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HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 95

Rules Regulating the Taking and Selling  
of Certain Marine Resources

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§13-95-1 Definitions. As used in this chapter, unless otherwise provided:

"Aholehole" means any fish known as *Kuhlia xenura* or *Kuhlia sandvicensis* or any recognized synonym.

"Akule" means any fish identified as *Selar crumenophthalmus* or other recognized synonym. This fish is also known as pa'a'a, halalu, hahalalu, and big-eyed scad.

"Awa" means any fish known as *Chanos chanos* or any recognized synonym.

"Break" means to hit with, or to apply sufficient force to reduce to smaller pieces or to crack without actually separating into pieces.

"Carapace length" means the straight line measurement from the tip of the rostrum to the middle of the trailing edge of the body or carapace, not including the tail.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 13-74-20 and section 189-2, HRS.

"Damage" means to scrape, smother, poison, or otherwise cause any physical or physiological harm to the living portion of a stony coral or live rock.

"Day" means a twenty-four hour period.

"He'e" means any mollusk known as *Octopus cyanea*, *Octopus ornatus*, or any recognized synonym.

"Kala" means any fish known as *Naso unicornis*, *Naso brevirostris*, *Naso annulatus*, or any recognized synonym.

"Kona crab" means any crab known as *Ranina ranina* or any recognized synonym.

"Kumu" means any fish known as *Parupeneus porphyreus* or any recognized synonym.

"Length" means the straight line measurement from the tip of the snout to the middle of the trailing edge of the tail.

"Live rock" means any natural hard substrate to which marine life is visibly attached or affixed.

"Manini" means any fish known as *Acanthurus triostegus sandvicensis* or any recognized synonym.

"Mitigation" means activities carried out in accordance with this chapter in order to avoid, minimize, restore, or compensate for losses of certain marine resources due to authorized activities.

"Moano" means any fish known as *Parupeneus multifaciatatus* or any recognized synonym.

"Moi" means any fish known as *Polydactylus sexfilis* or any recognized synonym.

"Mullet" means any fish known as *Mugil cephalus* or any recognized synonym.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

"Oio" means any fish known as *Albula glossodonta* or any recognized synonym.

"Opelu kala" means any fish known as *Naso hexacanthus* or any recognized synonym.

"Renewable energy projects" means projects developed by renewable energy producers, as the term is defined in section 171-95, Hawaii Revised Statutes, that reduce the consumption of non-renewable energy resources or produce renewable energy.

"Sell" means to solicit and receive an order for; to have, or keep, or offer, or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; and to traffic in.

"Speared" means to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the

aquatic life was speared.

"Slipper lobster" means any crustacean of the species *Scyllarides squammosus* or *S. haani*, or recognized synonyms. These animals are also known as rock lobster, mole lobster, shovel-nosed lobster, or ula papapa.

"Spiny lobster" means any crustacean of the species *Panulirus penicillatus* or *P. marginatus*, or recognized synonyms. These animals are also known as lobster, Hawaiian spiny lobster, red lobster, green lobster, or ula.

"Stony coral" means any invertebrate species belonging to the Order Scleractinia, characterized by having a hard, calcareous skeleton, that are native to the Hawaiian islands.

"Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking.

"Uhu" means any fish known as *Scarus dubius*, *Scarus psittacus*, *Scarus rubroviolaceus*, *Chlorurus sordidus*, *Chlorurus perspicillatus*, or any recognized synonym.

"Ulua" means any fish known as *Caranx ignobilis*, *Caranx lugubris*, *Caranx melampygus*, *Caranx sexfasciatus*, *Carangoides equula*, *Carangoides ferdau*, *Carangoides orthogrammus*, or any recognized synonym. The young of these species are also known as papio.

"Weke" means any fish known as *Mulloidichthys flavolineatus* or any recognized synonym. These fish are also known as goatfish, yellowstripe goatfish, weke a, and the young of this fish is known as oama. [Eff 12/03/98; am 1/11/02; am 12/09/02; am 12/19/02; am 5/01/14; am 10/19/18] (Auth: HRS §§187A-3.5, 187A-5, 190-3) (Imp: HRS §§187A-3.5, 187A-5, 190-3)

§13-95-1.1 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

- (1) Licenses issued pursuant to sections 187A-3.5, 188-44, 188-57, or 189-6, HRS;
- (2) Permits issued pursuant to sections 187A-6, 188-23, 188-37, 188-68, or 190-4, HRS; or
- (3) As may be otherwise provided by law. [Eff 12/19/02; am 5/01/14] (Auth: HRS §§187A-3.5, 187A-6, 188-44, 188-45, 188-57, 188-68, 190-3) (Imp: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68, 190-4)

§13-95-2 Penalty. (a) A person violating any section of this chapter may be subject to any applicable criminal or administrative penalties or both. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

(b) For the purpose of calculating the administrative penalties for violations of this chapter, if a fine per specimen may be applicable, fines per specimen may be imposed on the following basis:

