

**CHAPTER 185**  
**LAND FIRE PROTECTION LAW**

Section

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**[§185-1] Definitions.** As used in this chapter, unless the context otherwise requires:

"Administrator" means the administrator of forestry and wildlife.

"Board" means the board of land and natural resources.

"Branch" means an area comprising a county of the State.

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

"Manager" means the forestry and wildlife manager of a designated branch. [L 1994, c 140, §1]

### **Revision Note**

This section is new. Former §185-1 renumbered as §185-1.5.

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**[§185-1.5] Responsible agency.** The department shall take measures for the prevention, control, and extinguishment of wildland fires within forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves and shall cooperate with established fire control agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for assistance for the prevention, control, and extinguishment of fires on forest, grass, brush, and watershed lands not within the department's fire protection responsibilities described above. [L 1953, c 100, §3; RL 1955, §19-51; am L 1957, c 98, §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §185-1; am L 1974, c 64, pt of §1; am L 1988, c 338, §1; ren and am L 1994, c 140, §2]

### Revision Note

This section is former §185-1.

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**§185-2 Administrator and managers.** The administrator shall be responsible for coordinating the work of managers and reviewing their plans for fire protection and control within the meaning of this chapter. A manager shall be in charge of lands within forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves for the manager's branch, and shall be in charge or in support of all measures for the prevention, control, and execution of wildland fire protection in the manager's branch. [L 1953, c 100, §4; RL 1955, §19-52; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §185-2; am L 1974, c 64, pt of §1; am L 1994, c 140, §3]

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**§185-3 Powers and duties of the administrator and**

**managers.** (a) The administrator shall be responsible to the board for supervision of the organization plans and actions of the managers.

(b) The administrator shall have the power and duty to:

(1) Review and approve plans prepared by the managers;

(2) Establish procedures and guidelines for the prevention, control, and extinguishment of fires coming within the meaning of this chapter;

(3) Establish procedures, guidelines, and conditions for the issuance of burning permits and for determining periods when forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves shall be closed;

(4) Close or partially close forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves, by restricting certain activities when necessary;

(5) Summon, when necessary, additional firefighting assistance, equipment, supplies, and materials needed to extinguish fires; and

(6) Do any act which the manager is empowered to perform under this chapter.

(c) The manager shall have the power and duty to:

(1) Prepare a plan for fire protection within the meaning of section [185-1.5];

(2) Take necessary measures for the prevention, control, and extinguishment of fires coming within the meaning of this chapter;

(3) Issue fire warning notices during dry periods or other seasons when fire hazards are great;

(4) Close forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves to public access or restrict their use during dry periods when necessary, to reduce fire risk;

(5) Close public access to areas in which fire control operations are ongoing;

(6) Issue burning permits as provided in section 185-7;

(7) Receive, audit, and if correct, approve and transmit to the department through the administrator, all reports and accounts for expenses incurred in the prevention, control, and extinguishment of any fires which come within the meaning of this chapter;

(8) Summon, when necessary, additional firefighting assistance, equipment, supplies, or materials to assist in fighting a fire;

(9) Assume full responsibility for directing the control and extinguishment of any fire coming within the meaning of this chapter, including directing the control and extinguishment of any fire on or threatening any lands included in section [185-1.5] as may be provided for under mutual aid agreements with other fire control agencies; and

(10) Conduct educational work in the protection of forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves against fires. [L 1953, c 100, §5; RL 1955, §19-53; am L 1957, c 98, §2; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §185-3; am L 1974, c 64, pt of §1; gen ch 1985; am L 1988, c 338, §2; am L 1994, c 140, §4]

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**§185-4 Payment for firefighting.** (a) No federal or county agency summoned by the administrator or manager to assist in extinguishing a fire shall be reimbursed for expenses incurred in such firefighting unless specified by mutual aid agreement.

(b) No owner, lessee, or occupier of any lands upon which a fire has occurred, nor any employee of such persons, nor any person who has any vested interest in and to the lands or that person's employees shall be entitled to the compensation provided for in this chapter, for services and materials rendered in and upon the land in the extinguishment of any fire; provided that the prohibition shall not apply to owners or persons holding interests to any lands which have been surrendered to the department under agreement as a public forest reserve for a period of ten years or more or as a public hunting area for a period of five years or more or to any owner who suffered a fire as a result of allowing use of the owner's land by the general public without compensation.

(c) All reimbursable expenses incurred in controlling or extinguishing a fire by the administrator or a manager shall be payable from the firefighter's contingency fund, provided the fire suppression budget is exceeded, and the owner, lessee, or agency having control over the lands has not been negligent in starting or failing to control or extinguish a fire. Any person, agency, or corporation summoned by the administrator or a manager to assist in extinguishing a fire eligible under this chapter to claim for reimbursement for wages, equipment use, supplies, or materials must submit an itemized statement of such claims to the administrator through the manager within forty-five working days after the fire has been extinguished in order to have it honored.

