

DECRIMINALIZATION OF NONSERIOUS OFFENSES: A PLAN OF ACTION

EDWIN L. BAKER
Legislative Researcher

Report No. 3, 2005

Legislative Reference Bureau
State Capitol
Honolulu, Hawaii 96813

<http://www.hawaii.gov/lrb/>

This report has been cataloged as follows:

Baker, Edwin L.

Decriminalization of nonserious offenses: a plan of action.

Honolulu, HI: Legislative Reference Bureau, January, 2005.

1. Decriminalization - Hawaii.

KFH421.5.L35 A25 05-3

FOREWORD

This report has been prepared in response to House Concurrent Resolution No. 261, H.D. 1, S.D. 1, Regular Session of 2004, which called for the Legislative Reference Bureau to review, analyze, and recommend changes to statutes and state rules that criminalize non-serious offenses, in order to make them more consistent with decriminalized traffic infractions. The Bureau conducted an extensive review of Hawaii law, including the Hawaii Revised Statutes and Hawaii Administrative Rules, and consulted with a variety of stakeholders in the executive and judicial branches of state government and in county prosecutors' offices charged with the day-to-day prosecution of violations of state law.

The Bureau would like to thank the many people who provided information in response to the Bureau's requests for assistance with this study.

Ken H. Takayama
Acting Director

January, 2005

FACT SHEET

Focus of Study

House Concurrent Resolution No. 261, H.D. 1, S.D. 1, Regular Session of 2004 (hereafter H.C.R. 261 or Resolution), entitled "Requesting the Legislative Reference Bureau to Review, Analyze and Recommend Changes to the Statutes and State Rules that Criminalize Non-Serious Offenses and Requesting each County to Review, Analyze and Change County Ordinances and Rules that Criminalize Non-Serious Offenses." The Resolution called upon the Legislative Reference Bureau (hereafter Bureau) to "identify, review, and analyze, to the extent possible, all statutes (other than the Hawaii Penal Code) and state rules" that establish misdemeanor and petty misdemeanor criminal offenses, but provide only for a fine, and those that establish criminal penalties of imprisonment, or fines in excess of \$1,000, or both, that, "in a common-sense, plain meaning application of the provision, is non-serious." The Resolution also called on the Bureau "to recommend changes to the identified statutes and state rules that would make the penalties more consistent with the penalties imposed for decriminalized traffic infractions."

Discussion

Where the demand on judicial resources continues to outstrip the supply, efforts to increase the use of non-judicial dispute resolution methods are necessary, not only to focus those limited resources on matters of the highest priority, but to instill in the public the confidence that those resources are being used fairly, efficiently, and quickly in those cases that must go to court. Widespread attention has been paid to alternative dispute resolution in the civil context – arbitration, mediation, private judges, etc. – but efforts to prioritize the use of judicial resources in criminal cases is less well known, and perhaps more controversial.

At least part of the pressure on judicial resources arises from the traditional legislative practice of trying to deter undesirable conduct by making it a criminal offense. While, at one time, the prospect of being convicted of a criminal offense might have dissuaded offenders from engaging in prohibited conduct, the proliferation of non-traditional criminal offenses outside the Hawaii Penal Code and an emerging jurisprudence that requires those offenses to be judicially processed in an increasingly tedious fashion has diluted the intended deterrent effect and made the prospect of actually having to suffer punitive consequences (i.e., incarceration) increasingly remote.

The Hawaii Legislature has undertaken efforts to decriminalize certain offenses that do not warrant the expenditure of significant judicial resources. Act 222, Session Laws of Hawaii 1978, decriminalized many traffic offenses. Act 214, Session Laws of Hawaii 1993, went even further, not only decriminalizing more traffic offenses but also establishing a less formal method of disposition so that the benefits of decriminalization could be realized with fewer court appearances for the public and consumption of fewer judicial, police, and prosecutorial resources as well.

Even with these efforts, numerous criminal offenses remain on the books outside the Penal Code that are routinely disposed of by a fine but which, because they are technically criminal, require at least one court appearance and all of the time and expense that goes with it. Some of these are traffic offenses but many are offenses that have become arcane, sometimes perceived as being irrelevant, with the passage of time. Ideally, and to be theoretically consistent, the full body of Hawaii law would be studied to purge it of this baggage but the lack of resources is not unique to the judicial branch.

Recommendations

Therefore, a simpler, more practical approach is recommended. If the judiciary takes the initiative to periodically identify those offenses that, despite the possibly serious penalties, are routinely and consistently being disposed of with fines or other monetary assessments, the Legislative Reference Bureau will work with the agencies having jurisdiction over the subject matter to determine if decriminalization can be accomplished without undermining the purpose for which the law originally was enacted. Thereafter, recommendations including proposed legislation, for decriminalizing these provisions, will be made to the Legislature accordingly. Furthermore, it is recommended that this process start by considering decriminalization of those criminal offenses relating to motor vehicles and traffic movement that remain in the HRS and that are similar in nature to those motor vehicle and traffic offenses already decriminalized. These are catalogued in Appendix D of this report.

TABLE OF CONTENTS

	<i>Page</i>
FOREWORD.....	<i>iii</i>
FACT SHEET	<i>iv</i>
1. INTRODUCTION.....	1
Purpose of the Study	1
Support of and Opposition to the Resolution.....	1
Methodology	2
Organization.....	3
2. CRIMES INSIDE AND OUTSIDE THE PENAL CODE: HOW WE GOT HERE FROM THERE	4
3. SMALL STEPS TO FIX THE PROBLEM: DECRIMINALIZING NON-SERIOUS TRAFFIC OFFENSES.....	7
4. SERIOUSNESS IS IN THE EYE OF THE BEHOLDER: WHERE DO WE GO FROM HERE?.....	10
Recommendations.....	11
APPENDIX	
A. House Concurrent Resolution No. 261, H.D. 1, S.D. 1, Regular Session of 2004....	13
B. Table of Criminal Offenses Outside the Penal Code	16
C. Proposed Legislation.....	55
D. Table of Criminal Traffic Offenses.....	58

Chapter 1

INTRODUCTION

Purpose of the Resolution

During the Regular Session of 2004, the Legislature adopted House Concurrent Resolution No. 261, H.D. 1, S.D. 1 (hereafter H.C.R. 261 or Resolution), entitled "Requesting the Legislative Reference Bureau to Review, Analyze and Recommend Changes to the Statutes and State Rules that Criminalize Non-Serious Offenses and Requesting each County to Review, Analyze and Change County Ordinances and Rules that Criminalize Non-Serious Offenses." (See Appendix A.) The Resolution noted that the Legislature had previously undertaken to decriminalize non-serious traffic offenses in order to dispense with most court appearances and thereby to expedite and streamline disposition of these cases. The Resolution also noted that there are criminal offenses outside the Penal Code that are classified as misdemeanors or petty misdemeanors, even though the penalties include only fines, and offenses that impose fines in excess of \$1,000 and prison terms, even though these offenses are not of a serious nature. As a result, these offenses entail court appearances, appointed counsel, and sometimes jury trial. This stands in contrast to and is inconsistent with the treatment of traffic offenses that are similar in nature, resulting in confusion to members of the public, who may be subject to arrest for an offense they thought they had resolved by paying a fine by mail, and undermining the perceived fairness of the judicial system.

The Resolution called upon the Legislative Reference Bureau (hereafter Bureau) to "identify, review, and analyze, to the extent possible, all statutes (other than the Hawaii Penal Code) and state rules" that establish misdemeanor and petty misdemeanor criminal offenses, but provide only for a fine, and those that establish criminal penalties of imprisonment, or fines in excess of \$1,000, or both, that, "in a common-sense, plain meaning application of the provision, is non-serious." The Resolution also called on the Bureau "to recommend changes to the identified statutes and state rules that would make the penalties more consistent with the penalties imposed for decriminalized traffic infractions." The Resolution called upon the Judiciary and various state and county agencies to cooperate with the Bureau by doing such things as providing source materials pertaining to criminal prohibitions and penalties.

Support of and Opposition to the Resolution

The Resolution was prompted by the District Court Judges Traffic Group that has been meeting in an effort to standardize traffic case processing statewide. In its testimony in support of the Resolution, the Judiciary noted that penalties for similar conduct might be classified as an infraction or as a criminal offense depending, for example, whether the conduct took place on state park land or other public lands. As a result, one offender might be able to pay a fine by mail while another might have to be offered court-appointed counsel and a jury trial. The Judiciary also noted that this discrepancy makes it difficult to standardize procedures, forms, and practices across the State. The Resolution was also supported by the American Civil Liberties

Union, which noted that periodic review of criminal statutes is appropriate to determine "if they truly rise to the level of criminality, according to contemporary standards, and to see if they constitute a legitimate use of judicial and other scarce resources."

On the other hand, the Resolution was strongly opposed by the Director of Planning and Permitting of the City and County of Honolulu. He testified that, while the City had made effective use of civil penalties to enforce the City's land use, building, and related codes, criminal prosecution is sometimes necessary to remove or neutralize the threat of danger to community, health, safety, and welfare posed by egregious violations of these codes. In his view, decriminalization of non-serious offenses is inappropriate and would severely degrade the City's code compliance and enforcement program.

Methodology

In order to get a handle on the scope of the problem, the Bureau began with a search of the entire Hawaii Revised Statutes (hereafter HRS) for all statutes that:

- (1) Denominate, specifically as a misdemeanor or petty misdemeanor, conduct that violates either a provision of the HRS or an administrative rule adopted by authority of a provision of the HRS; or
- (2) Define an offense that constitutes a misdemeanor or petty misdemeanor because the penalty imposed for conduct that violates either a provision of the HRS or an administrative rule adopted by authority of a provision of the HRS requires classification of the offense as such under Section 701-107, HRS.¹

As discussed in greater detail below, this search revealed at least 350 such statutes (see Appendix B).² The actual number is much higher for several reasons. First, many penalty sections criminalize violation of other statutes in the same HRS chapter. (See, e.g., section 189-5, HRS ("any person violating this chapter...shall be guilty of a petty misdemeanor.")) In addition, certain offenses have not been designated as a misdemeanor or petty misdemeanor by the Legislature and do not provide for imprisonment but have been declared to be penal offenses by judicial decision.³

-
1. As explained below, Section 701-107, HRS, classifies offenses as felonies, misdemeanors, petty misdemeanors, or violations based either on a specific denomination of the offense as such or on the length of the term of imprisonment authorized, if any.
 2. The Bureau did not find any offenses that were specifically denominated as a misdemeanor or petty misdemeanor but which prohibited imposition of any sentence other than a specified fine. Under Section 701-107, HRS, and by definition, an offense classified as a misdemeanor or petty misdemeanor is punishable by the term of imprisonment provided in Section 706-663, HRS. Where an offense is classified as either a misdemeanor or petty misdemeanor, but the only specific sentence set forth is a fine, we treated that offense as being punishable by the prison term specified by Section 706-663, HRS, even if the fine stated is different than what would otherwise be imposed for that class of offense pursuant to Section 706-640, HRS.
 3. See *State v. Simeona*, 10 Haw. App. 220, 864 P.2d 1109 (1994), *overruled on other grounds*, *State v. Ford*, 84 Hawaii 65, 929 P.2d 78 (1996)(ICA concluded that Legislature intended \$10,000 fine and loss of operating and

This number also does not include the many hundreds of offenses defined by administrative rules that are punishable as misdemeanors or petty misdemeanors pursuant to authority conferred by the Legislature. (See, e.g., chapter 184, HRS.) These rules were intentionally excluded for several reasons. First, the scope of the task would have been overwhelming, given the Bureau's resources and the time frame within which the study had to be conducted. Second, the Resolution did not call upon agencies with jurisdiction to enforce these statutory provisions and to adopt and enforce administrative rules pursuant to these provisions to identify which offenses they believed could be decriminalized without undermining their enforcement programs. Third, the Bureau lacks specialized expertise in the subject matter areas regulated by these agencies. Finally, while legislation is not an appropriate means of amending rules, the Legislature can amend the statutory provisions authorizing adoption of the rules and specifying the penalty for violation thereof, thereafter requiring the agency with appropriate jurisdiction to amend the rules accordingly.⁴

The Bureau then tried to quantify the scope of the problem by identifying those offenses that most frequently come before the courts for treatment as serious offenses, even though similar conduct has been decriminalized and the courts typically impose sentences indicating that the offenses are actually more like those imposed for non-serious, decriminalized traffic offenses. The Judiciary, which is in the process of upgrading its information systems, was able to extract some offense statistics from its TRAVIS system. However, it was not able to extract a sampling of sentencing decisions for these offenses.