- (1) For finfish, each individual;
- (2) For invertebrates, not including stony corals or live rock, each individual;
- (3) For solitary (having a single polyp) stony corals, each individual;
- (4) For colonial stony corals:
  - (A) Each damaged head or colony less than one square meter in surface area; or
  - (B) For a colony greater than one square meter in surface area, each square meter of colony surface area and any

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fraction remaining constituting an additional specimen;

- (5) For live rocks, each individual; but if the violation involves greater than one square meter of bottom area, on the basis of each square meter of bottom area. [Eff 12/03/98; am 5/01/14] (Auth: HRS §§187A-5, 188-53, 190-3) (Imp: HRS §§183C-7, 187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4, 190-5)

§13-95-3 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff 12/3/98] (Auth: HRS §§187A-5) (Imp: HRS §§187A-5, 1-23)

§13-95-4 Aholehole. It shall be unlawful for any person to take, possess, or sell any aholehole less than five inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-5 Manini. It shall be unlawful for any person to take, possess, or sell any manini less than five inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6 Moano. It shall be unlawful for any person to take, possess, or sell any moano less than seven inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7 Kumu. It shall be unlawful for any person to take, possess, or sell any kumu less than ten inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-8 Mullet. (a) It shall be unlawful for any person to take, possess, or sell any mullet less

than eleven inches in length.

(b) It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, or have in possession any mullet during the months of December, January, February, and March; provided that any owner or operator of a fish pond may lawfully catch the young mullet known as pua during the closed season, for the purpose of stocking the owner's or operator's pond; and provided further that any owner or operator of a fish pond or any commercial marine dealer may lawfully sell pond raised mullet during the closed season after first procuring a license to do so pursuant to sections 13-74-40 or 13-74-43. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-9 Awa. It shall be unlawful for any person to take, possess, or sell any awa less than nine inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-10 Oio. It shall be unlawful for any person to take, possess, or sell any oio less than fourteen inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-11 Kala. It shall be unlawful for any person to take, possess, or sell any kala less than fourteen inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-12 Opelu kala. It shall be unlawful for any person to take, possess, or sell any opelu kala less than sixteen inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-13 Opakapaka. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any opakapaka less than one pound in weight.

(b) It shall be unlawful for any person to take

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with spear or possess any speared opakapaka less than one pound in weight. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-14 Onaga. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any onaga less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared onaga less than one pound in weight. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-15 Uku. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any uku less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared uku less than one pound in weight. [Eff: 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16 Uhu. It shall be unlawful for any person to take, possess, or sell any uhu less than twelve inches in length. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-17 Ahi. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any ahi less than three pounds in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared ahi less than three pounds in weight. [Eff: 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-18 Opelu. It shall be unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking opelu with fish or animal bait within the waters off the coast of South Kona, island of Hawaii, between the Kiilae-Keokea boundary and the Kapua-Kaulanamauna boundary, except with hook and line. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-19 Akule. (a) It shall be unlawful for any person to take any akule measuring less than eight and one-half inches in length, with a net during the months of July, August, September, and October.

(b) It is unlawful for any person, other than marine seafood dealers, to possess or sell more than two hundred pounds of akule measuring less than eight and one-half inches in length per day during July, August, September, and October; except as may be otherwise provided by law. [Eff 12/03/98; am 1/11/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-20 Iao. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured iao taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any iao; provided that the department may issue licenses pursuant to section 13-74-22, to take iao for use as bait only. [Eff: 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-21 Nehu. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured nehu taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu; provided that the department may issue licenses pursuant to section 13-74-22, to take nehu for use as bait only and as maybe otherwise allowed under chapter 13-90. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22 Ulua. (a) It is unlawful for any person to take or possess any ulua less than ten inches in length.

(b) It is unlawful for any person to sell any ulua less than sixteen inches in length.

(c) It is unlawful for any person to take or

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possess more than twenty ulua measuring more than ten inches in length per day; provided that a commercial marine licensee may take, possess, and sell more than twenty such ulua; and further provided that a commercial marine dealer may possess and sell more than twenty such ulua with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes. [Eff 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 87 of Title 13 was based substantially upon Regulation 19 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; R 5/26/81] Section 13-95-22 is based substantially upon Chapter 87 of Title 13. [Eff 5/26/81; am 1/25/82; R 12/19/02]

§13-95-23 Moi. (a) It is unlawful for any person to take, possess, or sell any moi less than eleven inches in length.

(b) It is unlawful for any person to take, possess, or sell more than fifteen moi per day during September through May; provided that a commercial marine dealer may possess and sell more than fifteen moi with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes.

(c) It is unlawful for any person to take, possess, or sell any moi during June, July, and August. [Eff 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. Section 13-95-23 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02]

§13-95-24 Weke. (a) It is unlawful for any person to take or possess more than fifty weke less than seven inches in length per day.

(b) It is unlawful for any person to sell any weke less than seven inches in length. [Eff 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. Section 13-95-24 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02]

§13-95-50 Kuhonu crab. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any kuhonu crab less than four inches in length or in width across or along its back.

