
A BILL FOR AN ACT

RELATING TO A DEPARTMENT OF PERMITTING.

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

1 PART I

2 SECTION 1. The legislature finds that obtaining permits,
3 licenses, and other approvals from state departments and
4 agencies is often a long, time consuming, and frustrating
5 process, especially for small businesses and not-for-profit
6 groups that do not have the financial and personnel resources to
7 shepherd permit and license applications through multiple and
8 often duplicative and contradictory agency requirements.

9 The legislature further finds that, in these tough economic
10 times, it is fiscally responsible to seek out ways to reduce
11 unnecessary government spending without sacrificing services to
12 the general public. One step in reaching this goal is to
13 consolidate duplicative functions currently spread out among
14 different state agencies, thereby streamlining government
15 operations and offering better, faster, and more "to the point"
16 services to the people of Hawaii.

17 The purpose of this Act is to consolidate a number of
18 permitting and licensing functions and employees of state



1 government into a department of permitting. This will ensure
2 better organization and coordination of permitting functions,
3 allow for standardized training and processing procedures, and
4 reduce duplicative efforts.

5 This Act establishes the department of permitting as a
6 principal state department, to be effective upon approval.
7 Effective January 1, 2011, the functions and employees relating
8 to permits and licenses of the department of agriculture are to
9 be transferred to the new department; and effective July 1,
10 2011, the functions and employees relating to permits and
11 licenses of the department of land and natural resources are to
12 be transferred to the new department.

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to be appropriately designated and to read
15 as follows:

16 "CHAPTER

17 DEPARTMENT OF PERMITTING

18 § -1 Definitions. As used in this chapter, unless the
19 context otherwise requires:

20 "County agency" means a department, division, office,
21 officer, agency, or other organization of a county government,
22 including a county council.



1 "County law" means a county charter provision, ordinance,
2 or administrative rule.

3 "County permit" means a permit that is subject to approval
4 by a county agency pursuant to federal, state, or county law.

5 "Department" means the department of permitting.

6 "Director" means the director of permitting.

7 "Permit" means any approval, no matter the nomenclature,
8 required by state law. "Permit" includes any license, permit,
9 certificate, certification, approval, compliance schedule, or
10 other similar document or decision pertaining to any regulatory
11 or management program required prior to constructing or
12 operating a project; providing a good or service; operating a
13 trade or business; or doing any or all things regulated,
14 controlled, or managed by a state agency under state law.

15 "Permit plan" means the aggregated set of required permits,
16 coordinated by the department.

17 "State agency" means a department, division, office,
18 agency, or other organization of the state government, but not
19 the legislative branch of state government.

20 "State law" means a state constitutional provision,
21 statute, or administrative rule.



1 § -2 **Staff.** The director may employ and dismiss staff
2 without regard to chapters 76 and 89, to assist the director in
3 the implementation of this chapter. The salary of each staff
4 member shall be set by the director; provided that staff members
5 shall be entitled to participate in any public employee benefit
6 program plan or privilege.

7 The director may contract persons, without regard to
8 chapter 103D, to assist the department in the implementation of
9 this chapter.

10 § -3 **General powers.** (a) The department may:

- 11 (1) Sue and be sued;
- 12 (2) Have a seal and alter the same at pleasure;
- 13 (3) Make and execute contracts and other instruments
14 necessary or convenient to the exercise of its powers
15 and duties; and
- 16 (4) Adopt rules in accordance with chapter 91 for its
17 organization, internal management, and to carry into
18 effect its purposes, powers, and programs.

19 (b) In addition to other powers conferred upon it, the
20 department may do all things necessary and convenient to carry
21 out the powers expressly provided in this chapter.



1 § -4 **General duties of the department.** (a) The
2 department shall have the function and responsibility to accept
3 and review all applications for a permit, license, or other
4 approval required under state law; and to issue, deny, or
5 condition the issuance of the required permit, license, or
6 approval. The department shall:

7 (1) Gather from the applicant any information the
8 department finds relevant and necessary for the
9 reviewing and processing of a permit application; and

10 (2) Coordinate public meetings to:

11 (A) Allow members of the affected communities to
12 provide input regarding the issuance of the
13 permit or license;

14 (B) Promote public awareness of the subject matter of
15 the proposed permit or license in the proposed
16 area; and

17 (C) Allow the department, the applicant, and any
18 applicable agency to gain public sentiment and
19 input regarding the proposed permit or license.

20 (b) Where the particular activity under review requires
21 additional approvals from federal agencies or under federal law



1 or permits or approvals from county agencies, the department
2 shall:

3 (1) Identify all permits, licenses, and approvals required
4 by those federal or county agencies; and

5 (2) Coordinate and facilitate the joint processing of the
6 application to ensure the timely review and obtain the
7 required permits and approvals.

8 (c) The department shall develop and establish a permit
9 plan application format and procedures that shall simplify and
10 expedite the permitting functions of state government.