Organization

This chapter provides an overview of the purpose of the Resolution and the work required of the Bureau. Chapter 2 provides a historical overview of the development of penal offenses, generally and in Hawaii, and demonstrates how that process has left us with numerous offenses that are either inconsistent or out-of-date. Chapter 3 describes previous legislative efforts to address these problems and their limited success. Finally, Chapter 4 sets forth modest recommendations to continue these efforts in ways that will make an enormous task more manageable. The bulk of the study consists of appendices, including tables identifying offenses targeted by the Resolution and those that should be the subject of the Legislature's next efforts to address the problems that prompted the Resolution.

mooring privileges for up to two years for mooring, anchoring, or storing a vessel at a space or berth other than that to which it was properly assigned, in violation of HAR 19-62-17 (now HAR 13-231-17), to be criminal penalties and that violation of administrative rule is penal offense even though no prison term is authorized).

4. There may also be uncoded misdemeanor or petty misdemeanor offenses that appear only in the Session Laws of Hawaii. However, we are unaware of any and none were identified to us at this time as being a problem for the courts and the public of the sort that prompted this study in the first place.

Chapter 2

CRIMES INSIDE AND OUTSIDE THE PENAL CODE: HOW WE GOT HERE FROM THERE

At common law, most criminal offenses involved conduct that was *malum in se*, that is, conduct that was immoral and essentially evil, without regard to whether any law expressly prohibited it. These common law offenses would have included murder, larceny, etc. and comprised principles and rules of action regarding the security of persons and property that derived their authority solely from the fact that they were part of custom and usage since antiquity. These principles and rules may have been reinforced by declarations of courts, but did not originate in any legislative pronouncement. With development of more complex systems of government came the creation of offenses involving conduct that was *malum prohibitum*, that is, involving conduct that was not essentially immoral but wrong precisely because law expressly prohibited it. Examples of such offenses would have included failure to pay taxes or fees to the sovereign or violating rules of land tenure.

From very early times, offenses were graded as either a felony or a misdemeanor, the former being more serious than the latter. At common law, felony offenses were those for which forfeiture of land or goods were imposed, in addition to capital punishment in the most serious cases. Initially, this class of offenses was comprised of those that involved moral turpitude, i.e., those that were *malum in se*, but later the class was expanded to include many other types of offenses as well, including those that were *malum prohibitum*. Misdemeanors were those offenses for which punishment did not involve forfeiture of life, limb, and chattels. In modern times, felony offenses are generally those punishable by imprisonment for more than a year, usually in a state correctional institution. Misdemeanors are those punishable by less than a year of imprisonment, typically in a county jail. Both felonies and misdemeanors may be of various classes, with varying sentences for each class.

Broadly speaking, when common law offenses were incorporated into statutory declarations of law, *malum in se* offenses were placed in penal codes and *malum prohibitum* offenses were spread throughout codes otherwise regulating the conduct to which they related. Thus, felony and misdemeanor offenses were found throughout codes, not just in penal codes. Hawaii law reflects a similar pattern of development. Offenses which are considered *malum in se* are generally found in the Penal Code, which was adopted in 1972 and comprises Title 37 of the Hawaii Revised Statutes (hereafter HRS). At the same time, the Legislature has created numerous *malum in se* offenses that can be found throughout other parts of the HRS. As noted above, at least 350 misdemeanor or petty misdemeanor penal provisions can be found in the HRS outside the Penal Code. Creation of these offenses appears to reflect what is, in hindsight, an optimistic belief that conduct not inherently immoral but declared nonetheless undesirable would somehow cease with the threat of criminal penalties. Some notable examples include:

- Section 46-45, HRS, "Excessive expenditures; penalty." This offense, which is punishable by a fine of up to \$1,000 or imprisonment for not more than one year, or both, is classified as a misdemeanor pursuant to Section 701-107, HRS. Under its

terms, elected members of the county councils could be imprisoned for incurring liabilities in excess of the funds available to the county. First enacted in 1911, this section would appear to have been functionally superseded by theft and related provisions of the Penal Code, if not the power of the ballot box.

- Section 146-23, HRS, "Duty of vendor of butchered beef to disclose identity of person from whom obtained." Under the terms of this law, first enacted in 1923, anyone who sells beef must know and truthfully state the name and residence of the person from whom the vendor obtained the beef to anyone who asks. Failure to do so could net the clerk behind the meat counter at the local supermarket a fine of not more than \$500, imprisonment for not more than one year, or both. (See Section 146-24, HRS.) Curiously, vendors of pork, lamb, poultry and other meat products have not been required to know the pedigree of their offerings. In any event, if the purpose of this law is to prevent the sale of adulterated or mislabeled commodities, this conduct has since been prohibited by the Penal Code and is a misdemeanor. (See Section 708-870, HRS, "Deceptive business practices.")
- Section 577-18, HRS, "Parents allowing children in the street, prohibited when; penalty." First enacted in 1896, this law provides that any parent or guardian who permits a child under age sixteen to go to or remain in a public place between the hours of 10:00 p.m. and 4:00 a.m. unaccompanied by an adult shall be fined not more than \$100 or imprisoned not more than twenty days. While a curfew law permits the police to take action when appropriate, this law appears to prohibit even benign activities after 10:00 p.m., including neighborhood play, errands to the local store, or mid-evening movies. Behavior creating a genuine risk to unsupervised children, and warranting criminal sanctions, is prohibited by the Penal Code by Section 709-904, HRS, "Endangering the welfare of a minor in the second degree."¹

Although the Legislature did not attempt to gather all criminal offenses into the Penal Code when it was enacted, it did attempt to standardize classification of offenses and the penalties applied to all criminal offenses, wherever in the HRS they appeared. Section 701-107, HRS, entitled "Grades and classes of offenses," provides that crimes are of three grades, felonies, misdemeanors, and petty misdemeanors. A felony is an offense punishable by imprisonment for more than one year, a misdemeanor is an offense punishable by imprisonment for a term the maximum of which is one year, and a petty misdemeanor is an offense punishable by a term of imprisonment the maximum of which is less than one year. Of special importance for this study is Section 701-107(7), HRS, which provides that "[a]n offense defined by any statute of this State *other than this Code* shall be classified as provided in this section and the sentence that may be imposed upon conviction thereof shall hereafter be governed by this Code." As explained in the Commentary on Section 701-107:

1. A related and obsolete set of laws prohibit permitting a minor to attend, or accompanying a minor to, a dance hall where persons receive any remuneration or compensation, either directly or indirectly, for acting as dancing partners to the patrons of the dance hall. (See Sections 577-22 to -24, HRS.) These laws, first enacted in 1927, still call for sentences including imprisonment and fines, even though such dance halls no longer seem to exist and laws in the Penal Code, such as Endangering the welfare of a minor, have for the most part superseded them.

This section makes it clear that the Code retains the ancient distinction between felonies and misdemeanors, which is important for many procedural purposes. ***Its main thrust, however, is to govern the classification of offenses defined outside the Code.*** Subsection (7) declares that all offenses are hereafter to be classified according to this section and punished in accordance with this Code. The purpose is to rationalize the often anomalous classification and punishment of offenses that appear in many parts of the statutory laws. [Emphasis added.]

Unfortunately, adoption of the Penal Code alone was not sufficient "to rationalize the often anomalous classification and punishment of offenses that appear in many parts of the statutory laws." Not only did the Penal Code not expressly correct those anomalies, those anomalies were perpetuated by new enactments in the years that followed. In 1975, the Bureau drafted legislation to reconcile differences between offenses outside the Penal Code with the classification and penalty provisions of the Code in light of the mandate of Section 701-107, HRS. As the Bureau explained:

When the Penal Code took effect on January 1, 1973, it repealed or modified a great number of pre-existing statutes, many of which were specifically identified as repealed or modified. Others, however, were not so designated, and their continued presence in the statutes causes confusion and uncertainty. A group of statutes falling in the latter category consists of provisions designating various infractions of law as offenses and prescribing the penalties therefor.

The Bureau's draft legislation proposed, in over 200 sections, technical and substantive amendments to penal offenses outside the Penal Code to make their penalty classifications consistent with the Penal Code. However, no action was taken by the Legislature on the proposal.

Chapter 3

SMALL STEPS TO FIX THE PROBLEM: DECRIMINALIZING NON-SERIOUS TRAFFIC OFFENSES

Rather than undertaking a comprehensive review of the entire Hawaii Revised Statutes (hereafter HRS) to eliminate anomalies between criminal penalties inside and outside of the Penal Code, the Legislature in 1978 instead adopted the first of two proposals that sought to delete criminal penalties for non-serious traffic offenses. Act 222, Session Laws of Hawaii 1978,¹ declared that its purpose was "to decriminalize all traffic offenses, other than those of a serious nature, to the status of violations. . . . This Act will eliminate the criminal penalties of imprisonment, probation and restitution for all but serious traffic violations such as those concerning accidents involving death or personal injuries, false reports, or overtaking and passing a stopped school bus." Methodologically, the Act amended the penalty provision for the Statewide Traffic Code, Section 291C-161, HRS, by making it a violation, rather than a misdemeanor to violate any provision of Chapter 291C, HRS, other than certain offenses for which criminal penalties were retained. Likewise, the prison term for those who had accumulated a certain number of traffic "points" was deleted. Penalty provisions for Chapter 291, HRS (relating to traffic violations), were similarly decriminalized.

However, Act 222 hardly finished the job of decriminalizing "all traffic offenses," and the Legislature took further action in 1993. Specifically, Act 214, Session Laws of Hawaii 1993, decriminalized additional traffic offenses in Chapters 286 (relating to Highway Safety) and 291C, HRS (relating to Statewide Traffic Code).² Once again, the Legislature proclaimed its intent "to decriminalize all but the most serious traffic offenses." 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.

With the decriminalization of more traffic offenses came the need to make judicial proceedings less elaborate, because the potential benefit of decriminalizing traffic offenses could not be realized if drivers still had to come to court for proceedings involving prosecuting attorneys, police officers, and others. The larger goal of Act 214 was "to improve the system by which traffic offenses presently are being processed in order to dispose expeditiously of these cases and thereby achieve efficient and effective use of limited judicial and law enforcement resources." To that end, Act 214 established an informal process that attempted to maximize disposition of cases by mail, instead of personal court appearances, and minimize the use of prosecutors and police, while still affording drivers the right to a full evidentiary hearing if the case could not first be disposed of informally.

1. The bill, H.B. No. 1879, was originally part of the Judiciary's legislative package.

2. As the Legislature observed, riding a bicycle other than on a permanent and regular seat, a violation of Section 291C-143, HRS, was still a misdemeanor at the time.

Ten years further down the road, it is apparent that there remain many offenses outside the motor vehicle and traffic codes that still require court appearances, court-appointed counsel, and sometimes jury trial, despite being similar in substance and gravity to motor vehicle and traffic offenses. The Judiciary continues to report that offenses similar to decriminalized traffic offenses still carry the possibility of imprisonment and, therefore, cannot be resolved informally. For example, Section 264-64, HRS (relating to "Design of controlled-access facility and regulation, restriction, or prohibition of access; penalty"), under which "zipper lane" violations are prosecuted, authorizes a penalty of \$250 and not more than three months in prison. There has been a steady increase in citations issued for this offense, rising to 224 in 2003.³

Similarly, violation of Section 291-12, HRS (relating to "Inattention to driving," which involves operation of "any vehicle without due care or in a manner as to cause a collision with, or injury or damage to, as the case may be, any person, vehicle or other property"), requires that the offender "be fined not more than \$500 or imprisoned not more than thirty days, or both." For one thing, negligent injury is already a criminal offense under the Penal Code. (See Sections 707-705 and -706, HRS.) For another, Section 291-12, HRS, appears to permit citation of a driver who causes injury or property damage even if the person acts without negligence or other criminally culpable state of mind, making it a "strict liability offense." (See Sections 702-212 and -213, HRS.) Consequently, a fine routinely disposes of these cases. However, in 2003, 530 of them had to be processed as if they were criminal offenses requiring court appearances and the possibility of court-appointed counsel.⁴

