, c 1, §§19, 21; am L 1961, c 132, §2; HRS §184-2]

Note

Transfer of parks between State and counties. L 1991, c 312.

Revision Note

References to board of supervisors deleted to conform to county charters.

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§184-3 Powers of department. The department of land and natural resources, in addition to the other powers herein granted, for the purpose of performing its duties and functions may:

(1) Acquire land in the name of the State or any estate, right, or interest therein or appurtenance thereto, by agreement, gift, devise, lease, or condemnation in accordance with chapter 101, and the department of accounting and general services shall assist the department of land and natural resources therein, at its request, and assign thereto state officers and employees under its supervision for the making of surveys, abstracts, and otherwise as may be of assistance, without reimbursement for such services;

(2) Receive gifts, bequests, or contributions of money or other property;

(3) Accept such condition imposed upon any gift or devise of land, money, or other property as may be acceptable to the department and not inconsistent with the proper discharge of its duties and functions;

(4) Accept transfers and conveyances of rights and titles vested in the United States government to land and buildings within this State, or lease the same under such conditions as the government of the United States may impose;

(5) Make expenditures from funds available for the care, supervision, improvement, development, and protection of the state park system;

(6) Construct and operate suitable public services, facilities, and conveniences on any land under its jurisdiction and control, with power to charge and collect reasonable fees for the use of the same, or in its discretion, enter into contracts, leases, or licenses for the construction or operation of any services, facilities, or conveniences on any land under its jurisdiction and control upon such terms and conditions as are deemed by it to be in the public interest, including in the area covered by the contract, lease, or license the amount of land deemed by it to be reasonably necessary to the success of the undertaking;

(7) Acquire, by condemnation or otherwise, rights appurtenant to abutting property for light, air, and access, whenever necessary or proper for the establishment, development, improvement, or extension of any parkway;

(8) Cooperate with counties, and other political subdivisions and agencies of the State, and with the states and with the United States government in matters relating to planning, establishing, developing, improving, or maintaining any park, parkway, or recreational area;

(9) Accept from a county, park lands which may include related improvements, personnel, equipment, and functions; and

(10) Transfer to a county, park lands which may include related improvements, personnel, equipment, and functions. [L 1949, c 185, pt of §1; RL 1955, §19-34; am L Sp 1959 2d, c 1, §§12, 21; am L 1961, c 132, §2; HRS §184-3; am L 1987, c 335, §2]

Note

Transfer of parks between State and counties. L 1991, c 312.

Cross References

Exchange of park property with county, see §46-65.5.

State beach park lifeguard services, see §46-12.5.

Statewide trail and access system, see chapter 198D.

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§184-3.4 State parks special fund. (a) There is

established within the state treasury a fund to be known as the state parks special fund, into which shall be deposited:

(1) All proceeds collected by the state parks programs involving park user fees, any leases or concession agreements, the sale of any article purchased from the department to benefit the state parks programs, or any gifts or contributions; provided that proceeds derived from the operation of Iolani Palace shall be used to supplement its educational and interpretive programs; and

(2) Transient accommodations tax revenues pursuant to section 237D-6.5; provided that these moneys shall be expended in response to a master plan developed in coordination with the Hawaii tourism authority.

(b) The department shall expend the moneys from the state parks special fund for the following purposes:

(1) Permanent and temporary staff positions;

(2) Planning and development of state parks programs, including the aina hoomalu state parks program;

(3) Construction, repairs, replacement, additions, and extensions of state parks facilities;

(4) Operation and maintenance costs of state parks and state parks programs; and

(5) Administrative costs of the division of state parks.

(c) There is established within the state parks special fund, a Diamond Head State Monument sub-account, into which shall be deposited fifty-five per cent of all proceeds collected from the admission fees charged at the Diamond Head State Monument. The department shall expend the moneys from the Diamond Head State Monument sub-account for repair, maintenance, and operating costs incurred by the State in the management of the Diamond Head State Monument. [L 2000, c 120, §1; am L 2002, c 250, §2; am L 2005, c 235, §2; am L 2007, c 292, §1]

Note

Transfer of certain interest earnings to general fund until June 30, 2015. L 2009, c 79, §30(a)(7).

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[\$184-3.5] Park acquisition trust fund; "acquire a park"

program. (a) There is established in the state treasury a fund to be known as the park acquisition trust fund, which shall be administered by the department to acquire lands for the state park system through the condemnation of private lands.