11 (d) The department may charge appropriate application,
12 processing, issuance, and other permitting fees. All fees shall
13 be adopted pursuant to chapter 91, and shall be deposited into
14 the permitting special fund established under section -6.

15 § -5 **Permit plan; permit processing.** (a) The permit
16 plan shall be a working document, available to the public and
17 posted on the department's website, and shall be regularly
18 updated with current information. The permit plan shall be used
19 to promote efficiency and transparency in the permitting
20 process, including the coordinated and concurrent processing of
21 permits where possible, while ensuring opportunities for



1 appropriate public comment and participation, including public
2 hearings.

3 (b) The permit plan shall be designed to ensure that all
4 permits identified in the permit plan shall be processed and
5 either approved or denied no later than twelve months after the
6 date that the application is accepted by the director, subject
7 to any extensions that may be requested by the applicant.

8 § -6 **Permitting special fund.** (a) There is created
9 within the state treasury a permitting special fund, which shall
10 consist of:

11 (1) Moneys appropriated to the fund by the legislature;

12 (2) Fees and other charges collected by the department
13 under this chapter; and

14 (3) Moneys allotted to the fund from other sources.

15 (b) Moneys in the fund shall be expended by the department
16 for the purposes of this chapter.

17 § -7 **Rules.** The department may adopt rules pursuant to
18 chapter 91 to implement this chapter.

19 § -8 **Reports.** The department of permitting shall submit
20 an annual report to the governor and the legislature at least
21 twenty days prior to the convening of each legislative session
22 outlining its progress and activities under this chapter."



1 SECTION 3. Chapter 26, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§26- Department of permitting. (a) The department
5 of permitting shall be headed by a single executive to be known
6 as the director of permitting.

7 (b) The department of permitting shall be responsible for
8 accepting, processing, and approving or denying all applications
9 for permits, licenses, and other approvals required under state
10 law."

11 SECTION 4. Section 26-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§26-4 Structure of government.** Under the supervision of
14 the governor, all executive and administrative offices,
15 departments, and instrumentalities of the state government and
16 their respective functions, powers, and duties shall be
17 allocated among and within the following principal departments
18 that are hereby established:

19 (1) Department of human resources development (Section 26-
20 5);

21 (2) Department of accounting and general services (Section
22 26-6);



- 1 (3) Department of the attorney general (Section 26-7);
- 2 (4) Department of budget and finance (Section 26-8);
- 3 (5) Department of commerce and consumer affairs (Section
- 4 26-9);
- 5 (6) Department of taxation (Section 26-10);
- 6 (7) University of Hawaii (Section 26-11);
- 7 (8) Department of education (Section 26-12);
- 8 (9) Department of health (Section 26-13);
- 9 (10) Department of human services (Section 26-14);
- 10 (11) Department of land and natural resources (Section 26-
- 11 15);
- 12 (12) Department of agriculture (Section 26-16);
- 13 (13) Department of Hawaiian home lands (Section 26-17);
- 14 (14) Department of business, economic development, and
- 15 tourism (Section 26-18);
- 16 (15) Department of transportation (Section 26-19);
- 17 (16) Department of labor and industrial relations (Section
- 18 26-20);
- 19 (17) Department of defense (Section 26-21);
- 20 (18) Department of public safety (Section 26-14.6) [-]; and
- 21 (19) Department of permitting (Section 26-)."

22 PART II



1 SECTION 5. Section 26-16, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The department shall:

4 (1) Promote the conservation, development, and utilization
5 of agricultural resources in the State;

6 (2) Assist the farmers of the State and any others engaged
7 in agriculture by research projects, dissemination of
8 information, crop and livestock reporting service,
9 market news service, and any other means of improving
10 the well-being of those engaged in agriculture and
11 increasing the productivity of the lands;

12 (3) Administer the programs of the State relating to
13 animal husbandry, entomology, farm credit, development
14 and promotion of agricultural products and markets,
15 and the establishment and enforcement of the rules on
16 the grading and labeling of agricultural products;
17 provided that all permitting functions shall be the
18 responsibility of the department of permitting; and

19 (4) Administer the aquaculture program under section 141-
20 2.5."

21 SECTION 6. Section 141-7, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Any person violating any of the provisions of
2 chapters 141, 142, or 144 to 149A, for which violation a penalty
3 is not otherwise provided, or violating any rule of the
4 department of agriculture, or any master of any vessel which
5 brings into the State any article which the department at any
6 time shall prohibit from being imported into the State, or the
7 master of any vessel from which is landed any article required
8 in chapters 141, 142, or 144 to 149A to be inspected, before the
9 master has received a permit to land the articles from the
10 department of permitting or its officer or inspector, as
11 provided by chapters 141, 142, and 144 to 149A, shall be fined
12 not more than \$500."