(b) It is unlawful for any person to catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any kuhonu crab while with eggs. Any kuhonu crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any kuhonu crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(c) No person shall pursue, take, or kill any kuhonu crab in the State with a spear.

(d) No person shall offer for sale any speared kuhonu crab. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-51 Kona crab. (a) It shall be unlawful for any person to take, possess, or sell any Kona crab less than four inches in carapace length.

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(b) It is unlawful for any person to take, possess, or sell any Kona crab taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(c) The possession of any Kona crab by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve Kona crab lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(d) It is unlawful for any person to take, possess, or sell any Kona crab while with eggs. Any Kona crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any Kona crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(e) No person shall pursue, take, or kill any Kona crab in the State with a spear.

(f) No person shall possess or sell any speared Kona crab. [Eff 12/03/98; am 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-52 Samoan crab. (a) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any samoan crab while with eggs. Any samoan crab with eggs caught must immediately be returned to the waters from which the samoan crab was taken. The possession of any samoan crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(b) No person shall pursue, take, or kill any samoan crab in the State with a spear.

(c) No person shall offer for sale any speared

samoan crab. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-53 Spiny lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any spiny lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(b) The possession of any spiny lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve spiny lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any spiny lobster while with eggs. Any spiny lobster with eggs caught must immediately be returned to the waters from which the spiny lobster was taken. The possession of any spiny lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any spiny lobster in the State with a spear.

(e) No person shall offer for sale any speared spiny lobster. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-54 Slipper lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any slipper lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(b) The possession of any slipper lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person

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is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve slipper lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any slipper lobster while with eggs. Any slipper lobster with eggs caught must immediately be returned to the waters from which the slipper lobster was taken. The possession of any slipper lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any slipper lobster in the State with a spear.

(e) No person shall offer for sale any speared slipper lobster. [Eff 12/3/98] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-55 He'e. It shall be unlawful for any person to take, possess, or sell any he'e less than one pound in weight. [Eff 12/19/02] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 86 of Title 13 was based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; R 5/26/81] Section 13-95-55 is based substantially upon Chapter 86 of Title 13 [Eff 5/26/81; R 12/19/02]

§13-95-70 Stony corals. (a) Except as otherwise provided in this section or authorized by law:

- (1) Subject to subsections (b) and (c), it is unlawful for any person to take, break, or

damage any stony coral, except as provided in sections 171-58.5 and 205A-44, HRS;

- (2) It is unlawful for any person to damage any stony coral by any intentional or negligent activity causing the introduction of sediment, biological contaminants, or pollution into state waters;
- (3) It is unlawful for any person to sell any stony coral; except that stony coral rubble pieces or fragments imported for the manufacture and sale of coral jewelry, or dead stony coral obtained through legal dredging operations in Hawaii for agricultural or other industrial uses, may be sold.

(b) No liability shall be imposed under subsection (a)(1) of this section for inadvertent breakage, damage, or displacement of an aggregate area of less than one half square meter of coral if caused by:

- (1) A vessel with a single anchor damage incident, in an area where anchoring is not otherwise prohibited, and not more frequently than once per year; or
- (2) Accidental physical contact by an individual person.

(c) The Department may authorize damage to stony corals for the development or operation of renewable energy projects and shall require mitigation to offset any stony coral losses.

(d) Any person found in violation of any provision of this section pursuant to a criminal prosecution shall be subject to penalty as provided under section 187A-13, HRS. Any person found in violation of any provision of this section pursuant to civil or administrative action shall be subject to penalty as provided under section 187A-12.5, HRS.

[Eff 12/03/98; am 12/09/02; am 5/01/14; am 10/19/18]  
(Auth: HRS §§187A-5, 189-6, 190-3) (Imp: HRS §§187A-6, 187A-12.5, 187A-13, 189-6, 190-1, 190-3, 190-5)

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§13-95-71 Live rocks. (a) Except as otherwise provided in this section or authorized by law:

- (1) Subject to subsections (b) and (c), it is unlawful for any person to take, break, or damage any live rock;
- (2) Subject to subsection (b), it is unlawful for any person to damage any live rock by any intentional or negligent activity causing the introduction of sediment, biological contaminants, or pollution into state waters; and
- (3) It is unlawful for any person to sell any live rock.

(b) No liability shall be imposed under subsections (a)(1) or (a)(2) of this section for inadvertent breakage, damage, or displacement of an aggregate area of less than one square meter of live rock bottom cover.

(c) The Department may authorize damage to live rock for the development or operation of renewable energy projects and shall require mitigation to offset any live rock losses.

(d) Any person found in violation of any provision of this section pursuant to a criminal prosecution shall be subject to penalty as provided under section 187A-13, HRS. Any person found in violation of any provision of this section pursuant to civil or administrative action shall be subject to penalty as provided under section 187A-12.5, HRS. [Eff 12/03/98; am 12/09/02; am 5/01/14; 10/19/18] (Auth: HRS §§187A-5, 189-6, 190-3) (Imp: HRS §§187A-6, 187A-12.5, 187A-13, 189-6, 190-1, 190-3, 190-5)