

JAN 22 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*
2 *Land and Natural Resources*, No. 04-1-0357 (Haw. Ct. App.
3 December 31, 2007), *petition for cert. filed*, WL457 2596 (2007),
4 the Intermediate Court of Appeals affirmed the decision of the
5 circuit court indicating that the board of land and natural
6 resources and the department of land and natural resources do
7 not have flexibility and authority to take certain actions
8 relating to hunting except through the rulemaking process.

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

16 The purpose of this Act is to provide the board and
17 department with power to make decisions and changes with respect



1 to certain hunting issues without the need to do so through the
2 rulemaking process.

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

5 **"§183D-2 Powers and duties of department.** The department
6 shall:

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



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

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

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

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

19 (9) Have the power to manage and regulate all lands which
20 may be set apart as game management areas, public
21 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 process
- 11 under chapter 91, size limits, bag limits, hunting
- 12 days, open and closed seasons, specifications of
- 13 hunting gear that may be used or possessed, and
- 14 special conditions 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~~
- 22 ~~areas, and public hunting areas designated by the~~

1 ~~department,]~~ Governing the use and control of lands
2 that may be set aside as game management areas, public
3 hunting areas, or wildlife sanctuaries, unless
4 otherwise provided by law;

5 (2) Protecting, conserving, monitoring, propagating, and
6 harvesting wildlife;

7 (3) [~~Concerning size limits, bag limits, open and closed~~
8 ~~seasons, and specifications of hunting gear which may~~
9 ~~be used or possessed,]~~ Establishing criteria for the
10 issuance of public hunting licenses and general
11 conditions for public hunting; and

12 (4) Setting fees for activities permitted under this
13 chapter, unless otherwise provided for by law.

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

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



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

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INTRODUCED BY:

CPTM Hee
by request



Report Title:

Hunting; Department of Land and Natural Resources; Rules

Description:

Provides the board and the department of land and natural resources with the power to make rule changes and decisions regarding hunting without going through the rulemaking process.