13 SECTION 7. Section 142-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§142-4 Entry of animals without inspection prohibited.**

16 No animal shall be allowed to enter the State except after
17 inspection by the department of agriculture and the issuance of
18 a permit by the department of permitting to the consignee or
19 owner; provided that no fees for inspection shall be charged,
20 nor delays caused, concerning the landing of any domestic animal
21 for which a certificate of health has been issued as prescribed
22 by the Federal Cattle Contagious Disease Act. Every carrier,



1 owner, or handler bringing animals into the State shall be
2 required to present these animals to the department of
3 agriculture for inspection."

4 SECTION 8. Section 142-49, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§142-49 Livestock ownership and movement certification.**

7 Every owner, upon sale or transportation of livestock, including
8 cattle, horses, sheep, goats, pigs, bison, or llamas, shall
9 complete a certificate describing the animal or animals
10 including sex, breed, age, and brand and indicating the seller
11 or owner, buyer or consignee, and origin and destination. Two
12 copies of the certificate shall accompany the shipment, one copy
13 shall be given to the department of [~~agriculture~~] permitting,
14 and a copy shall be retained by the owner. One of the copies of
15 the certificate shall be presented upon request to a law
16 enforcement officer or other officer or employee as described in
17 section 142-29."

18 SECTION 9. Section 142-92, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§142-92 Mongoose; keeping or breeding; penalty.** It shall
21 be unlawful for any person to introduce, keep, or breed any
22 mongoose within the State except upon and according to the terms



1 of a written permit which may be granted therefor by the
2 department of [~~agriculture,~~] permitting, in its discretion, to
3 scientists, scientific institutions, associations, or colleges,
4 or to officers, boards, or commissions of the State or any
5 county. The department of permitting shall not issue a permit
6 authorizing the keeping or breeding of mongoose within either
7 the county of Kauai or the island of Lanai. Any person who
8 violates this section shall be fined not less than \$250 nor more
9 than \$1,000 for each mongoose introduced, kept, or bred contrary
10 to this section."

11 SECTION 10. Section 142-93, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§142-93 Harboring mongoose; penalty.** Any person
14 harboring, feeding, or in any way caring for a mongoose, except
15 upon and according to the terms of a written permit which may be
16 granted therefor by the department of [~~agriculture,~~] permitting,
17 in its discretion, to scientists, scientific institutions,
18 associations, or colleges, or to officers, boards, or
19 commissions of the State or any county, shall be penalized
20 pursuant to section 142-12."



1 SECTION 11. Section 142-101, Hawaii Revised Statutes, is
2 amended by amending the definition of "department" to read as
3 follows:

4 "Department" means the department of [~~agriculture~~]
5 permitting."

6 SECTION 12. Section 142-111, Hawaii Revised Statutes, is
7 amended by amending the definition of "department" to read as
8 follows

9 "Department" means the department of [~~agriculture~~]
10 permitting."

11 SECTION 13. Section 144-1, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§144-1 Administration. This chapter shall be
14 administered by the department of agriculture, hereinafter
15 referred to as the "department" [~~-~~]; provided that all permitting
16 functions shall be the responsibility of the department of
17 permitting."

18 SECTION 14. Section 145-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§145-2 Licenses. No person shall act as a commission
21 merchant, dealer, broker, agent, processor, or retail merchant



1 without having obtained a license as prescribed by rules of the
2 department.

3 In addition to the general requirements applicable to all
4 classes of applications as prescribed by rule, the following
5 requirements shall apply to each class of application noted:

6 (1) Commission merchants and brokers: Each application
7 shall include a schedule of commissions and charges
8 for services, and the designated commissions and
9 charges shall not be changed or varied for the license
10 period except by written contract between the parties.
11 In addition, each application shall be accompanied by
12 the surety bond required by section 145-4.

13 (2) Agents: Each application shall include the name and
14 address of each commission merchant, dealer, or broker
15 represented or sought to be represented by the agent,
16 the written indorsement or nomination of the
17 commission merchant, dealer, or broker, and such
18 additional information as the department may consider
19 proper or necessary. The department of permitting
20 shall thereupon issue to the applicant a license
21 entitling the applicant to conduct the business
22 described in the application at the place named in the



1 application for a year from the date thereof, or until
2 the same is revoked for cause; provided that the
3 license of an agent shall expire upon the date of
4 expiration of the license of the principal for whom
5 the agent acts. The department of permitting may also
6 issue to each agent a card or cards which shall bear
7 the signature of the agent, separate cards being
8 required for each principal. Any agent shall show the
9 card or cards upon the request of any interested
10 person. Any agent who displays a void or expired
11 license card shall be punished as provided in section
12 145-12.

13 Fraud or misrepresentation in making any application shall
14 ipso facto work a revocation of any license granted thereunder.
15 All indicia of the possession of a license shall be at all times
16 the property of the State and each licensee shall be entitled to
17 the possession thereof only for the duration of the license.