Another prevalent offense is a violation of Section 291-31.5, HRS (relating to "Blue lights prohibited for motor vehicles, motorcycles, motor scooters, bicycles, mopeds"), which may be punished by "a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both." Clearly, the concern here is to prevent anyone from impersonating a law enforcement officer, but the offense does not require that the light flash or rotate in a way that would reasonably cause one to believe it is being operated by law enforcement vehicle. In practice, these offenses are routinely amended to a non-criminal county traffic ordinance or dismissed if the violator forfeits the light to the State. Moreover, any person actually impersonating a police officer by the use of such a light can be charged under either Section 710-1016.6 or -1016.7, HRS (relating to "impersonation of a police officer" in the first or second degree, respectively). Nevertheless, in 2002, 1214 cases under Section 291-31.5, HRS, had to be disposed of in court proceedings, instead of a fine paid by mail. Similarly, a violation of Section 286-30, HRS, (relating to the use of a counterfeit certificate of inspection for a motor vehicle or one that is intended for a different vehicle) is punishable by a fine of \$1,000, imprisonment for not more than thirty days, or both, but the charge is routinely amended by prosecutors to a violation of Section 286-25, HRS (involving operation of a motor vehicle without a current certificate of inspection), which is punishable by a maximum \$100 fine. Instances of actual fabrication or alteration of an inspection certificate, especially in cases of mass production, can be charged as

3. Drawn from TRAVIS statistics provided by the Judiciary.

4. See n. 8.

forgery under Section 708-852 or -853, HRS. Still, an average of more than 1,500 such citations under Section 286-30, HRS, have been issued each of the past five years.⁵

However, probably the single largest source of cases involving conduct of a nature that has been decriminalized elsewhere in the HRS is the administrative rules adopted by various state departments and agencies to regulate movement and parking of motor vehicles and equipment on state land under state jurisdiction. For example, Section 184-5, HRS, authorizes the Department of Land and Natural Resources to adopt rules governing the use and protection of the state park system. Violation of any provision of Chapter 184, HRS, or any rule adopted thereunder, is declared to be a petty misdemeanor, with mandatory fines escalating for subsequent offenses. Using the authority accorded to it by Section 184-5, HRS, the Department of Land and Natural Resources adopted Chapter 13-146, Hawaii Administrative Rules, governing the use and protection of all lands in the state park system. These rules regulate or prohibit, among other things, the movement and parking of vehicles, the presence and control of animals, and recreational activities such as camping, swimming, boating, picnicking, golfing, skating, and skateboarding. Violation of any of these rules is a petty misdemeanor, even though some rule violations are clearly more serious than others.⁶ This "one-size-fits-all-approach" to setting penalties creates unintended consequences. For example, the act of parking a car out of a marked stall that would net the vehicle owner a fine payable by mail if it is committed in a municipal parking lot could land that same owner in court, and potentially in jail, if the parking lot happened to be on state park land. Even if the chance of a prison term is remote, the potential of its imposition necessitates a court appearance and the potential appointment of counsel, procedural encumbrances long since dispensed with in the case of most motor vehicle and traffic code offenses.

5. See n. 8.

6. As demonstrated by State v. Ford, *supra*, n. 3, the Legislature may prescribe penalties with one type of offense in mind that apply to many other, less serious types of violations of statutes or rules. In 1987, the Legislature increased the fine for violation of any rule adopted under Chapter 266, HRS, from \$1,000 per violation to \$10,000. The Hawaii Supreme Court noted that the amendment was prompted by the Legislature's concern over the serious threat to public health and safety posed by unlawful sewage disposal by interisland cruise vessels. However, the same increased penalty applied to the unlawful mooring of vessels at issue in that case. State v. Ford, *supra*, 84 Hawaii at 72, 929 P.2d at 85.

Chapter 4

SERIOUSNESS IS IN THE EYE OF THE BEHOLDER: WHERE DO WE GO FROM HERE?

As discussed above, the Resolution called upon the Bureau to identify criminal offenses described as misdemeanors or petty misdemeanors that are punishable only by fines and those that authorize imprisonment or fines in excess of \$1,000, or both, but that are non-serious in the plain language, common meaning of the term. Thereafter, the Bureau was to recommend changes to the identified statutes and rules that would make them more consistent with the penalties imposed for decriminalized traffic offenses. As previously noted, the Bureau did not find any offenses meeting the first set of criteria. Although some offenses are denominated as either misdemeanors or petty misdemeanors, none could be said to prohibit imposition of any penalty other than a fine. Rather, the statute typically denominates an offense as, for example, a misdemeanor and provides that the offender shall be fined a specific amount.¹ In the Bureau's view, such language does not limit the penalty to a fine, but rather authorizes any term of imprisonment or probation provided by Chapter 706, HRS, pursuant to Section 701-107, HRS, and requires that, *regardless of whatever other sentence may be imposed*, the specified fine be levied.²

What remains, then, is to discern what constitutes a "non-serious" offense in the common sense, plain language meaning of that term. One measure of seriousness is that used by the courts to determine if an offense is one that is so serious as to trigger the constitutional right to jury trial. As the Hawaii Supreme Court explained in State v. Ford, *supra*, n. 3:

We analyze three factors to determine whether an offense is constitutionally petty or serious: (1) the treatment of the offense at common law; (2) the gravity of the offense; and (3) the authorized penalty. Under the first factor, we consider the "traditional treatment" of the offense and whether the offense was indictable at common law, or tried summarily without a jury. Under the second factor, we consider whether an offense affects the public at large, reflects moral delinquency, or carries a sufficient disgrace to require labeling the offense as constitutionally serious. In applying the second factor, the legislature's perception of an offense as reflected by its statements in legislative history, often provides a strong indication of society's view of the gravity of an offense. Finally, the third factor focuses on the authorized penalty for the offense. We consider not only the maximum possible prison term, but also the possible additional statutory "mix of penalties" that may attach to the offense. . . . [A]n offense is not automatically deemed serious upon satisfaction of *any one* of the factors set out in our case law.

-
1. See, e.g. Section 150A-14, HRS, which provides that "[a]ny person who violates any provision of this chapter . . . or who violates any rule adopted under this chapter . . . shall be guilty of a misdemeanor and fined not less than \$100."
 2. Some persons have taken the position that such language authorizes only a fine because the mandatory "shall" applies only to the fine. The only way to reach this conclusion is to deem the language classifying the offense as a misdemeanor or petty misdemeanor to be surplusage and to ignore the mandate of Section 701-107, HRS, which the Bureau declines to do.

State v. Ford, 84 Hawaii at 69-70, 929 P.2d at 82-83. Of course, not all offenses are serious enough to warrant a jury trial or prison time even if they are serious enough to be deemed criminal. Such was the case with the rule at stake in both Simeona and Ford. Implicated in those cases is Rule 13-231-17, Hawaii Administrative Rules (relating to penalties for violation of department of transportation rules), that, pursuant to Section 266-25, HRS, provides for a fine of not more than \$10,000 and deprives the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than two years. While the offense was not deemed so serious as to trigger the right to jury trial, it was deemed serious enough to be classified as a penal offense, notwithstanding the fact that no prison term is authorized.³

Another measure of seriousness is the threat of harm to be prevented by enforcement of the statute or rule establishing the offense. As noted by the Director of Planning and Permitting of the City and County of Honolulu in his testimony opposing the Resolution, criminal prosecution is sometimes necessary to remove or neutralize the threat of danger to community, health, safety, and welfare posed by egregious violations of land use, building, and related codes. However, the Bureau has no special knowledge to determine whether any particular state statute or rule that seeks to promote the community health, safety, and welfare by regulating or prohibiting specified conduct establishes an offense that is not so serious as to warrant criminal penalties--if only for second or subsequent offenses. The last measure of seriousness the Bureau considered was to examine how the Judiciary treats the most common offenses that otherwise fall within the parameters set by the Resolution. Specifically, we hoped to see a pattern emerge that certain offenses, while nominally criminal, are traditionally treated as civil in nature, i.e. only fines are imposed even though a prison term is also authorized. Unfortunately, as noted above, the Judiciary was not able to extract a sampling of sentencing decisions for these offenses from its information system.

Given the scope of the task, the Bureau decided to focus on that conduct that is most like the traffic offenses previously decriminalized by the Legislature. The Bureau believes that the Legislature's prior decisions in this area provide the best evidence of what constitutes a non-serious offense in the common sense, plain reading of that term.

Recommendations

The Bureau recommends that:

- (1) The Legislature direct the Bureau to work with the Judiciary and executive agencies on an ongoing basis to develop proposals to decriminalize offenses that are more appropriately disposed of through fines. Under this approach:
 - (A) The Judiciary would be requested to take the initiative to identify those offenses that require court appearances and, potentially, court-appointed

3. The Court also considered a number of other factors, mostly procedural, in concluding that the offense was, indeed, criminal.

counsel and jury trial because of the possibility of a prison sentence, but that are routinely disposed of by imposition only of a fine;

- (B) The Bureau would then work with the Judiciary and contact the state executive departments or agencies having jurisdiction over the identified offenses and request their input as to whether the offenses can be decriminalized without undermining their ability to enforce laws within their jurisdiction; and
 - (C) Thereafter, the Bureau will prepare legislation periodically, as dictated by the quantity and complexity of offenses identified by the Judiciary and the nature of information received from state departments and agencies in response to the Bureau's request for input on the offenses identified by the Judiciary. Legislation to accomplish this purpose is attached as Appendix C.
- (2) The Bureau further recommends that this process start by considering decriminalization of those criminal offenses relating to motor vehicles and traffic movement that remain in the HRS and that are similar in nature to those motor vehicle and traffic offenses already decriminalized (see Appendix D). The departments and agencies with jurisdiction to enforce the identified statutes and rules should advise the Bureau whether the offenses could be decriminalized without undermining their ability to enforce the provisions. This could be accomplished by amending the statutory penalty section to exclude offenses involving motor vehicles and traffic movement as previously done by the Legislature in Section 109-7(c), HRS.⁴ It could also include a scheme of graduated penalties in which criminal penalties attach only to subsequent offenses. Thereafter, the Bureau will draft legislation to further the goal of decriminalizing non-serious offenses. Departments and agencies that have adopted rules to implement statutes creating criminal offenses will then need to modify their enforcement actions to reflect the changes made by the Legislature.

4. Section 109-7, HRS, provides as follows:

§109-7 Enforcement; penalty. (a) Any law enforcement officer who has police powers to arrest offenders and issue citations, including any police officer of the counties, shall have the authority to enforce any rule promulgated pursuant to section 109-2(4).

(b) Any person violating any rule of the stadium authority regulating conduct on the stadium or Kapolei recreational sports complex premises shall be guilty of a petty misdemeanor punishable by a fine not exceeding \$1,000, or imprisonment not exceeding thirty days, or both.

(c) Any person violating any rule of the stadium authority regulating parking or traffic on the stadium or Kapolei recreational sports complex premises shall have committed a traffic infraction as set forth in chapter 291D, the adjudication of which shall be subject to the provisions contained therein.

Appendix A

HOUSE OF REPRESENTATIVES
TWENTY-SECOND LEGISLATURE, 2004
STATE OF HAWAII

H.C.R. NO. 261
H.D. 1
S.D. 1

HOUSE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO REVIEW, ANALYZE, AND RECOMMEND CHANGES TO STATUTES AND STATE RULES THAT CRIMINALIZE NON-SERIOUS OFFENSES AND REQUESTING EACH COUNTY TO REVIEW, ANALYZE, AND CHANGE COUNTY ORDINANCES AND RULES THAT CRIMINALIZE NON-SERIOUS OFFENSES.

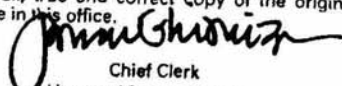
WHEREAS, by Act 222, Session Laws of Hawaii 1978, the Legislature began the process of decriminalizing certain traffic offenses, not of a serious nature, to the status of violations in order to eliminate most traffic arraignments, dispose of uncontested violations by mail, provide for informal hearings where the violation or proposed penalty was questioned, and streamline the handling of traffic cases to achieve a more expeditious system of judicial processing of traffic infractions; and

WHEREAS, there are offenses established by statutes other than the Hawaii Penal Code, including those established by rule or county ordinance, that are described as misdemeanors or petty misdemeanors and therefore must be processed by the courts as criminal offenses, even though the offenses have penalties that include only fines; and

WHEREAS, there are other offenses established by statutes other than the Hawaii Penal Code, including those established by rule or county ordinance, that are not of a serious nature, but which have penalties that include imprisonment or fines exceeding \$1,000 and therefore must be processed by the courts as criminal offenses with the attendant right to court-appointed counsel or jury trial, or both; and

WHEREAS, the inconsistent treatment of these non-serious criminal offenses and the decriminalized traffic infractions causes confusion among the public, who are sometimes arrested for failing to appear in response to citations even when they admitted the offense and paid a fine by mail; and

I do hereby certify that the within document
is a full, true and correct copy of the original
on file in this office.