(d) There shall be established under the control of the department a firefighter's contingency fund into which shall be deposited appropriations made by the legislature. [L 1953, c 100, §6; RL 1955, §19-54; am L 1957, c 98, §3; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §185-4; am L 1974, c 64, pt of §1; am L 1978, c 93, §1; am L 1986, c 209, §1; am L 1993, c 161, §1; am L 1994, c 140, §5]

### **Note**

Transfer of certain interest earnings to general fund until June 30, 2015. L 2009, c 79, §30(a)(8).

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**§185-5 Rates of pay for firefighting.** Persons summoned by the administrator or a manager or by anyone authorized by the administrator or a manager for controlling or extinguishing a fire, within the meaning of this chapter, and who are eligible for compensation under this chapter, shall receive compensation at an hourly rate equivalent to the prevailing entry level rate of the civil service classification for the skill for which the person is called on to perform. The rental rates of equipment shall not exceed the prevailing interdepartmental rates for equipment of similar type as established by the department of accounting and general services and supplies or material expended shall be paid for at the actual cost of replacement. [L 1953, c 100, §7; RL 1955, §19-55; am L Sp 1959 2d, c 1, §12; HRS §185-5; am L 1974, c 64, pt of §1; gen ch 1985; am L 1994, c 140, §6]

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**§185-6 Insurance protection.** All persons who have performed services required under this chapter, which services are made compensable under the terms of this chapter, shall, in case of injury or death arising out of and in the performance of the functions pursuant to this chapter, or their dependents, be entitled to all of the benefits provided in chapter 386 including medical services and supplies; provided that for the purposes of such benefits, average weekly wages shall be computed on the basis of earnings from the usual employment of such persons. The cost thereof shall be a charge upon the appropriate fund. [L 1953, c 100, §8; RL 1955, §19-56; HRS §185-6; am L 1974, c 64, pt of §1]

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**§185-7 Fire danger periods, burning permits, setting fires, penalties.** (a) During periods of weather when the threat of fire is particularly dangerous within forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves in any branch, the manager shall establish a fire danger period by causing a fire warning to be issued by publishing a notice containing information setting forth the type of closure and a designation of the affected areas or by posting notices in public places with similar information. During fire danger periods, the manager may:

- (1) Totally close or limit use within an area;
- (2) Prohibit any burning;
- (3) Prohibit smoking in specified areas, including in automobiles operating in the area; and
- (4) Prohibit camping in certain areas.

However, in areas where fire control operations are in progress, a manager may prohibit public access and use without prior notice for purposes of effective fire control operations and public safety.

(b) The manager will minimize the threat of fires by maintaining control through the issuance and management of burning permits or the establishment of rules by the department, pursuant to chapter 91. On other lands where the department has direct fire protection responsibility, as described in section [185-1.5], and on adjoining property that offer a significant threat to those lands, the department shall establish agreements with the department [of] health to require burning plans acceptable to the managers and the county fire chief. The issuance of permits shall be at the discretion of the issuing officer who shall take into account whether the issuance of a permit is compatible with safety. Holders of permits shall start no fires during a heavy wind or without sufficient help present to control same and shall maintain a constant watch over the fires until they have been extinguished.

(c) Any person who violates any restriction of a closure or any person who discards burning material within a closed fire area, or, every person who sets a fire on land within the closed fire area without a permit, or, every person who wilfully, maliciously, or negligently sets a fire which burns property not owned, leased, or controlled by the person shall be guilty of a

misdemeanor. Any person violating this section shall be fined not less than \$250 nor more than \$4,000 and shall be held liable for restitution for any suppression costs and damages to public or private property. Setting fires or causing them to be set or allowing them to escape shall be prima facie evidence of wilfulness, malice, or negligence under this section; provided that nothing herein contained shall apply to a person who, in good faith, sets a back fire to check a fire already burning. A "closed fire area" is defined as the area wherein a total closure or specific burning restrictions are in effect during a fire danger period. [L 1953, c 100, §9; RL 1955, §19-57; HRS §185-7; am L 1974, c 64, pt of §1; gen ch 1985; am L 1994, c 140, §7]

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**§185-8 [OLD] REPEALED.** L 1972, c 9, §1.

**§185-8 Government agencies to assist.** All agencies of the State or its political subdivisions shall assist in extinguishing any fire when duly summoned by the administrator or any manager. [L 1953, c 100, §11; RL 1955, §19-59; HRS §185-9; ren and am L 1974, c 64, pt of §1; am L 1994, c 140, §8]

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**§185-9 Obstructing the administrator or managers; penalty.** Any person who obstructs or interferes with or prevents the administrator or any manager or any person in the performance of any duty authorized by this chapter shall be fined not less than \$500 nor more than \$2,000. [L 1953, c 100, §12; RL 1955, §19-60; HRS §185-10; ren and am L 1974, c 64, pt of §1; am L 1994, c 140, §9]

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**§185-10 Renumbered** L 1974, c 64, pt of §1.

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