18 For filing the application for license, each applicant
19 shall pay a fee as prescribed by the department.

20 Should any commission merchant, dealer, broker, agent,
21 processor, or retail merchant refuse, fail, or neglect to apply
22 for the renewal of a preexisting license within thirty days



1 after the expiration thereof, a penalty of forty per cent shall
2 apply to and be added to the original fee as prescribed by the
3 department, and shall be paid by the applicant before the
4 renewal license may be issued.

5 Any person who has applied for and obtained a license
6 within the classification of commission merchant, in the manner
7 and upon payment of the fee set forth, may apply for and secure
8 a license in the other classifications without payment of
9 further fee, and upon further complying with those provisions of
10 this part regulating the licensing of the other particular
11 classification involved. All licenses held by any licensee
12 under this section shall automatically expire on the expiration
13 date for the particular license for which the license fee was
14 paid."

15 SECTION 15. Section 145-8, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§145-8 Duty of department.** The department of agriculture
18 shall administer and enforce this chapter[-]; provided that the
19 permitting functions shall be the responsibility of the
20 department of permitting."

21 SECTION 16. Section 149A-11, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



- 1 "(b) It shall be unlawful to:
- 2 (1) Detach, alter, deface, or destroy, in whole or in
- 3 part, any label or alter any labeling of a pesticide
- 4 unless it is approved by the department to correct an
- 5 improper label or labeling under section 24(c), FIFRA;
- 6 (2) Add any substance to, or take any substance from, a
- 7 pesticide in a manner that may defeat the purpose of
- 8 this chapter;
- 9 (3) Use for a person's own advantage or reveal any
- 10 information relative to formulas of products acquired
- 11 in the administration of this chapter, to persons
- 12 other than to the chairperson or proper officials or
- 13 employees of the State or the federal government; to
- 14 the courts of this State or the federal government in
- 15 response to a subpoena; to physicians; or, in
- 16 emergencies, to pharmacists and other qualified
- 17 persons for use in the preparation of antidotes;
- 18 (4) For any pesticide dealer, wholesaler, or retailer to
- 19 expose or to offer for sale or to solicit or receive
- 20 orders for the sale of restricted use pesticides
- 21 unless the dealer, wholesaler, or retailer has applied



1 for and has obtained a license from the department[+]
2 of permitting;

3 (5) For any pesticide dealer, wholesaler, or retailer to
4 expose or to offer for sale or to solicit or receive
5 orders for the sale of restricted use pesticides to
6 any person other than a certified pesticide
7 applicator;

8 (6) For any pesticide dealer, wholesaler, or retailer to
9 make any verbal or written claim or representation
10 relating to any pesticide product that is inconsistent
11 with the specific pesticide product label; or

12 (7) For any pesticide dealer to expose to, offer for sale
13 to, or solicit or receive orders for the sale of
14 restricted use pesticides to any pest control operator
15 or to an employee of the pest control operator acting
16 on the pest control operator's behalf without
17 satisfactory proof that the pest control operator
18 holds, or has held within the previous one hundred
19 twenty days, a pest control license and, when
20 applicable, without satisfactory proof that the
21 employee is employed by the pest control operator."



1 SECTION 17. Section 149A-13, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Any pesticide which is received, used, sold, offered
5 for sale, or distributed within this State shall be licensed by
6 the [~~board.~~] department of permitting. Any pesticide product
7 which has been sold in this State but for which the license is
8 not renewed can be used by the purchaser. However, the product
9 cannot be sold, resold, or distributed within the State before
10 its license is renewed. The licensee shall file with the
11 department of permitting a statement including:

12 (1) The name and address of the licensee and the name and
13 address of the person whose name will appear on the
14 label, if other than the licensee;

15 (2) The name of the pesticide;

16 (3) A complete copy of the labeling accompanying the
17 pesticide and a statement of all claims to be made for
18 it, including directions for use; and

19 (4) If requested by the department, a full description of
20 the tests made and the results thereof upon which the
21 claims are based."

22 2. By amending subsection (d) to read:



1 "(d) The department[7] of permitting, whenever it deems
2 necessary in the administration of this chapter, may require the
3 submission of the complete formula of any pesticide. If it
4 appears to the department that the composition of the pesticide
5 is complete as to warrant the proposed claims for it and if the
6 pesticide and its labeling and other material required to be
7 submitted comply with the requirements of section 149A-15, the
8 department of permitting shall license the pesticide."

9 SECTION 18. Section 149A-17, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§149A-17 Sales, permit, and record.** In addition to
12 licensing requirements applicable to pesticides, every person
13 who sells or distributes restricted use pesticides shall obtain
14 an annual permit from the department[-] of permitting.
15 Conditions, procedures, and fees for the permit shall conform to
16 the rules adopted under this section.

17 All persons permitted to sell restricted use pesticides
18 shall keep records of the individual sales of these pesticides.
19 Records shall be kept at the principal place of business of the
20 permittee for a period specified by the rules and shall be
21 available to the department on request."