Chief Clerk
House of Representatives
State of Hawaii

WHEREAS, public perception of the fairness of the judicial system is enhanced when the penalties for violations of statutes, rules, or ordinances for non-serious offenses are more uniform throughout the State; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2004, the Senate concurring, that the Legislative Reference Bureau is requested to identify, review, and analyze, to the extent possible, all statutes (other than the Hawaii Penal Code) and state rules that:

- (1) Establish criminal offenses described as misdemeanors or petty misdemeanors but that are punishable only by fines; or
- (2) Establish criminal penalties of imprisonment or fines in excess of \$1,000, or both, for conduct that, in a common sense, plain meaning application of the provision, is non-serious; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to recommend changes to the penalties imposed by the identified statutes and state rules that would make the penalties more consistent with the penalties imposed for decriminalized traffic infractions; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to submit its findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 2005; and

BE IT FURTHER RESOLVED that each county is also urged to identify, review, and change all county ordinances and rules that:

- (1) Establish criminal offenses described as misdemeanors or petty misdemeanors but that are punishable only by fines; or
- (2) Establish criminal penalties of imprisonment or fines in excess of \$1,000, or both, for conduct that, in a

common sense, plain meaning application of the provision, is non-serious; and

BE IT FURTHER RESOLVED that each county is requested to make the necessary changes to the penalties imposed by the identified county ordinances and rules that would make the penalties more consistent with the penalties imposed for decriminalized traffic infractions; and

BE IT FURTHER RESOLVED that the Judiciary, the Department of the Attorney General, state departments and agencies that have adopted rules establishing violations that are punishable as criminal offenses, the various county prosecutors, the various county police departments, and the Office of the Public Defender are requested to cooperate with the Legislative Reference Bureau for the purposes of this study, including, but not limited to, providing copies in paper and electronic form of all statutes, rules, ordinances, bail forfeiture schedules, and other relevant source material pertaining to criminal prohibitions and penalties; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Acting Director of the Legislative Reference Bureau, the Chief Justice of the Hawaii Supreme Court, the Administrative Director of the Courts, the Governor, the Attorney General, the county mayors, the various county prosecutors, the county police chiefs, and the State Public Defender.

Appendix B

Table of Criminal Offenses Outside the Penal Code

Legend

The following table comprises the result of the Bureau's search of the Hawaii Revised Statutes for provisions that include the terms "misdemeanor," "petty misdemeanor," "prison," "imprisoned," and "imprisonment." Provisions of Hawaii law found elsewhere (such as in Session Laws or in administrative rules) do not appear here or appear only as cross-references. Information pertaining to HRS sections reflects legislative action taken through the 2004 session and reflects the law as it is in effect at the time of publication (by virtue of prior legislative action, some HRS provisions cited in the table will be amended as of a date subsequent to publication).

HRS Chapter Title

Provided to briefly inform the reader of the subject matter.

HRS Section No. and Title

Provided to permit the reader to consult the text of the appropriate section. In limited instances, this also includes other sections incorporated by reference in the cited section. In certain instances, subsection designations are also listed to distinguish between different classes of offense set forth in the same section. This distinction is carried forward in the "Class of Offense," "Maximum Prison Term," and "Maximum Fine" columns where appropriate.

Related Administrative Rule(s)

Provided to permit the reader to consult the Hawaii Administrative Rules to determine how the cited HRS section was implemented and what conduct has been identified as subject to the criminal penalties authorized by the Legislature. The reader may also wish to refer to the Bureau's 2004 publication, "Hawaii Administrative Rules 2004 Table of Statutory Sections Implemented *and* Directory," 2004 Supplement to 2001 Cumulative Edition, for additional information.

Class of Offense (PM/M)

Provided to identify the class of offense created by the cited HRS section. "PM" stands for "petty misdemeanor" and "M" stands for misdemeanor. Where the offense designation is enclosed in parentheses, the classification of the offense was determined by reference to section

701-107, HRS. Where the class of the offense is denominated by the cited HRS section, the designation does not appear in parentheses. In certain instances, the denomination of the offense by the cited HRS section conflicts with the classification that would be determined by application of section 701-107, HRS, based on the penalty provided.

Maximum Prison Term

Provided to illustrate the longest prison term a sentencing court can impose, since the maximum term determines the grade of the offense, if it is not otherwise specified, and because it is an indicator of "seriousness" both in the common sense, plain language meaning of the term and in the constitutional sense, i.e. whether it is a jury triable offense. Where the indicated prison term appears in parentheses, the term has been determined using the classification given to the offense by the cited HRS section and applying the criteria found in section 701-107, HRS. Where the indicated prison term does not appear in parentheses, the cited HRS section explicitly states the term. In certain instances, where both the grade of the offense and the prison term are explicitly stated in the cited HRS section, the prison term provided by the cited HRS section conflicts with the term that is established by section 701-107, HRS, for the that grade of offense.

Maximum Fine

Provided to illustrate the largest fine that can be imposed for the offense identified in the cited HRS section. Where the indicated fine appears in parentheses, the fine has been determined using the classification given to the offense by the cited HRS section and applying section 706-640, HRS. Where the indicated fine does not appear in parentheses, the cited HRS section explicitly states the fine. In certain instances, where both the grade of the offense and the fine are explicitly stated in the cited HRS section, the fine provided by the cited HRS section conflicts with the fine that is established by section 706-640, HRS, for the that grade of offense.

Other Penalty

Provided to illustrate the other penalties a sentencing court can impose, since the mix of penalties is an indicator of "seriousness" both in the common sense, plain language meaning of the term and in the constitutional sense, i.e. whether it is a jury triable offense.

Dept.

Provided to indicate what department or agency has jurisdiction over the subject matter or is responsible for enforcing the relevant law, or both. This is not intended as an exclusive list of stakeholders, but is merely an aid to determining with which department or agency the Bureau would begin consulting in determining whether, pursuant to the recommendations made herein, the offense should be decriminalized. If no department is listed, the offense is one of general application as to which law enforcement agencies--police, prosecutors, and the attorney general--have principal responsibility.

Includes Traffic Offenses

The term "traffic offense" is used broadly to refer to conduct involving the operation and parking of motor and other vehicles. Provided to indicate those offenses that are of the type the Legislature has already indicated an intent to decriminalize. It is with these offenses that the Bureau would begin in determining whether, pursuant to the recommendations made herein, the offense should be decriminalized. This should not be construed as an indication that the Bureau has any position as to whether the listed offenses should be decriminalized or not.

