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# A BILL FOR AN ACT

RELATING TO HUNTING.

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

1           SECTION 1. In *Tanaka v. State of Hawaii*, Department of Land  
2 and Natural Resources, 2007 WL 4572956 (Haw. App. 2007), the  
3 intermediate court of appeals reversed a decision of the circuit  
4 court and thereby indicated that the board of land and natural  
5 resources and the department of land and natural resources do  
6 not have flexibility and authority to take certain actions  
7 relating to hunting except through the rulemaking process.

8           The legislature finds that the board of land and natural  
9 resources and the department of land and natural resources need  
10 to be able to react quickly to changing conditions relating to  
11 hunting. The legislature further finds that the interest of the  
12 public in understanding certain hunting issues and having input  
13 into these issues can be fully accommodated by allowing  
14 decisions on these issues to be made by the board at its duly  
15 noticed regular meetings.

16           The purpose of this Act is to authorize the board of land  
17 and natural resources and the department of land and natural



1 resources to make decisions and changes with respect to certain  
2 hunting issues, without adopting rules pursuant to chapter 91,  
3 Hawaii Revised Statutes.

4 SECTION 2. Section 183D-2, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§183D-2 Powers and duties of department.** The department  
7 shall:

- 8 (1) Manage and administer the wildlife and wildlife  
9 resources of the State;
- 10 (2) Enforce all laws relating to the protecting, taking,  
11 hunting, killing, propagating, or increasing the  
12 wildlife within the [~~State~~] state and the waters  
13 subject to its jurisdiction;
- 14 (3) Establish and maintain wildlife propagating facility  
15 or facilities;
- 16 (4) Subject to the provisions of title 12, import wildlife  
17 for the purpose of propagating and disseminating the  
18 same in the [~~State~~] state and the waters subject to  
19 its jurisdiction;
- 20 (5) Distribute, free of charge, as the department deems to  
21 be in the public interest, game for the purpose of  
22 increasing the food supply of the State; provided that



1 when in the discretion of the department the public  
2 interest will not be materially interfered with by so  
3 doing, the department may propagate and furnish  
4 wildlife to private parties, upon such reasonable  
5 terms, conditions, and prices as the department may  
6 determine;

7 (6) Ascertain, compile, and disseminate, free of charge,  
8 information and advice as to the best methods of  
9 protecting, propagating, and distributing wildlife in  
10 the [~~State~~] state and the waters subject to its  
11 jurisdiction;

12 (7) Gather and compile information and statistics  
13 concerning the area, location, character, and increase  
14 and decrease of wildlife in the [~~State,~~] state;

15 (8) Gather and compile information concerning wildlife  
16 recommended for release in different localities,  
17 including the care and propagation of wildlife for  
18 protective, productive, and aesthetic purposes and  
19 other useful information, which the department deems  
20 proper;



1 (9) Have the power to manage and regulate all lands which  
2 may be set apart as game management areas, public  
3 hunting areas, and wildlife sanctuaries;

4 (10) Pursuant to section 183D-65 of this chapter, destroy  
5 predators deemed harmful to wildlife;

6 (11) Formulate, and from time to time recommend to the  
7 governor and legislature, such additional legislation  
8 necessary or desirable to implement the objectives of  
9 title 12; [~~and~~]

10 (12) Preserve, protect, and promote public hunting[-]; and

11 (13) Notwithstanding any administrative rules now in  
12 existence pertaining to game bird and mammal hunting,  
13 establish and change as conditions warrant, size  
14 limits, bag limits, hunting days, open and closed  
15 seasons, specifications of hunting gear that may be  
16 used or possessed, and special conditions for hunting,  
17 not less than thirty days after public notice, through  
18 board action not subject to chapter 91."

19 SECTION 3. Section 183D-3, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "**§183D-3 Rules.** Subject to chapter 91, the department  
22 [~~shall~~] may adopt, amend, and repeal rules:



- 1       ~~[(1) Concerning the preservation, protection, regulation,~~  
2               ~~extension, and utilization of, and conditions for~~  
3               ~~entry into wildlife sanctuaries, game management~~  
4               ~~areas, and public hunting areas designated by the~~  
5               ~~department;~~
- 6       ~~(2)]~~ (1) Protecting, conserving, monitoring, propagating,  
7               and harvesting wildlife;
- 8       (2) Establishing criteria for the issuance of public  
9               hunting licenses and general conditions for public  
10              hunting; and
- 11       ~~[(3) Concerning size limits, bag limits, open and closed~~  
12               ~~seasons, and specifications of hunting gear which may~~  
13               ~~be used or possessed; and~~
- 14       ~~(4)]~~ (3) Setting fees for activities permitted under this  
15               chapter, unless otherwise provided for by law.

16       The rules may vary from county to county or in any part of the  
17       county ~~[and may specify certain days of the week or certain~~  
18       ~~hours of the day in designating open seasons]~~, except that any  
19       fees established by rule shall be the same for each county. All  
20       rules shall have the force and effect of law."

21       SECTION 4. Statutory material to be repealed is bracketed  
22       and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Hunting; Department of Land and Natural Resources

**Description:**

Authorizes the board and department of land and natural resources to make decisions and changes relating to hunting issues without adopting rules pursuant to Administrative Procedure Act. (HB2956 HD1)