1 SECTION 19. Section 149A-18, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§149A-18 Denial, suspension, or revocation of permit.**

4 The department of permitting may deny issuance of a permit to
5 sell a restricted use pesticide for reasonable cause. Any
6 permit issued pursuant to rules adopted under section 149A-17
7 may be suspended or revoked by the department, after due
8 hearing, for violation of any condition of the permit or of any
9 law or rule pertaining to the sale of pesticides.

10 Any order made by the department for the suspension or
11 revocation of a permit shall be in writing and shall set forth
12 the reasons for the suspension or revocation.

13 The action of the department in suspending or in revoking a
14 permit may be reviewed in the manner provided by chapter 91."

15 SECTION 20. Section 150-29, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§150-29 Seed licenses.** A seed license from the
18 department of permitting is required of:

19 (1) Every person whose name and address are required on
20 the label or who imports into the State for sale or
21 resale, agricultural or vegetable seed for planting
22 purposes.



1 (2) Every person who opens any bag or container of
2 agricultural or vegetable seed and sells the contents
3 for planting purposes within the State.

4 Application for the license shall be made to the department of
5 permitting in accordance with rules adopted by the department.

6 All licenses shall expire on June 30 of each year."

7 SECTION 21. Section 150A-6.2, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) Animals on the lists of conditionally approved and
10 restricted animals shall be imported only by permit. Any animal
11 that is not on the lists of conditionally approved, restricted,
12 or prohibited animals shall be prohibited until the board's
13 review and determination for placement on one of these lists;
14 provided that the department of permitting may issue a special
15 permit on a case-by-case basis for the importation and
16 possession of an animal that is not on the lists of prohibited,
17 restricted, or conditionally approved animals, for the purpose
18 of remediating medical emergencies or agricultural or ecological
19 disasters, or conducting medical or scientific research in a
20 manner that the animal will not be detrimental to agriculture,
21 the environment, or humans, if the importer of the animal can
22 meet permit requirements as determined by the board; and



1 provided further that the department of permitting may issue a
2 short-term special permit on a case-by-case basis not to exceed
3 ninety days for the importation and possession of an animal that
4 is not on the lists of prohibited, restricted, or conditionally
5 approved animals for the purpose of filming, performance, or
6 exhibition, if the importer of the animal can meet permit and
7 bonding requirements as determined by the board."

8 SECTION 22. Section 150A-6.3, Hawaii Revised Statutes, is
9 amended by amending subsections (a) to (d) to read as follows:

10 "(a) The board shall maintain:

- 11 (1) A list of nonrestricted microorganisms allowed entry
12 into the State without a permit;
- 13 (2) A list of restricted microorganisms that require a
14 permit for import into the State and possession; and
- 15 (3) A list of microorganisms that are select human
16 pathogens allowed entry into the State without a
17 permit but that require the department of permitting
18 to notify the department of health of entry for the
19 purpose of possible department of health inspection
20 and monitoring.

21 Import of a microorganism on these lists, as well as import of
22 any unlisted microorganism, shall be subject to the



1 notification, labeling, and inspection requirements of section
2 150A-5, and is allowed only as provided herein.

3 (b) Import of a microorganism on the restricted list of
4 microorganisms shall be by permit issued pursuant to rules and
5 subject to conditions established by rules; provided that, if
6 the department of permitting in its discretion determines that
7 import of a microorganism on the restricted list or the
8 microorganism's proposed use presents a high risk to
9 agriculture, horticulture, the environment, or animal or public
10 health, the import request shall be subject to advisory
11 committee review and board approval, including a determination
12 that the importer is able to comply with conditions established
13 by the board, before a permit may be issued.

14 (c) Import and possession of an unlisted microorganism may
15 be allowed based on the department's determination of the level
16 of risk presented by the import, including its proposed use, to
17 agriculture, horticulture, the environment, or animal or public
18 health. Import shall be either by letter of authorization or
19 special permit issued by the department [7] of permitting,
20 without advisory committee review or board approval, or,
21 alternatively, by special permit issued by the department of
22 permitting subsequent to advisory committee review and board



1 approval, according to risk level as provided by rule; provided
2 that in the latter instance the importer is able to comply with
3 conditions established by the board.

4 (d) The department of permitting may issue an emergency
5 permit on a case-by-case basis to a state or federal agency or
6 state university to allow import and possession of a
7 microorganism on the list of restricted microorganisms or an
8 unlisted microorganism for the purpose of remediating any
9 emergency or disaster affecting agriculture, horticulture, the
10 environment, animal or public health, or for emergency
11 preparedness; provided that:

12 (1) The board, without advisory committee review, first
13 obtains advice from qualified persons with relevant
14 expertise;

15 (2) The board determines that import in less time than is
16 required for issuance of a special permit under
17 subsections (b) and (c) as applicable, is necessary to
18 remediate the emergency or disaster; and

19 (3) The importer is able to meet conditions established by
20 the board.