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Protection of Caves	6D-12: Criminal penalties	No	PM	30 days	\$1,000 (first offense)	\$1,500 (subsequent offense)	Dept. of Land and Natural Resources (DLNR)	No
Kahoolawe Island Reserve	6K-8: Penalty	HAR Title 13, Chapter 261	PM	30 days	\$1,000	No	(same)	No
Elections; Voting Procedures	11-132: Two hundred foot radius; admission within polling place	No	M	(1 year)	(\$2,000)	No	Office of Elections	No
Elections; Expenses; Campaign Contributions and Expenditures	11-229: Criminal Prosecution	No	M	(1 year)	(\$2,000)	Disqualification from public office for four years	Office of Elections	No
Election Offense	19-6: Misdemeanors	No	M	(1 year)	(\$2,000)	No	Office of Elections	No
Legislative Hearings and Procedure	21-15: Penalties	No	(M)	1 year	\$1,000	No	Legislature	No
Auditor; Office of the Auditor Proper	23-10: Penalty for violation and false evidence	No	(M)	12 months (minimum 1 month is prison imposed)	\$1,000 (minimum \$100 if tax imposed)	No	Auditor	No
Reapportionment	25-4: Penalty for violation and false evidence	No	(M)	12 months	\$1,000	No	Legislature	No
Counties; General Provisions; Fiscal Administration	46-45: Excessive expenditures; penalty	No	(M)	1 year	\$1,000	No		No
Collective Bargaining in Public Employment	89-18: Penalty	No	(M)	1 year	\$500	No	Labor Relations Board	No
Public Agency Meetings and Records; Meetings	92-13: Penalties	No	M	(1 year)	(\$2,000)	Summary removal from board	Office of Information Practices (OIP)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Uniform Information Practices Act; Freedom of Information	92F-17: Criminal penalties	No	M	(1 year)	(\$2,000)	No	(same)	No
Concessions on Public Property	102-16: Penalty	No	(M)	1 year	\$1,000	No		No
Expenditure of Public Money and Public Contracts	103-9: False certificates or approval; penalty	No	(M)	1 year	\$500	No		No
	103-53: Contracts with the State or counties; tax clearances, assignments	No	(M)	1 year	\$1,000	No		No
Hawaii Public Procurement Code: Inventory Management; State & County Property	103D-1210: Penalty; jurisdiction	No	(PM)	6 months	\$500	No	Dept. of Accounting and General Services (DAGS); Procurement Policy Board	No
Government Motor Vehicles	105-5: Penalties; dismissal	No	(PM)	10 days	\$50	Discharge/dismissal of appointed officer or public employee	DAGS	No
Stadiums and Recreational Facilities	109-7: Enforcement; penalties	HAR Title 3, Chapter 70	109-7(b): PM	109-7(b): 30 days	109-7(b): \$1,000	No	DAGS; Stadium Authority	109-7(c): violating any rule regulating parking or traffic is a traffic infraction under chapter 291D
Militia; National Guard	121-33: Interference by civilian, penalty	No	M	1 year	\$25	No	Dept. of Defense (DOD)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	121-34: Right-of-way on street, violation, and penalty	No	M	1 year	\$100	No	(same)	No
	121-37: Failure to return arms, etc.	No	M	30 days	\$50	No	(same)	No
	121-38: Wearing of uniform for private purposes	No	M	30 days	\$25	No	(same)	No
Procurement and Control of Distribution of Necessary Commodities	125-7: Fraud, misdemeanor	No	PM	6 months	\$1,000	No	Governor	No
Procurement, Control, Distribution and Sale of Petroleum Products; General Powers and Procedures During a Shortage	125C-10: Fraud; misdemeanor	No	M	1 year	\$2,000	No	Governor	No
Civil Defense and Emergency Act	128-32: Misdemeanors	No	M	\$5,000/ \$1,000	1 year/90 days	No	Director of Civil Defense	No
Environmental Response Law	128D-3: Reportable quantities; duty to report	No	M	(\$2,000)	(1 year)	No	Dept. of Health (DOH)	No
Hawaii Emergency Planning and Right-to-Know Act	128E-11: Penalties and fines	No	M	\$25,000	1 year	No	(same)	No
Fire Protection	132-13: Penalty	No	(PM)	30 days	\$500	No	Dept. of Labor and Industrial Relations; State Fire Council; County Fire Chiefs	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Fireworks	132D-8.6: Requirements of licensee	No	PM: 25 or less of fireworks M: more than 25 and up to 300 pounds	(30 days) (1 year)	(\$1,000) (\$2,000)	No	County police and fire departments	No
	132D-14: Penalty	No	M: less than 25 pounds; extracting contents to build other fireworks	(1 year)	(\$2,000)	No	(same)	No
Firearms, Ammunition, and Dangerous Weapons	134-7: Ownership or possession prohibited, when; penalty	No	M: 134-7 (c), (d), (e), (f), or (g)	(1 year)	(\$2,000)	No		No
	134-8: Ownership, etc., of automatic firearms, silencers, etc., prohibited; penalties	No	M: 134-8(c)	(1 year)	(\$2,000)	No		No
	134-17: Penalties	No	PM: 134-17(b) (134-33(a) and (b)) M: 134-17(c) (134-2, -4, -10, -15, 16(a))	(30 days) (1 year)	(\$1,000) (\$2,000)	134-3(b): confiscation and disposal of unregistered firearm		No
	134-33: Punishment for violations of section 134-32	No	(M)	1 year	\$1,000	No		No
	134-52: Switchblade knives; prohibitions; penalty	No	M: 134-52(a)	(1 year)	(\$2,000)	No		No
	134-53: Butterfly knives; prohibitions; penalty	No	M: 134-53(a)	(1 year)	(\$2,000)	No		No
Laser Pointing Devices	136-6: Penalties	No	(PM)	30 days	\$500	No		No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Animals, Brands, and Fences	142-12: Penalties (Animal Diseases and Quarantine)	HAR Title 4, Chapters 17, 22, 28, and 29	M	1 year	\$1,000	Confiscation of offending object	Dept. of Agriculture	No
	142-14: Sale of diseased animals; penalty	No	PM	(30 days)	(\$1,000)	No	(same)	No
	142-48: Felonious branding; penalty	HAR Title 4, Chapter 27	(M)	1 year	\$200	No	(same)	No
	142-61: Lawful fence; penalty	No	(M)	1 year	\$500	No	(same)	No
	142-62: Breaking, etc., of fence; penalty	No	(M)	1 year	\$100	No	(same)	No
	142-95: Rabbits, Belgian hares, to be kept off ground; penalty	No	(PM)	6 months	\$100	No	(same)	No
Animals; Licenses and Regulations	143-2.6: Animal desertion	No	PM	(30 days)	(\$1,000)	No		No
	143-12: Seizure and disposal of diseased dogs; penalty	No	M	(1 year)	(\$2,000)	No		No
Feed	144-12: Penalties	No	M	(1 year)	(\$2,000)	No	Dept. of Agriculture	No
Regulation of Farm Produce; Regulation of Dealers	145-5: Reports of consignment sales	No	M	(1 year)	(\$2,000)	No	(same)	No
	145-12: Misdemeanor	No	(M)	1 year	\$1,000	No	(same)	No
Slaughterhouses; Hides and Beef	146-24: Violations; penalty	No	(M)	1 year	\$500	No	(same)	No
Grades and Standards	147-2: Duties of department; violations; proceedings; penalties	HAR Title 4, Chapter 41	(M)	1 year	\$1,000	No	(same)	No
	147-79: Penalties (chicken eggs)	HAR Title 4, Chapter 46	(M)	1 year	\$1,000	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Hawaii Pesticides Law	149A-41: Violations, warning notice, and penalties	No	M	1 year	149A-41(c)(1): \$25,000 149A-41(c)(2): \$1,000	No	(same)	No
Plant and Non-Domestic Animal Quarantine and Microorganism Import	150A-14: Penalty (Regulation of Importation)	HAR Title 4, Chapter 71	M	(1 year)	\$10,000	\$25,000 for subsequent offense within 5 years	(same)	No
	150A-15: Failure to obey summons	No	M	\$500	6 months	No	(same)	No
	150A-47: Penalties (Importers)	No	M	\$10,000	(1 year)	No	(same)	No
Milk Control Act; Remedies, Violations, Compacts, Construction	157-41: Remedies; penalties	No	M	1 year	\$1,000	No	(same)	No
Hawaii Meat Inspection Act; Violations, Penalties, Prosecution, Compacts, Construction	159-52: Penalties; prosecution	No	(e), (g), (h), (j): (M)	1 year	\$1,000	No	(same)	No
	159-57: Failure to obey summons	No	M	6 months	\$500	No	(same)	No
Poultry Inspection	161-47: Penalties; prosecution	No	(e): M (g), (h), and (j): (M)	(1 year) 1 year	(\$2,000) \$1,000	No	(same)	No
	161-52: Failure to obey summons	No	M	6 months	\$500	No	(same)	No
Land Commission Awards; Surveys	172-13: Destruction, defacing or removal of survey monuments; penalty	No	(PM)	4 months	\$500	No	DLNR	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Forest Reserves, Water Development, Zoning	183-18: Penalty	HAR Title 13, Chapter 104	M	1 year	\$1,000	No	(same)	Yes (HAR 13-104-11)
Wildlife	183D-5: Penalties	HAR Title 13, Chapters 121 to 123	183D-5(a): PM (183D-21, 183D-25, 183D-33, or 183D-63)	30 days	(\$1,000)	Increased mandatory fines and forfeiture of firearms for subsequent offenses; mandatory separate fine per bird/mammal; forfeiture of hunting license; 3 year disqualification from hunting for subsequent offenses	(same)	No
			183D-5(b): M (183D-25.5, 183D-26, 183D-27, 183D-32, 183D-62, or 183D-64)	1 year	(\$2,000)	(same)	(same)	No
			183D-5(c): PM (183D-35, 183D-36, 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42)	30 days	(\$1,000)		(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	183D-27.5: Harassment of hunters; prohibition	No	(PM)	30 days	\$500	No	(same)	No
State Parks and Recreation Areas	184-5: Rules and enforcement; penalty	HAR Title 13, Chapter 146	PM	(30 days)	(\$1,000) (mandatory minimum \$100 fine for first offense)	Restoration of damaged park property; confiscation of tools, equipment, and illegally removed materials; increased mandatory minimum fines for subsequent offenses	(same)	Yes (HAR 13-146-29, -36, and -40)
	184-5.3: Failure to obey summons	No	PM	(30 days)	(\$1,000)	No	(same)	No
Land Fire Protection Law	185-7: Fire danger periods, burning permits, setting fires, penalties	HAR Title 13, Chapter 104	M	(1 year)	\$4,000 (\$250 mandatory minimum fine)	Restitution for any suppression costs and damages to public or private property	(same)	No
Aquatic Resources	187A-5: Rules	HAR Title 13, Chapters 28, 56, 60, 60.3, 62, 74, 75, 83, 84, 85, 89, 90, 91, 92, 93, 94, 95, 99, 100	PM	(30 days)	(\$1,000) (mandatory minimum fine of \$100 for first offense per Sec. 188-70, HRS))	Increased mandatory minimum fines for subsequent offenses per Sec. 188-70, HRS	(same)	No
	187A-12.4: Misrepresentation or false statement in receipts and reports	All rules adopted pursuant to Chapters 187 to 191, HRS	PM	(30 days)	(\$1,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	187A-13: General penalty	HAR Title 13, Chapters 47, 56, 75, 89, 93, 94, 95, 100	PM	(30 days)	(\$1,000) (mandatory minimum \$250 fine for first offense)	Increased mandatory minimum fines for subsequent offenses	(same)	No
Fishing Rights and Regulations	188-70: Penalties	HAR Title 13, Chapters 47 to 58, 60, 60.3, 61 to 64, 75, 83 to 85, 89 to 95, and 99 to 100	PM	(30 days)	(\$1,000) (mandatory minimum \$100 fine for first offense)	Increased mandatory minimum fines for subsequent offenses	(same)	No
	188-71: Harassment of fishermen; prohibition	No	(PM)	30 days	\$500	No	(same)	No
Commercial Fishing	189-4: Penalties	HAR Title 13, Chapters, 74, 94, and 95	PM	(30 days)	(\$1,000) (mandatory minimum \$250 finer for first offense)	Increased mandatory minimum fines for subsequent offenses	(same)	No
	189-14: Rights of entry, penalties	No	PM	(30 days)	(\$1,000) (mandatory minimum \$250 finer for first offense)	Increased mandatory minimum fines for subsequent offenses	(same)	No
Marine Life Conservation Program	190-5: Penalties	HAR Title 13, Chapters 28 to 38	PM	(30 days)	(\$1,000) (mandatory minimum \$250 finer for first offense)	Increased mandatory minimum fines for subsequent offenses	(same)	No
Natural Area Reserves System	195-8: Penalty	HAR Title 134, Chapter 209	M	1 year	\$1,000	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Conservation of Aquatic Life, Wildlife, and Land Plants	195D-9: Penalty	HAR Title 13, Chapters 107, 121, 124, and 125	M	1 year	(\$2,000) (mandatory minimum fine of \$250 for first offense)	Increased mandatory minimum fines for subsequent offenses; \$5,000 for each specimen of a threatened species and \$10,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location	(same)	No
Ocean Recreation and Coastal Areas program	200-25: Fines and penalties	HAR Title 13, Chapters 242, 243, 245, and 252	(PM)	30 days	\$1,000 (if fine imposed, may not be less than \$50)	Offender deprived of the privilege of operating any vessel in the waters of the State for a period of not more than thirty days	(same)	No
	200-26: Arrest or citation	HAR Title 13, Chapter 242	M	(1 year)	(\$1,000)	No	(same)	No
Housing and Community Development Corporation of Hawaii (HCDCH)	201G-458: Abuse of assistance	HAR Title 15, Chapters 188 and 192	M	(1 year)	(\$2,000)	No	HCDCH	No
Hawaii Community Development Authority (HCDA)	206E-22: Violations and penalty	HAR Title 15, Chapters 16, 22, and 23	(PM)	30 days	\$1,000	No	HCDA	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Administration of Taxes	231-5: Deceased officers, duties of personal representatives, etc.	No	M	(1 year)	(\$2,000)	No	Dept. of Taxation	No
	231-11: Police to aid assessing or collecting officers	No	M	(1 year)	(\$2,000)	No	(same)	No
	231-15.5: Disclosure by return preparers	No	M	1 year	\$1,000	No	(same)	No
	231-35: Wilful failure to file return, supply information, or secure a license	No	M	1 year	\$25,000	Probation	(same)	No
	231-36: False and fraudulent statements; aiding and abetting	No	M	1 year	\$2,000	Probation	(same)	No
	231-37: Neglect of duty, etc., misdemeanor	No	M	(1 year)	(\$2,000)	No	(same)	No
Income Tax Law	235-116: Disclosure of returns unlawful; penalty	No	(M)	1 year	\$500	No	(same)	No
	235-128: Returns; shareholder agreements; mandatory payments	No	M	(1 year)	(\$2,000)	No	(same)	No
General Excise Tax Law	237-34: Filing of returns; disclosure of returns unlawful, penalty; destruction of returns	HAR Title 18, Chapter 237	M	(1 year)	(\$2,000)	No	(same)	No
	237-43: Filing of returns; disclosure of returns unlawful, penalty; destruction of returns	No	M	1 year	\$5,000	No	(same)	No
Transient Accommodations Tax	237D-13: Disclosure of returns unlawful; destruction of returns	No	M	(1 year)	(\$2,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Fuel Tax Law	243-3: Retail dealers, permits; certificates	No	(M)	1 year	\$5,000	No	(same)	No
Cigarette Tax and Tobacco Tax Law	245-37: Sale or purchase of packages of cigarettes without stamps; fines and penalties	No	M	(1 year)	(\$2,000)	No	(same)	No
County Vehicular Taxes	249-13: Determination of rate	No	PM	(30 days)	(\$1,000)	No	County Motor Vehicle Depts.	No
Rental Motor Vehicle and Tour Vehicle Surcharge Tax	251-3: Certificate of registration	HAR Title 18, Chapter 3	M	(1 year)	(\$2,000)	(NB: section references Section 231-34 but that section is a class C felony with imprisonment up to 5 years and a fine of up to \$100,000)	Dept. of Taxation	No
	251-12: Disclosure of returns unlawful; destruction of returns	No	M	(1 year)	(\$2,000)	No	(same)	No
Aeronautics	261-17.5: Arrest or citation	No	M	6 months	\$1,000	No	Dept. of Transportation (DOT)	No
	261-21: Penalties	HAR Chapter 19-11, 13, 14, 15.1, 16.1, 20, 20.1, 26.1, 30, 33, 34, and 38.1	(a): M (b): "offense" (motor vehicles and traffic control) (c): parking violations are traffic infractions under Chapter 291D, HRS	(1 year) none	(\$2,000) \$500	No	(same)	No Yes Yes