(b) There shall be deposited into the fund the following:

(1) Contributions received by the State that are designated for a particular proposed or existing park or parks;

(2) All other gifts, bequests, appropriations, or other contributions of money or other property not otherwise conditioned; and

(3) All interest earned or accrued on moneys in the fund.

(c) All moneys in the fund shall be expended by the department for the condemnation of private lands to:

(1) Create new proposed state parks; and

(2) Expand existing state parks.

(d) All contributions to the fund pursuant to subsection (b)(1) that are earmarked for a particular proposed or existing park or parks shall be expended for that purpose; provided that if no condemnation action has been initiated within five years after the receipt of that contribution, the contribution may be applied toward the condemnation for any other state park in the county for which the contribution was originally earmarked.

(e) The chairperson of the board of land and natural resources shall establish an "acquire a park" program to encourage state residents to assist in the acquisition of lands for the state park system through the condemnation of private lands. As part of this program, the chairperson shall identify and provide a description of proposed parks to be acquired by the State and advertise this information in newspapers of general circulation in the State and in the county in which the proposed park is to be situated, as well as other appropriate broadcast and electronic media, including the Internet.

(f) The chairperson of the board of land and natural resources, with the assistance of the director of taxation, shall adopt rules pursuant to chapter 91 to implement this section. [L 1997, c 242, §2]

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§184-4 REPEALED. L 1991, c 312, §9.

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§184-5 Rules and enforcement; penalty. (a) The

department may, subject to chapter 91, make, amend, and repeal rules having the force and effect of law, governing the use and protection of the state park system, including state monuments as established under section 6E-31, and including any private property over which there has been granted to the State any right of free public access or use for recreational, park, viewing of any historical, archaeological, natural, or scientific feature, object, or site, or related purpose, or property thereon, and also governing the use and protection of any recreational, scenic, historical, archaeological, natural, scientific, and related resources of state and private lands, and enforce those rules. Any person who violates any of the rules so prescribed shall be held liable for restoration of or restitution for any damages to public or private property and shall also be subject to the confiscation of any tools and equipment used in the violation and of any plants, objects, or artifacts removed illegally from such properties. Except as otherwise provided by the department, the more restrictive rules of the department shall apply in any unit of the state park system or any public use area which is also governed by the rules of any forest reserve, public hunting ground, or other department district or area.

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

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

(c) Any person violating this chapter, any rule adopted pursuant thereto, or the terms and conditions of any permit issued thereunder, 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.

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

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

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

(1) The laws applicable to the state parks and parkways and to historical objects and sites and the rules adopted under the provisions of this section; and

(2) Traffic laws and ordinances.

Those police powers shall also extend to the enforcement of laws of the State and the rules of the department relative to the protection and proper use of the recreational, scenic, historical, natural, and archaeological, scientific, and related resources of state and private lands. The conferring of powers shall include the designation of those employees as state parks enforcement officers. [L 1949, c 185, pt of §1; RL 1955, §19-36; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §2; am L 1965, c 96, §16; HRS §184-5; am L 1974, c 245, §1; am L 1975, c 24, §5; am L 1979, c 105, §13; am L 2002, c 24, §2; am L 2008, c 101, §3]

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[§184-5.1] Arrest. Except when authorized by law to immediately take a person arrested for violation of the state parks, historical objects and sites, and outdoor recreation laws and regulations; traffic laws and ordinances; and the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state and private lands before a magistrate, any state parks enforcement officer upon arresting any person for violation of the state parks, historical objects and sites, and outdoor recreation laws and regulations; traffic laws and ordinances; and laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state and private lands shall take the name, address, social security number and other pertinent information of the person and shall issue to the person a summons and citation, printed in the form hereinafter described, mandating warning the person to appear and answer to the charge against the person at a certain place and at a time within seven days after the arrest. [L 1974, c 245, pt of §2; gen ch 1985]

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[§184-5.2] Summons or citations. There shall be a form of summons or citation for use in citing violators of the state parks, historical objects and sites, and outdoor recreation laws and regulations; traffic laws and ordinances; and the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state lands and lands within the conservation district which do not mandate the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citations used in modern methods of arrest and shall be so designed to include all necessary information to make it valid and legal within the laws and regulations of the State. The form and content of the summons or citations shall be as adopted or prescribed by the district courts.

In every case when a summons or citation is issued the original of the same shall be given to the violator; provided that the district courts may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies.

Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original. [L 1974, c 245, pt of §2]

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§184-5.3 Failure to obey summons. Any person who fails to appear at the place and within the time specified in the summons or citation issued to the person by the state park enforcement officer upon the person's arrest for violation of the state parks, historical objects and sites, and outdoor recreation laws and regulations, traffic laws and ordinances; and the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state lands and lands within the conservation district, shall be guilty of a petty misdemeanor.