21 (e) Microbial products may be imported as follows:



1 (1) Microbial products containing certain strains of
2 microorganisms on the nonrestricted list of
3 microorganisms, as identified by rule, may enter the
4 State without a permit but shall not be imported
5 without a registration issued pursuant to rules.
6 Import of an unregistered microbial product required
7 to be registered with the department is a violation of
8 this section; and

9 (2) Import of microbial products other than those products
10 required to be registered pursuant to paragraph (1)
11 shall be by permit or letter of authorization, as
12 provided in subsections (b) and (c) as applicable."

13 SECTION 23. Section 150A-7, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) It is a violation of this part to bring to or possess
16 in the State any living creature that is prohibited or
17 restricted, without a permit issued by the department~~[7]~~ of
18 permitting, except as expressly provided in this part. The
19 creature shall constitute contraband and shall be seized
20 immediately upon discovery, whenever found, and be destroyed,
21 donated to a government zoo, or sent out of the State, at the



1 discretion of the department. Any expense or loss in connection
2 therewith shall be borne by the owner or the owner's agent."

3 SECTION 24. Section 150A-7.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§150A-7.5 User fees.** Fees may be assessed for the
6 processing and issuance of permits issued by the department of
7 permitting under this part, for inspections related to permit
8 conditions, and for the registration of microbial products
9 containing certain strains of microorganisms, as established by
10 rule."

11 SECTION 25. Section 150A-8, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§150A-8 Transporting in State.** Flora and fauna specified
14 by rules and regulations of the department shall not be moved
15 from one island to another island within the State or from one
16 locality to another on the same island except by a permit issued
17 by the department[-] of permitting."

18 SECTION 26. Section 152-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§152-3 Prohibited acts.** It shall be unlawful to
21 introduce or to transport specific noxious weeds or their seeds
22 or vegetative reproductive parts into any area designated



1 pursuant to section 152-5 as free or reasonably free of those
2 noxious weeds; provided that the introduction or transportation
3 of those noxious weeds may be permitted for educational or
4 research purposes when authorized by a permit issued by the
5 department[-] of permitting."

6 SECTION 27. Section 157-21, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§157-21 Licensing.** It shall be unlawful for any
9 producer, producer-distributor, or distributor to produce, sell,
10 process, or distribute milk in a milk shed unless the person is
11 duly licensed by the department of permitting as provided by
12 this chapter. It shall be unlawful for any such person to sell,
13 buy, process, or distribute milk which the person knows or has
14 reason to believe has been produced or handled in violation of
15 this chapter."

16 SECTION 28. Section 157-24, Hawaii Revised Statutes, is
17 amended by amending subsections (b) and (c) to read as follows:

18 "(b) The [~~board~~] department of permitting may refuse to
19 renew a license or may suspend or revoke a license, upon due
20 notice and opportunity of hearing to the licensee, when it finds
21 any of the following:



- 1 (1) That any licensee has, without reasonable cause,
2 refused to accept milk delivered or failed to deliver
3 milk as agreed, except where a contract has been
4 terminated.
- 5 (2) That any licensee has failed to account or make
6 payment, without reasonable cause, for any milk
7 purchased.
- 8 (3) That any licensee has been adjudged a bankrupt.
- 9 (4) That any licensee has continued in a course of dealing
10 of such a nature as to indicate the licensee's
11 inability or unwillingness to properly conduct the
12 business of producing, processing, delivering,
13 receiving, or selling milk or of the licensee's intent
14 to deceive or defraud producers, producer-
15 distributors, distributors or consumers.
- 16 (5) That any licensee has violated the state antitrust
17 law, chapter 480.
- 18 (6) That any licensee has failed to keep records or to
19 furnish the statements or information required by the
20 board.



1 (7) That any licensee has intentionally made a false or
2 misleading statement upon which the license was
3 issued.

4 (8) That the licensee has violated or failed to comply
5 with this chapter.

6 (9) That the licensee has ceased to operate the milk
7 business for which the license was issued.

8 (c) The [~~board~~] department of permitting may conditionally
9 renew a license or may conditionally decline to suspend or
10 revoke a license, but such condition shall have appropriate
11 relation to the administration of this chapter."

12 SECTION 29. Section 157-25, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§157-25 Proceedings to review.** The action of the [~~board~~
15 ~~of agriculture~~] department of permitting in refusing to grant or
16 renew a license, or in revoking or suspending a license, or in
17 conditioning or limiting the granting or renewal of a license,
18 may be reviewed in the manner provided by chapter 91."