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	261-91: Trespass to aircraft; penalty	No	(PM)	3 months	\$250	No	(same)	No
Airport Zoning Act	262-10: Enforcement and remedies	HAR Title 19, Chapter 12	(PM)	90 days	\$1,000	No	(same)	No
Uniform Aeronautics Act	263-9: Dangerous flying a misdemeanor; penalty	No	M	1 year	\$1,000	No		No
	263-10: Hunting from aircraft; penalty	No	M	1 year	\$1,000	No		No
	263-11: Reckless operation of aircraft a misdemeanor	No	M	1 year	\$1,000	No		No
Highways	264-12: Penalty for violations (of Section 264-6, HRS)	No	(PM)	3 months	\$250	No	DOT	No
	264-64: Design of controlled-access facility and regulation, restriction, or prohibition of access; penalty	No	(PM)	3 months	\$250	No	(same)	Yes
	264-77: Penalty	HAR Title 19, Chapter 103	(PM)	1 month	\$500 (minimum fine, if any is imposed, is \$25)	No	(same)	No
	264-102: Penalty	No	PM	30 days	\$1,000	No	(same)	Yes (parking on state highway to sell things, service, etc.)
Harbors	266-24.1: Arrest or citation	HAR Title 19, Chapter 42	M	6 months	\$1,000	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Motor Carrier Law	271-8.5: Advertising	HAR Title 6, Chapter 48	M	(1 year)	(\$2,000)	No	Public Utilities Commission (PUC)	No
	271-27: Unlawful operation	HAR Title 6, Chapters 62 and 68	M	(1 year)	(\$2,000)	civil penalties	(same)	No
Hawaii Water Carrier Act	271G-19: Unlawful operation	HAR Title 6, Chapter 68	(c): M	(1 year)	(\$2,000)	civil penalties	(same)	No
Railway Law	273-14: Penalty for violating	No	(PM)	(30 days) (only on default of fine payment)	\$25	No	DLNR	No
Liabilities and Offenses Connected with Telephones, Wire Communications, and Cable Television Systems	275-6: Party line; refusal to yield in an emergency	No	M	(1 year)	(\$2,000)	No		No
Intoxicating Liquor	281-2: Excepted articles; penalty	No	(PM)	6 months (per 281-102)	\$1,000 (per 281-102)	No	County liquor commission	No
	281-53: Application for false statements; penalty	No	M	6 months (per 281-102)	\$1,000 (per 281-102)	No	(same)	No
	281-73: Quality of liquor; penalty	No	M	6 months (per 281-102)	\$1,000 (per 281-102)	No	(same)	No
	281-76: Tampering with samples; penalty	No	(M)	1 year	\$2,000	No	(same)	No
	281-78: Prohibitions	No	M	6 months (per 281-102)	\$1,000 (per 281-102)	No	(same)	No
	281-79: Entry for examination; obstructing liquor commission operations; penalty	No	(M)	1 year	\$2,000	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	281-84: Exclusion of intoxicated person from premises; penalty	No	M	6 months (per 281-102)	\$1,000 (per 281-102)	No	(same)	No
	281-101: Manufacture or sale without license; penalty	No	(M)	1 year	\$2,000	No	(same)	No
	281-101.5: Prohibitions involving minors; penalty	No	(a): M (b) or (c): PM	(1 year) (30 days)	(\$1,000)	No	(same)	No
	281-102: Other offenses; penalty	No	(PM)	6 months	(\$1,000)	No	(same)	No
	281-110: Arrest; abettors	No	M	6 months (per 281-102)	\$1,000 (per 281-102)	No	(same)	No
	281-111: Condemnation of property or liquor; disposition	No	M	6 months (per 281-102)	\$1,000 (per 281-102)	No	(same)	No
Motor and Other Vehicles	286-8: Rules and regulations	HAR Title, 19, Chapters 121 and 125 to 130	(M)	1 year	\$1,000	No	DOT	Yes
	286-10: Arrest or citation	HAR Title 19, Chapter 129	M	(1 year)	(\$2,000)	No	(same)	No
	286-29: Improper representation as official inspection station	No	(M)	1 year	\$1,000	No	(same)	No
	286-30: False certificates	No	(PM)	30 days	\$1,000	No	(same)	No
	286-52: Procedure when title of vehicle transferred; delivery of certificate mandatory	No	(f): M	1 year (per section 286-61)	\$1,000 (if fine is imposed, may not be less than \$5 (per section 286-61))	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	286-61: Penalty (incorporates sections 286-43, -44, and -57)	No	(M)	1 year	\$1,000 (if fine is imposed, may not be less than \$5)	No	(same)	No
	286-136: Penalty (incorporates 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134)	No	(PM)	30 days	\$1,000	For third offense in 5 years, 1 year, minimum fine of \$500 but not more than \$1,000, or both; minor under age 18 barred from driving until age 18 or must pay \$500	(same)	No
	286-181: Pupil transportation safety	HAR Title, Chapter 28 and Title 19, Chapter 243	(g): (PM)	6 months	\$500	No	(same)	No
	286-213: Improper representation as official inspection station	No	(M)	1 year	\$1,000	No	(same)	No
	286-214: False certificates	No	(M)	1 year	\$1,000	No	(same)	No
	286-249: Penalty	No	(M)	1 year	\$1,000 (not less than \$500 if fine imposed)	Disqualified from driving a commercial motor vehicle for a period of not less than one year and up to life	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Motor Vehicle Safety Responsibility Act	287-44: Penalties	No	(a): M (violation of section 287-41) (c): (M) (d) and (e): (PM)	1 year 1 year 6 months	\$1,000 \$1,000 \$500	No	County police chief or director of finance	No
Common Carriers, Compulsory Insurance	288-8: Penalty	No	(M)	1 year	\$1,000	No	PUC	No
Traffic Violations	291-2: Reckless driving of vehicle or riding of animals; penalty	No	(PM)	30 days	\$1,000	No		Yes
	291-3.1: Consuming or possessing intoxicating liquor while operating motor vehicle or moped	No	(PM)	30 days	\$2,000	No		Yes
	291-3.2: Consuming or possessing intoxicating liquor while a passenger in a motor vehicle	No	PM	(30 days)	(\$1,000)	No		No
	291-12: Inattention to driving	No	(PM)	30 days	\$500	No		Yes
	291-31.5: Blue lights prohibited for motor vehicles, motorcycles, motor scooters, bicycles, mopeds	No	(M)	1 year	\$1,000	No		Yes
	291-51.4: Fraudulent verification of an applicant as a person with a disability; penalty	No	PM	(30 days)	(\$1,000)	No		No
Statewide Traffic Code	291C-12.6: Accidents involving bodily injury	No	M	(1 year)	(\$2,000)	\$100 neurotrauma fund surcharge		Yes

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	291C-13: Accidents involving damage to vehicle or property	No	(PM)	10 days	\$100	\$200 maximum fine and 20 day maximum imprisonment for second conviction within one year of first; \$500 maximum fine or six months maximum imprisonment for third conviction within one year of first conviction		Yes
	291C-18: False reports	No	(M)	1 year	\$1,000	No		No
	291C-103: Racing on highways	No	(a): (PM) (per subsection (c)) (f): (M)	30 days 1 year	\$500 \$1,000	(f): 1 year license suspension for second offense within 5 years; 3 year license suspension and vehicle forfeiture for third offense within five years		Yes
	291C-204: Defacing serial numbers, etc., of mopeds	No	M	(1 year)	\$500	No		No
	291C-205: Unlawful to possess certain mopeds and moped parts	No	M	(1 year)	\$500	No		No
Use of Intoxicants while Operating a Motor Vehicle	291E-47: Failure to surrender number plates	No	M	(1 year)	(\$2,000)	No		No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	291E-61: Operating a vehicle under the influence of an intoxicant	No	(b)(1): (PM) (b)(2): (PM) (b)(3): PM	5 days 14 days (at least 48 consecutive hours) 30 days (at least 48 consecutive hours)	\$1,000 \$1,500 (not less than \$500) \$2,500 (not less than \$500)	License suspension/ revocation substance abuse rehabilitation, community service; neurotrauma fund surcharge		Yes
	291E-62: Operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant; penalties	No	(b)(1): (PM) (b)(2): (PM) (b)(3): (PM)	30 days (3 day mandatory minimum) 30 days 1year	\$1,000 (\$250 mandatory minimum) \$1,000 \$2,000	Add'l 1 year license revocation Add'l 2 year license revocation Permanent license revocation		Yes
Bicycles	293-1: Defacing serial numbers, etc., of bicycles	No	M	(1 year)	\$500	No		No
Education	302A-428: Penalty (incorporates sections 302A-424 to 302A-427)	No	M	90 days	\$100	No	Dept. of Education	No (NB: section 302A-424, -426, and -427 do not appear to state an offense of any kind)

