

JAN 18 2008

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, __ Haw. __, __ P.3d __ (2007), the
3 intermediate court of appeals affirmed a decision of the circuit
4 court indicating that the board of land and natural resources
5 and the department of land and natural resources do not have
6 flexibility and authority to take certain actions relating to
7 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 decision
14 on these issues to be made by the board at its duly noticed
15 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 and the waters subject to
13 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 and the waters subject to its
19 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 and the waters subject to its jurisdiction;

11 (7) Gather and compile information and statistics
12 concerning the area, location, character, and increase
13 and decrease of wildlife in the State;

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

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



- 1 (10) Pursuant to section 183D-65 of this chapter, destroy
- 2 predators deemed harmful to wildlife;
- 3 (11) Formulate, and from time to time recommend to the
- 4 governor and legislature, such additional legislation
- 5 necessary or desirable to implement the objectives of
- 6 title 12; ~~[and]~~
- 7 (12) Preserve, protect, and promote public hunting~~[-]~~; and
- 8 (13) Notwithstanding any administrative rules now in
- 9 existence, establish and change as conditions warrant,
- 10 through board action and not by the rulemaking
- 11 process, size limits, bag limits, hunting days, open
- 12 and closed seasons, specifications of hunting gear
- 13 which may be used or possessed, and special conditions
- 14 for hunting."

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

17 "**§183D-3 Rules.** Subject to chapter 91, the department
18 ~~[shall]~~ may adopt, amend, and repeal rules:

- 19 ~~[(1) Concerning the preservation, protection, regulation,~~
- 20 ~~extension, and utilization of, and conditions for~~
- 21 ~~entry into wildlife sanctuaries, game management~~



1 ~~areas, and public hunting areas designated by the~~
2 ~~department;~~

3 ~~(2)]~~ (1) Protecting, conserving, monitoring, propagating,
4 and harvesting wildlife;

5 (2) Establishing criteria for the issuance of public
6 hunting licenses and general conditions for public
7 hunting; and

8 ~~[(3) Concerning size limits, bag limits, open and closed~~
9 ~~seasons, and specifications of hunting gear which may~~
10 ~~be used or possessed;~~

11 ~~(4)]~~ (3) Setting fees for activities permitted under this
12 chapter, unless otherwise provided for by law.

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

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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

21 INTRODUCED BY:

R. J. J.



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.