19 SECTION 30. Section 159-7, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§159-7 General powers.** The department, through its
22 board, may:



- 1 (1) Regulate, supervise, inspect, and control the
- 2 slaughtering of animals and the manufacture,
- 3 processing, transportation, packaging, labeling, and
- 4 disposal of meat or meat products involved in
- 5 intrastate commerce;
- 6 (2) Adopt, amend, and repeal rules as are necessary to
- 7 implement this chapter, subject to chapter 91, on the
- 8 following matters:
- 9 (A) The issuance of licenses[7] by the department of
- 10 permitting, including the class of licenses to be
- 11 issued;
- 12 (B) The type of equipment or facilities that may be
- 13 used in slaughtering and meat processing
- 14 operations;
- 15 (C) The internal operations of slaughterhouses and
- 16 meat processing establishments;
- 17 (D) The procedures for ante-mortem and post-mortem
- 18 inspections and the reinspection of meat or meat
- 19 products used in processing, and the disposal of
- 20 diseased carcasses and parts of carcasses and
- 21 meat or meat products found to be unwholesome or
- 22 otherwise unfit for human consumption;



- 1 (E) The hours of slaughtering and processing, and the
- 2 conditions under which slaughtering and
- 3 processing may be conducted at other than
- 4 scheduled times;
- 5 (F) The labeling and packaging of meat or meat
- 6 products;
- 7 (G) The storing, handling, and transportation of meat
- 8 or meat products;
- 9 (H) The sanitary conditions of all establishments
- 10 where animals are slaughtered, and where meat or
- 11 meat products are processed or prepared; and
- 12 (I) Any other matter as may be necessary or desirable
- 13 to implement this chapter. Notwithstanding the
- 14 foregoing provisions, the board, without regard
- 15 to the notice and public hearing requirements of
- 16 chapter 91, may adopt all federal meat inspection
- 17 regulations, including changes made from time to
- 18 time by the United States Secretary of
- 19 Agriculture, as rules for the efficient
- 20 administration of this chapter. Prior to the
- 21 effective date of any such rules, the department



1 shall publish in a newspaper of general
2 circulation a notice that includes:

3 (i) Either a statement of the substance of the
4 proposed rule adoption, amendment, or
5 repeal; or a general description of the
6 subjects involved and the purposes to be
7 achieved by the proposed rule adoption,
8 amendment, or repeal; and

9 (ii) A statement that a copy of the proposed rule
10 to be adopted, the proposed rule amendment,
11 or the rule proposed to be repealed will be
12 mailed to any interested person who requests
13 a copy, together with a description of where
14 and how the requests may be made.

15 The notice shall be mailed to all persons who
16 have made a timely written request of the
17 department for advance notice of these rules or
18 of the department's rulemaking proceedings. The
19 department may require reimbursement for the cost
20 of preparing and mailing the copies.

21 (3) Provide for the inspection and certification of meat
22 derived from exotic animals when these services are



1 requested by producers of these products, and obtain
2 from users of these services reimbursement for all
3 costs incurred in the provision of these services."

4 SECTION 31. Section 159-13, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§159-13 Application for a license.** The [~~board~~]
7 department of permitting may issue licenses to slaughterhouses
8 and meat processing establishments having certificates of
9 sanitation issued under section 159-11. An applicant for an
10 original or renewal license to operate as a slaughterhouse
11 operator or meat processor shall file an application upon a form
12 prepared by the board, containing the information which the
13 board deems necessary for the administration of this chapter.

14 The license year shall be from July 1 to June 30. All
15 applications for renewal of licenses shall be made at least
16 thirty days prior to the commencement of the license year."

17 SECTION 32. Section 159-16, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~[†]~~§159-16~~[†]~~ **Granting, suspending and revoking licenses.**

20 (a) The action of the [~~board~~] department of permitting in
21 refusing to grant or renew a license, or in revoking or



1 suspending a license, may be judicially reviewed in the manner
2 provided by chapter 91.

3 (b) No license shall be denied unless the [board]
4 department of permitting finds after due notice and an
5 opportunity of hearing in accordance with chapter 91, to the
6 applicant any of the following:

7 (1) That the applicant does not qualify or possess the
8 facilities to conduct a business properly.

9 (2) That the applicant does not have the financial
10 responsibility to conduct a business properly.

11 (3) That the issuance of a license is otherwise not in the
12 public interest.

13 (c) The [board] department of permitting may refuse to
14 renew a license or may suspend or revoke a license upon due
15 notice and opportunity of hearing in accordance with chapter 91,
16 to the licensee when it finds any of the following:

17 (1) The licensee has been adjudged a bankrupt.

18 (2) The licensee has violated chapter 480 and the
19 violation is directly or indirectly involved with the
20 state meat industry.

21 (3) The licensee has failed to keep records or to furnish
22 the statements or information required by the board.



- 1 (4) The licensee has intentionally made a false or
- 2 misleading statement upon which the license was
- 3 issued.
- 4 (5) The licensee has violated or failed to comply with
- 5 this chapter.
- 6 (6) The licensee has ceased to operate the business for
- 7 which the license was issued.
- 8 (d) The [~~board~~] department of permitting may conditionally
- 9 renew a license or may conditionally decline to suspend or
- 10 revoke a license, but the condition shall have appropriate
- 11 relation to the administration of this chapter."