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	302A-1135: Penalty	HAR Title 8, Chapter 101	PM	(30 days)	(\$1,000)	No		No
Health	321-15.7: Penalty	HAR Title 11, Chapter 100	M	(1 year)	(\$2,000)	No	DOH	No
	321-18: Penalty	HAR Title 11, Chapters 11, 12, 17, 18, 22, 26, 29, 36, 93, 95, 97, 98, 100, 114, 157, and 164	M	(1 year)	(\$2,000)	No	(same)	No
Health Planning and Resources Development and Health Care Cost Control	323D-50: Certificates of need, penalties	No	M	(1 year)	(\$2,000)	No	(same)	No
Medical Research; Morbidity and Mortality Information	324-34: Penalty	No	M	(1 year)	(\$2,000)	No	(same)	No
	324-44: Penalty	No	M	(1 year)	\$500	No	(same)	No
Infectious and Communicable Diseases	325-8: Infected persons and quarantine	HAR Title 11, Chapter 156	M	(1 year)	(\$2,000)	No	(same)	No
	325-14: Penalty	HAR Title 11, Chapter 157	M	(1 year)	(\$2,000)	No	(same)	No
	325-37: Fraud; wilful misrepresentation; failure to comply; penalties (incorporates section 325-32 to -34)	HAR Title 11, Chapter 157	(PM)	30 days	\$25	No	(same)	No
Medical and Research Use of Bodies	327-38: Prohibitions; penalty	No	(M)	1 year	\$2,000	No	(same)	No
Food, Drugs, and Cosmetics	328-29: Penalty; exceptions (incorporates section 328-6)	HAR Title 11, Chapters 15, 29, and 36	(M)	1 year	\$500	No	(same)	No
	328-51: Causing preventable deterioration of; penalty	No	(PM)	3 months	\$200	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	328-76: Penalty (incorporates sections 328-71 to -75)	No	(PM)	100 days	\$500	No	(same)	No
	328-116: Penalty; exceptions	No	(PM)	1 year	\$500	No	(same)	No
Intoxicating Compounds	328E-5: Misdemeanor	No	M	(1 year)	(\$2,000)	No		No
Uniform Controlled Substances Act	329-62: Proper identification	Title 3, Chapter 201	(PM)	30 days	\$5,000	No	Dept. of Public Safety (PSD)	No
	329-65: Penalty	Title 3, Chapter 201	(a): (PM) (e): (M)	30 days 1 year	\$5,000 \$5,000	\$100,000 fine for subsequent offense	(same)	No
	329-68: Protection of records; divulging confidential information prohibited; penalties	HAR Title 3, Chapter 201	(PM)	30 days	\$5,000	No	(same)	No
	329-128: Fraudulent misrepresentation; penalty	HAR Title 23, Chapter 202	(a): PM (b): M	(30 days) (1 year)	\$500 (\$2,000)	No	(same)	No
Imitation Controlled Substance Act	329C-2: Offenses	No	(a): M (c): PM	(1 year) (30 days)	(\$1,000)	No		No
Poisons, Sale of	330-3: Penalty for violations	No	(PM)	6 months (1 month minimum if prison imposed)	\$500 (not less than \$50 if fine imposed)	No	DOH	No
	330-9: Penalty	No	(PM)	3 months	\$100	No	(same)	No
Hawaii Poison Prevention Packaging Act	330C-7: Penalties	No	M	(1 year)	(\$2,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Mattresses, Manufacture, etc., and Sale of	332-7: Penalty	No	(PM)	6 months (3 months minimum if prison imposed)	\$100 (\$20 minimum if fine imposed)	No		No
Mental Health, Mental Illness, Drug Addiction, and Alcoholism	334-22: Penalty	No	(PM)	6 months	\$1,000	No	DOH	No
Utilization Review and Managed Care of Mental Health, Alcohol, or Drug Abuse Treatment	334B-6: Penalty for violation	No	M	(1 year)	\$1,000	No	DOH	No
Vital Statistics	338-30: Penalties	No	(b): (PM) (d): M	6 months (1 year)	\$1,000 \$1,000	No	DOH	No
Wastewater Treatment Personnel	340B-10: Criminal penalties	No	PM	(30 days)	(\$1,000)	No	(same)	No
Hawaii Law for Mandatory Certification of Public Water System Operators	340F-10: Citation	HAR Title 11, Chapter 25	M	(1 year)	(\$2,000)	No	(same)	No
Air Pollution Control	342B-45: Citation	No	M	(1 year)	(\$2,000)	No	(same)	No
Water Pollution	342D-32: Negligent violations	HAR Title 11, Chapter 55	(M)	(1 year)	\$25,000 (\$2,500 minimum if fine imposed)	No	(same)	No
Noise Pollution	342F-10: Citation	HAR Title 11, Chapter 46	M	(1 year)	(\$2,000)	No	(same)	No
Special Wastes Recycling	342I-8: Penalties		M	(1 year)	(\$2,000)	No	(same)	No
Hazardous Waste	342J-9: Penalties	HAR Title 11, Chapter 279	(c)(3) and (4): M	(1 year)	\$25,000	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Underground Storage Tanks	342L-7: Authority to obtain information and data, inspect, and require and conduct activities; penalties for disclosure	No	(M)	1 YEAR	\$5,000	No	(SAME)	No
Asbestos and Lead	342P-22: Negligent violations	No	(M)	1 year	\$25,000 (\$2,500 minimum if fine is imposed)	No	(same)	No
	342P-25: False statements	No	M	(1 year)	(\$2,000)	No	(same)	No
Department of Human Services	346-34: Frauds, penalties	HAR Title 17, Chapters 604.1, 675, 681, 794, and 1404	(a), (b): PM (c) – (g): M	(30 days) (1 year)	(\$2,000)	No	Dept. of Human Services (DHS)	No
	346-40: Maintenance and availability of records; penalty	HAR Title 17, Chapters 1736 and 1737	M	(1 year)	(\$2,000)	No	(same)	No
	346-146: Penalty	HAR Title 17, Chapter 1423	M	(1 year)	(\$2,000)	No	(same)	No
	346-224: Reports	HAR Title 17, Chapter 1421	PM	(30 days)	(\$1,000)	No	(same)	No
	346-225: Confidentiality of reports	HAR Title 17, Chapter 1421	M	(1 year)	(\$2,000)	No	(same)	No
Nursing Facility Tax	346E-9: Records to be kept; examination; penalties	No	M (penalties set forth in section 231-34; NB: that section establishes a class C felony offense))	(1 year?)	(\$100,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	346E-10: Disclosure of returns unlawful; destruction of returns	No	M	(1 year)	(\$2,000)	No	(same)	No
Blind and Visually Handicapped Persons	347-18: Penalty (incorporates 347-16 and -17)	No	(PM)	6 months	\$100	No	(same)	No
Executive Office on Aging	349-14: Retaliatory acts by facilities or facility employees	No	M	(1 year)	(\$2,000)	No	(same)	No
Child Abuse	350-1.2: Nonreporting; penalty	No	PM	(30 days)	(\$1,000)	No	(same)	No
	350-1.4: Confidentiality	No	M	(1 year)	(\$2,000)	No	(same)	No
Corrections	353-11.5: Restricted access to correctional facilities	No	M	(1 year)	(\$2,000)	No	PSD	No
Hawaii Correctional Industries	354D-16: Penalties	No	M	(1 year)	(\$2,000)	No	(same)	No
Civil Rights Commission (HCRC)	368-5: Penalties	No	(PM)	90 days	\$500	No	DLIR	No
Department of Labor and Industrial Relations	371-9: Penalties	No	(PM)	6 months	\$250	No	(same)	No
Commercial Employment Agencies	373-20: Penalties	No	(PM)	6 months	\$1,000	No	Dept. of Commerce & Consumer Affairs (DCCA)	No
Hawaii Employment Relations Act	377-15: Penalty	No	(M)	1 year	\$500	No	Hawaii Labor Relations Board	No
Employment Practices	378-29.3: Penalties	No	(M)	1 year	(\$1,000)	No	HCRC	No
Recruiting and Hiring of Employees During Labor Disputes	379-4: Penalty	No	(M)	1 year	\$1,000	No		No
Picketing of Residence or Dwelling Place	379A-2: Penalty	No	(PM)	6 months	\$200	No		No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Labor Disputes; Public Utilities	381-11: Penalties	No	Public utility: (PM)	6 months	\$5,000	No	DLIR	No
			Public utility employee: (PM)	6 months	\$100			
			Third party: (PM)	6 months	\$100			
Hawaii Employment Security Law	383-141: Falsely obtaining benefits, etc.	No	M (benefits valued less than \$300)	(1 year)	(\$2,000)	No	(same)	No
	383-142: Employing units	No	(PM)	60 days	\$200 (minimum \$20 if fine is imposed)	No	(same)	No
	383-143: General penalty	No	(PM)	60 days	\$200 (minimum \$20 if fine is imposed)	No	(same)	No
	383-144: Unlawful disclosures	No	(PM)	90 days	\$200 (minimum \$20 if fine is imposed)	No	(same)	No
	383-161: Waiver of rights void	No	(PM)	6 months	\$1,000 (\$100 minimum if fine imposed)	v	(same)	No
	383-162: Limitation of fees	No	(PM)	6 months	\$500 (\$50 minimum if fine imposed)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Additional Unemployment Compensation Benefits Law	385-11: Recovery of additional unemployment benefits; penalties	No	(PM)	30 days	\$200 (minimum \$20 if fine is imposed)	No	(same)	No
Worker's Compensation Law	386-98: Fraud violations and penalties	HAR Title 12, Chapter 10	(d)(2): M (loss under \$300)	(1 year)	(\$2,000)	No	(same)	No
			(d)(3): PM (no monetary loss)	(30 days)	(\$1,000)			
	386-121: Security for payment of compensation; misdemeanor	HAR Title 12, Chapter 10; Title 16, Chapter 94	M	(1 year)	(\$2,000)	No	(same)	No
Wage and Hour Law	387-7: Wilful violations; penalty	No	(PM)	90 days	\$500	No	(same)	No
	387-12: Penalties; collection of unpaid wages; injunctions; etc.	No	(M)	1 year	\$500 (\$50 minimum if fine is imposed)	No	(same)	No
Wages and Other Compensation, Payment of	388-10: Penalties	No	(M)	\$10,000 (\$100 minimum if fine is imposed)		No	(same)	No
Child Labor Law	390-7: Child labor crime	No	M	(1 year)	(\$2,000)	No	(same)	No
Temporary Disability Insurance	392-101: Limitation of fees	No	(PM)	6 months	\$500 (\$50 minimum if fine is imposed)	No	(same)	No
Occupational Safety and Health	396-9: Explosives	HAR Title 12, Chapter 58	(M)	1 year	\$1,000	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	396-10: Violations and penalties	HAR Title 12, Chapter 51	(g): (PM) (1 st offense)	6 months	\$70,000	Add'l prison term and fine for commission of crime against State employee acting in scope of duties under chapter	(same)	No
			(M) (2 nd offense)	1 year	\$70,000			
			(i): (PM)	6 months	\$1,000			
			(m): (M)	1 year	\$10,000			
Boiler and Elevator Safety Law	397-8: Violations and penalties	HAR Title 12, Chapters 220 and 229	(PM)	6 months	\$10,000	Add'l prison term and fine for commission of crime against State employee acting in scope of duties under chapter	(same)	No
Family Leave	398-29: Penalty	No	PM	(30 days)	(\$1,000)	No	(same)	No
Code of Financial Institutions	412:2-104: Confidentiality of information possessed by commissioner	HAR Title 16, Chapters 25 and 26	M	(1 year)	(\$2,000)	No	DCCA	No
	412:2-601: Violation of chapter	HAR Title 16, Chapter 27	M	(1 year)	(\$2,000)	No	(same)	No
	412:2-603: Disclosures of records of Hawaii financial institutions	HAR Title 16, Chapters 25 and 28	M	(1 year)	(\$2,000)	No	(same)	No
	412:2-604: Concealment	No	M	(1 year)	(\$2,000)	No	(same)	No
	412:2-607: Deception; false statements	No	M	(1 year)	(\$2,000)	No	(same)	No
	412:2-608: Misapplication of funds	No	M (amount not exceeding \$300)	(1 year)	(\$2,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	412:5A-213: Improper fixing of commodity prices	No	M	(1 year)	(\$2,000)	No	(same)	No
Agricultural Cooperative Associations	421-19: Misdemeanor to induce breach of marketing contract to cooperative association; spreading false reports about the management or finances thereof	No	(M) (NB: although title denominates offense a misdemeanor, operative language of section does not use the term)	(1 year)	(\$2,000)	No	(same)	No
Insurance Code	431:2-203: Enforcement	No	(M)	1 year	\$10,000 (\$100 minimum if fine is imposed)	No	(same)	No
Accident and Sickness Insurance Contracts	431:10A-131: Insurance fraud; penalties	No	M (for benefits valued at \$300 or less)	(1 year)	(2,000)	No	(same)	No
Motor Vehicle Insurance	431:10C-117: Penalties	HAR Title 16, Chapter 23	(PM)	30 days	\$5,000 (Mandatory minimum fine of \$100)	No		No
	431:10C-307.7: Insurance fraud; penalties	No	M (for benefits valued at \$300 or less)	(1 year)	(\$2,000)	No	DCCA	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Motorcycle and Motor Scooter Insurance	431:10G-108: Penalties	No	(PM)	30 days	\$1,000 (\$100 minimum if fine is imposed)	1 year driver's license suspension		No
Insurers Supervision, Rehabilitation, and Liquidation	431:15-106: Cooperation of officers and employees	No	(M)	1 year	\$10,000	No	DCCA	No
Title Insurance and Title Insurers	431:20-111: Loans to officers, etc.	No	M	(1 year)	(\$2,000)	No	(same)	No
Benefit Societies	432:1-105: Penalty	No	(M)	1 year	\$1,000	No	(same)	No
	432:1-106: Insurance fraud; penalties	No	M (for benefits valued at \$300 or less)	(1 year)	(\$2,000)	No	(same)	No
	432:2-703: Penalties	No	(M)	1 year (minimum 30 days if prison is imposed)	\$500 (minimum \$100 if fine is imposed)	No	(same)	No
Health Maintenance Organization Act	432D-18.5: Insurance fraud; penalties	No	M (for benefits valued at \$300 or less)	(1 year)	(\$2,000)	No	(same)	No
Uniform Professional and Vocational Licensing Act	436B-27: Civil and criminal sanctions for unlicensed activity; fines; injunctive relief; damages; forfeiture	No	M	1 year	\$1,000	Forfeiture of tools, implements, etc.	DCCA	No
Motor Vehicle Industry Licensing Act	437-35.5: Misdemeanor	No	M	1 year	\$1,000	No	(same)	No
Regulation of Motor Vehicle Repairs	437B-11.3: Aiding or abetting	No	M	(1 year)	(\$2,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	437B-22: Failure to comply with chapter; misdemeanor	No	M	(1 year)	(\$2,000)	No	(same)	No
Barbering, Practice of	438-13: Penalties	HAR Title 73, Chapter 47	(PM)	6 months	\$100	No	(same)	No
Beauty Culture	439-22: Penalty		(PM)	90 days	\$100	No	(same)	No
Boxing Contests	440-34: Violations; penalty	HAR Title 16, Chapter 74	(M)	1 year	\$5,000	No	(same)	No
Chiropractic	442-19: Violations, penalty	HAR Title 16, Chapter 76	(PM)	90 days	(\$1,000)	No	(same)	No
Contractors	444-7.5: Asbestos contractors	HAR Title 16, Chapter 77	M	(1 year)	(\$2,000)	No	(same)	No
	444-9.2: Advertising	(same)	M	(1 year)	(\$2,000)	No	(same)	No
	444-10.6: State of disaster; acting as a contractor without a license; penalty	No	(M)	1 year	\$10,000	No	(same)	No
	444-10.7: Enhanced penalties when elderly persons are targeted	No	(M)	1 year	\$10,000	No	(same)	No
County Licenses	445-96: Penalty	No	M	(1 year)	(\$2,000)	No	(same)	No
	445-121: Penalty	No	(PM)	1 month	\$500 (\$25 minimum if fine imposed)	No	(same)	No
	445-235: Prohibitions; penalty	No	M	(1 year)	(\$2,000)	No	(same)	No
Debt Adjusting	446-2: Debt adjusting prohibited; penalty; contracts void	No	(PM)	6 months	\$500	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Dentistry	448-21: Criminal penalties	No	(PM)	6 months	\$500	1 year/\$1,000 for subsequent offense; forfeiture of tools, implements, etc.	(same)	No
Elevator Mechanics	448H-10: Penalties	HAR Title 16, Chapter 81	(M on 2 nd off)	1 year	\$1,000	No	(same)	No
Hearing Aid Dealers and Fitters	451A-19: Penalties		(PM)	90 days	\$500	No	(same)	No
Massage	452-19: Penalties	HAR Title 16, Chapter 84	M	(1 year)	(\$2,000)	No	(same)	No
	452-23: Penalties	(same)	M	(1 year)	(\$2,000)		(same)	No
Medicine and Surgery	453-13: Penalty	No	(PM)	6 months	\$500	Forfeiture of tools, implements, etc.	(same)	No
Mortgage Brokers and Solicitors	454-8: Penalty, contracts void	No	(M)	1 year	\$1,000	No	(same)	No
Notaries Public	456-7: Acts prohibited; penalty	No	(M)	1 year	\$500	No	(same)	No
Nurses	457-14: Violations of chapter; penalties	No	M	1 year for subsequent offense	\$500 (1 st offense) \$1,000 (subsequent offense)	No	(same)	No
Nursing Home Administrators Act	457B-12: Penalties	No	(M) (subsequent offense)	1 year for subsequent offense	\$500 (1 st offense) \$1,000 (subsequent offense)	No	(same)	No
Opticians, Dispensing	458-15: Penalties	No	(M)	1 year	\$500	No	(same)	No
Optometry	459-14: Penalty	No	(PM)	6 months	\$500	No	(same)	No
Osteopathy	460-16: Penalties	No	M	(1 year)	\$250	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Pest Control Operators	460J-27.5: Advertising	No	M	(1 year)	(\$2,000)	No	(same)	No
	460J-29: Penal sanctions	No	(PM)	6 months	\$2,500	No	(same)	No
Pharmacists and Pharmacy	461-17: Penalties	HAR Title 16, Chapter 95	(PM)	6 months	\$500	No	(same)	No
Pilotage	462A-10: Piloting without a license	No	M	(1 year)	(\$2,000)	No	(same)	No
Private Investigators and Guards	463-15: Penalties	HAR Title 16, Chapter 97	(PM) (M)	6 months 1 year	\$100 \$500	No	(same)	No
Podiatrists	463E-11: Penalty	No	M	(1 year)	(\$2,000)	No	(same)	No
Professional Engineers, Architects, Surveyors and Landscape Architects	464-14: Unlicensed activity; penalties	No	(M)	1 year	\$500	No	(same)	No
Psychologists	465-15: Prohibited acts; penalties	No	(M)	1 year	\$1,000	No	(same)	No
Public Accountancy	466-11: Injunctions against prohibited acts	No	M	(1 year)	\$1,000	No	(same)	No
Radiologic Technology	466J-9: Violations of chapter; penalties	No	M	(1 year)	(\$2,000)	No	(same)	No
Real Estate Brokers and Salespersons	467-20: False statement	No	M	(1 year)	(\$2,000)	No	(same)	No
Solicitation of Funds from the Public	467B-10: Penalties	No	(PM) (1 st offense) (M) (subsequent offense)	6 months 1 year	\$500 (\$100 minimum if fine imposed) \$1,000 (minimum \$500 if fine imposed)	No	(same)	No
Speech Pathologists and Audiologists	468E-16: Penalties	No	PM	(30 days)	\$1,000	No	(same)	No
Travel Agencies	468L-29: Violation of charter tour operator provisions	No	M	(1 year)	(\$2,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
Undertakers, Embalmers, Funeral Directors	469-8: Penalty	HAR Title 11, Chapter 22	(PM)	90 days (minimum 30 days if prison imposed)	\$250 (minimum \$50 if fine imposed)	No	(same)	No
Veterinary Medicine	471-15: Criminal penalties	No	M	6 months	\$500	Forfeiture of tools, implements, etc.	(same)	No
Credit Sales	476-27: Fraudulent injury, concealment, removal, or sale; penalty	No	(M)	1 year	\$500	No	(same)	No
Interest and Usury	478-6: Usury; penalty	No	(M)	1 year	\$250	No	(same)	No
Monopolies; Restraint of Trade	480-18: Investigation	No	(t) and (x): (M)	1 year	\$1,000	No	Att'y Gen'l	No
Check Cashing	480F-6: Penalties	No	(PM)	30 days	\$500	No		No
Trademarks, Service Marks, and Trade Names, Registration and Protection of	482-3.5: Penalty	No	M	(1 year)	\$500	No		No
Copyrights in Sound Recordings	482C-5: Penalty	No	M	(1 year)	(\$2,000)	No		No
Gold and Silver Stamping	482D-7: Violation of fineness standards and stamping requirements	No	M (aggregate value less than \$300)	(1 year)	(\$2,000)	No		No
	482D-8: Violation of trademarking requirement	No	M (1 st offense)	(1 year)	(\$2,000)	No		No
Measurement Standards	486-29: Hindering or obstructing an officer or inspector; bribery; penalties	No	M	(1 year)	(\$2,000)	No	Board of Agriculture	No
	486-32: Offenses and penalties	HAR Title 4, Chapters 89, 93, 94, and 101	M	(1 year)	(\$2,000)	No	(same)	No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	486-87: Penalties	HAR Title 4, Chapter 101	M	(1 year)	(\$2,000)	No	(same)	No
	486-136: Offenses and penalties	HAR Title 4, Chapter 89	M	(1 year)	(\$2,000)	No	(same)	No
Pawnbrokers and Secondhand Dealers	486M-7: Penalties	No	M	(1 year)	(\$2,000)	No		No
International Matchmaking Organizations	489N-4: Penalties	No	(PM)	30 days	\$500	No		No
Bureau of Conveyances; Recording	502-54: Penalty for false certificate	No	(M)	1 year	\$1,000	No	DLNR	No
Condominium Property Regimes	514A-49: Penalties	No	M	1 year	\$10,000	No		No
	514A-98: False statement	No	M	(1 year)	(\$2,000)	No		No
	514A-107.6: False statement	No	M	1 year	\$2,000	No		No
	514A-134: False statement	No	M	(1 year)	(\$2,000)	No		No
Residential Leaseholds	516-5: Penalty	HAR Title 15, Chapter 178	(M)	1 year	\$5,000	(Minimum \$1,000 if fine imposed)	HCDCH	No
Unclaimed Property	523A-34: Interest and penalties	No	M	(1 year)	(\$2,000)	No		No
Family Courts	571-52: Assignment by court order of future income for payments of support	No	M	(1 year)	(\$2,000)	No	Judiciary	No
Child Support Enforcement	576D-17: Violations; penalties	No	PM	(30 days)	(\$1,000)	No	Att'y Gen'l	No
Administrative Process for Child Support Enforcement	576E-16: Income withholding	No	M	(1 year)	(\$2,000)	No	Att'y Gen'l	No
Children	577-18: Parents allowing children in street, prohibited when; penalty	No	(PM)	20 days	\$100	No		No
	577-23: Parent et al. responsibility, penalty	No	(PM)	30 days	\$50	No		No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	577-24: Escort's responsibility; penalty	No	(PM)	90 days	\$100	No		No
Annulment, Divorce, and Separation	580-10: Restraining orders; appointment of master	No	M	(1 year)	\$1,000	No		No
Domestic Abuse and Protective Orders	586-4 : Temporary restraining order	No	M	(1 year)	\$1,000	No		No
	586-11: Violation of an order for protection	No	M	(1 year)	\$1,000	No		No
District Courts	604-10.5: Power to enjoin and temporarily restrain harassment	No	M	(1 year)	(\$2,000)	No		No
Jurors	612-13: Juror qualification form	No	(PM)	30 days	\$500	No		No
	612-25: Protection of jurors' employment	No	PM	(30 days)	(\$1,000)	No		No
Civil Remedies and Defenses and Special Proceedings	651-48: Same, penalty [Levy on and execution sale of investment securities; garnishment the proper procedure when the security is subject to right of possession of third party]	No	(M)	1 year	\$1,000	No		No
Civil Relief for State Military Forces	657D-21: Eviction or distress during military service; stay; penalty for noncompliance; allotment of pay for payment	No	M	(1 year)	(\$2,000)	No		No
	657D-22: Installment contracts for purchase of property	No	M	(1 year)	(\$2,000)	No		No