If any person fails to comply with a summons or citation issued to the person, or if any person fails or refuses to deposit bail as required and within the time permitted, the officer shall cause a complaint to be entered against the person and secure the issuance of a warrant for the person's arrest.

When a complaint is made to any prosecuting officer of the violation of any state parks, historical objects and sites, and outdoor recreation laws and regulations, traffic laws and ordinances; and the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state lands and lands within the conservation district, the officer who issued the summons or citation shall subscribe to it under oath administered by another official or officials of the department of land and natural resources whose names have been submitted to the prosecuting officer and who have been designated by the chairperson of the board of land and natural resources to administer the same. [L 1974, c 245, pt of §2; am L 1975, c 24, §6 and c 87, §1; gen ch 1985, 1993]

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[§184-5.5] General administrative penalties. (a) Except as otherwise provided by law, the board or its authorized representative by proper delegation may set, charge, and collect administrative fines to recover administrative fees and costs as documented by receipts or affidavits, including attorney's fees and costs; or bring legal action to recover administrative fines, 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 this chapter, any rule adopted, or permit issued thereunder.

(b) The administrative fines shall be as follows:

(1) For a first violation, a fine of not more than \$2,500;

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

(3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$10,000.

(c) In addition, a fine of up to \$5,000 may be levied for each:

(1) Archaeological or historical feature appropriated, damaged, removed, excavated, disfigured, defaced, or destroyed;

(2) Geological feature destroyed, disturbed, mutilated, dug, removed, excavated, quarried, blasted, or exploded;

(3) Public property destroyed, defaced, removed, damaged, or possessed;

(4) Wildlife molested, disturbed, injured, trapped, taken, caught, possessed, poisoned, introduced, or killed; or

(5) Habitat disturbed,

in violation of this chapter or any rule adopted thereunder.

(d) Any criminal penalty 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. [L 2002, c 24, §1]

§184-6 Duties of department. The department of land and natural resources shall preserve the parks and parkways in the state park system in their natural condition so far as may be consistent with their use and safety, and improve them in such manner as to retain to a maximum extent their natural scenic, historic, and wildlife values for the use and enjoyment of the public. [L 1949, c 185, pt of §1; RL 1955, §19-37; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §2; HRS §184-6]

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§184-7 County contributions. Any county may donate, grant, convey, lease upon a nominal consideration or appropriate land, money or other property for the development, improvement, extension, operation, or maintenance of the state park system by the department of land and natural resources as provided in this part. [L 1949, c 185, pt of §1; RL 1955, §19-38; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §2; HRS §184-7]

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§184-8 Budget. The department of land and natural resources shall submit to the director of finance, annually, the budgetary estimates and information required by chapter 40 and shall include therein estimates of the financial requirements of the department for the operation of a state parks system as provided by this part. [L 1949, c 185, §7; RL 1955, §19-39; am L Sp 1959 1st, c 13, §2; am L Sp 1959 2d, c 1, §§14, 21; am L 1961, c 132, §2; am L 1963, c 114, §1; HRS §184-8]

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PART II. STATE RESORT CAMPS AND SERVICES

§§184-11 to 15 REPEALED. L 1987, c 4, §1.

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PART III. NATIONAL PARKS

§184-21 Acquisition and conveyance of lands for National

Parks. Those provisions of various Acts of Congress authorizing the acquisition of private lands for purposes of the Hawaii National Park and City of Refuge National Historical Park by exchanges or otherwise, such exchanges not to be limited by restrictions of the land laws of the State of Hawaii, or authorizing the governor of Hawaii to acquire and convey to the United States lands and interests in lands, which provisions are "Territorial laws" pursuant to section 15 of Public Law 86-3 of the 86th Congress, are hereby ratified and adopted as laws of the State of Hawaii without any termination or expiration date. [L Sp 1959 1st, c 6, §1; HRS §184-21]

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[PART IV.] AINA HOOMALU STATE PARKS

[§184-31] Aina hoomalu state parks program established; designation of aina hoomalu sites. The department shall establish and manage a state parks interpretive program to be known as the "aina hoomalu state parks program". The aina hoomalu state parks program shall consist of those parks which contain unique and significant natural or cultural history or features. The department shall designate those state parks throughout the State which are to be included in the aina hoomalu state parks program and shall develop interpretive programs for these parks. [L 1991, c 312, pt of §8]

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§184-32 REPEALED. L 2000, c 120, §2.

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