TABLE OF CRIMINAL OFFENSES OUTSIDE THE PENAL CODE

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.	Includes Traffic Offenses
	657D-23: Mortgages, trust deeds, and other securities	No	M	(1 year)	(\$2,000)	No		No
	657D-25: Termination of leases by lessees	No	M	(1 year)	(\$2,000)	No		No
Tort Actions	663-1.6: Duty to assist	No	PM	(30 days)	(\$1,000)	No		No
Arrests, Search Warrants	803-10: Penalty	No	(M)	1 year	\$500	No		No
Uniform Criminal Extradition Act	832-11: Penalty	No	M	6 months	\$500	No		No
Hawaii Criminal Justice Data Center; Civil Identification	846-36: Violations; penalties	No	(PM)	6 months	\$5000	No	Att'y Gen'l	No
Obstruction of Ingress or Egress	852-2: Penalty	No	(PM)	6 months	\$200	No		No

Appendix C

Report Title:

Criminal Offenses

Description:

Requires the legislative reference bureau to conduct an ongoing study of penal offenses to determine which offenses can be decriminalized. Requires the bureau to seek input from state departments and agencies with jurisdiction over offenses identified by the judiciary as requiring court appearances, even though only fines are typically imposed, and to prepare legislation accordingly.

A BILL FOR AN ACT

RELATING TO CRIMINAL OFFENSES.

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

1 SECTION 1. Chapter 23G, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§23G- Decriminalization of statutes. The legislative
5 reference bureau shall conduct a systematic and continuing
6 review of the laws of Hawaii for the purpose of developing
7 legislation to decriminalize misdemeanor, petty misdemeanor, and
8 other penal offenses, as identified by the judiciary, that
9 require court appearances and, potentially, court-appointed
10 counsel and jury trial, but that are routinely disposed of by
11 imposition only of a fine. For these purposes, the legislative
12 reference bureau shall:

13 (1) Contact the state departments or agencies that have
14 jurisdiction over the offenses identified by the
15 judiciary and request their input as to whether the
16 offenses can be decriminalized without undermining

.B. NO.

their ability to enforce laws within their
jurisdiction; and

(2) Prepare legislation periodically, as dictated by the
quantity and complexity of offenses identified by the
judiciary and the nature of the information received
from state departments and agencies, to implement the
purposes of this section."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Appendix D

Table of Criminal Traffic Offenses

The following table consists of those statutory provisions identified in Appendix B, Table of Criminal Offenses Outside the Penal Code, as imposing criminal penalties for traffic offenses. As noted in the Legend to Appendix B, the term "traffic offense" is used broadly to refer to conduct involving the operation and parking of motor and other vehicles.

TABLE OF CRIMINAL TRAFFIC OFFENSES

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.
Forest Reserves, Water Development, Zoning	183-18: Penalty	HAR Title 13, Chapter 104	M	1 year	\$1,000	No	DLNR
State Parks and Recreation Areas	184-5: Rules and enforcement; penalty	HAR Title 13, Chapter 146	PM	(30 days)	(\$1,000) (mandatory minimum \$100 fine for first offense)	Restoration of damaged park property; confiscation of tools, equipment, and illegally removed materials; increased mandatory minimum fines for subsequent offenses	(same)
Aeronautics	261-21: Penalties	HAR Chapter 19-11, 13, 14, 15.1, 16.1, 20, 20.1, 26.1, 30, 33, 34, and 38.1	(b): "offense" (motor vehicles and traffic control) (c): parking violations are traffic infractions under Chapter 291D, HRS	none	\$500	No	DOT
Highways	264-64: Design of controlled-access facility and regulation, restriction, or prohibition of access; penalty	No	(PM)	3 months	\$250	No	(same)
	264-102: Penalty	No	PM	30 days	\$1,000	No	(same)
Motor and Other Vehicles	286-8: Rules and regulations	HAR Title, 19, Chapters 121 and 125 to 130	(M)	1 year	\$1,000	No	(same)
Traffic Violations	291-2: Reckless driving of vehicle or riding of animals; penalty	No	(PM)	30 days	\$1,000	No	

TABLE OF CRIMINAL TRAFFIC OFFENSES

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.
	291-3.1: Consuming or possessing intoxicating liquor while operating motor vehicle or moped	No	(PM)	30 days	\$2,000	No	
	291-12: Inattention to driving	No	(PM)	30 days	\$500	No	
	291-31.5: Blue lights prohibited for motor vehicles, motorcycles, motor scooters, bicycles, mopeds	No	(M)	1 year	\$1,000	No	
Statewide Traffic Code	291C-12.6: Accidents involving bodily injury	No	M	(1 year)	(\$2,000)	\$100 neurotrauma fund surcharge	
	291C-13: Accidents involving damage to vehicle or property	No	(PM)	10 days	\$100	\$200 maximum fine and 20 day maximum imprisonment for second conviction within one year of first; \$500 maximum fine or six months maximum imprisonment for third conviction within one year of first conviction	
	291C-103: Racing on highways	No	(a): (PM) (per subsection (c)) (f): (M)	30 days 1 year	\$500 \$1,000	(f): 1 year license suspension for second offense within 5 years; 3 year license suspension and vehicle forfeiture for third offense within five years	

TABLE OF CRIMINAL TRAFFIC OFFENSES

HRS Chapter Title	HRS Section No. & Title	Related Administrative Rule(s)	Class of Offense (PM/M)	Maximum Prison Term	Maximum Fine	Other Penalty	Dept.
Use of Intoxicants While Operating a Motor Vehicle	291E-61: Operating a vehicle under the influence of an intoxicant	No	(b)(1): (PM)	5 days	\$1,000	License suspension/ revocation substance abuse rehabilitation, community service; neurotrauma fund surcharge	
			(b)(2): (PM)	14 days (at least 48 consecutive hours)	\$1,500 (not less than \$500)		
			(b)(3): PM	30 days (at least 48 consecutive hours)	\$2,500 (not less than \$500)		
	291E-62: Operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant; penalties	No	(b)(1): (PM)	30 days (3 day mandatory minimum)	\$1,000 (\$250 mandatory minimum)	Add'l 1 year license revocation	
			(b)(2): (PM)	30 days	\$1,000	Add'l 2 year license revocation	
			(b)(3): (PM)	1year	\$2,000	Permanent license revocation	