12 SECTION 33. Section 159-29, Hawaii Revised Statutes, is

13 amended by amending subsection (a) to read as follows:

14 "(a) This chapter requiring inspection of the slaughtering

15 of animals and the preparation of the carcasses, parts thereof,

16 and meat or meat products at establishments conducting such

17 operations shall not apply:

- 18 (1) To the slaughtering by any person of animals of the
- 19 person's own raising, and the preparation and
- 20 transportation by the person of the carcasses, parts
- 21 thereof, and meat or meat products of the animals
- 22 exclusively for use by the person, members of the

1 person's household, and the person's nonpaying guests
2 and employees; provided that the slaughter of the
3 animals is performed in compliance with part II of
4 chapter 146.

5 (2) To the custom slaughter by any person of cattle,
6 sheep, swine, or goats delivered by the owner thereof
7 or the owner's agent for slaughter, and the
8 preparation by that slaughterer of the carcasses,
9 parts thereof, and meat or meat products of the
10 animals exclusively for use, in the household of the
11 owner, by the owner, members of the owner's household,
12 and the owner's nonpaying guests and employees; nor:

13 (3) To the custom preparation by any person of carcasses,
14 parts thereof, and meat or meat products derived from
15 the slaughter by any person of cattle, sheep, swine,
16 or goats of the owner's own raising or from exotic
17 animals delivered by the owner thereof for that custom
18 preparation, and transportation of those custom
19 prepared articles exclusively for use, in the
20 household of the owner, by the owner, members of the
21 owner's household, and the owner's nonpaying guests
22 and employees.



1 (4) To the person engaging in custom operations at an
2 establishment at which inspection under this chapter
3 is maintained; provided that:

4 (A) Any carcasses, parts thereof, and meat or meat
5 products wherever handled on a custom basis, or
6 any containers or packages containing those
7 articles, are separated at all times from
8 carcasses, parts thereof, and meat or meat
9 products prepared for sale; and

10 (B) All articles prepared on a custom basis, or any
11 containers or packages containing such articles,
12 are plainly marked "not for sale" immediately
13 after being prepared and kept so identified until
14 delivered to the owner.

15 A person conducting custom exempt operations shall be
16 registered with the board as a custom exempt operator
17 under this paragraph and obtain a permit for exemption
18 from the [~~board~~] department of permitting to conduct
19 those operations. The [~~board~~] department of
20 permitting may refuse, withdraw, or modify any permit
21 for exemption under this paragraph in its discretion



1 whenever it determines the action is necessary to
2 effectuate the purposes of this chapter."

3 SECTION 34. Section 161-13, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§161-13~~ **Application for a license.** The ~~board~~
6 department of permitting may issue licenses to poultry
7 slaughterhouses and poultry processing establishments having
8 certificates of sanitation issued under section 161-11. An
9 applicant for an original or renewal license to operate as a
10 poultry slaughterhouse operator or poultry processor shall file
11 an application upon a form prepared by the board, containing
12 such information which the board deems necessary for the
13 administration of this chapter.

14 The license year shall be from July 1 to the following
15 June 30. All applications for renewal of licenses must be made
16 at least thirty days before the commencement of the license
17 year."

18 SECTION 35. Section 161-15, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~§161-15~~ **Granting, suspending, and revoking**
21 **licenses.** (a) The action of the ~~board~~ department of
22 permitting in refusing to grant or renew a license, or in



1 revoking or suspending a license, may be reviewed in the manner
2 provided by chapter 91.

3 ~~[(a)]~~ (b) No license shall be denied unless the ~~[board]~~
4 department of permitting finds after due notice and opportunity
5 of hearing in accordance with chapter 91, one or more of the
6 following:

- 7 (1) That the applicant does not qualify or does not
8 possess the facilities to conduct a business properly.
- 9 (2) That the applicant does not have the financial
10 responsibility to conduct a business properly.
- 11 (3) That the issuance of a license is otherwise not in the
12 public interest.

13 ~~[(b)]~~ (c) The ~~[board]~~ department of permitting may refuse
14 to renew a license or may suspend or revoke a license upon due
15 notice and opportunity of hearing in accordance with chapter 91,
16 to the licensee when it finds any of the following:

- 17 (1) The licensee has been adjudged a bankrupt.
- 18 (2) The licensee has violated chapter 480, and said
19 violation is directly or indirectly involved with the
20 state poultry industry.
- 21 (3) The licensee has failed to keep records or to furnish
22 the statements or information required by the board.



- 1 (4) The licensee has intentionally made a false or
- 2 misleading statement upon which the license was
- 3 issued.
- 4 (5) The licensee has violated or failed to comply with any
- 5 of the provisions of this chapter.
- 6 (6) The licensee has ceased to operate the business for
- 7 which the license was issued.

8 [~~(e)~~] (d) The [~~board~~] department of permitting may

9 conditionally renew a license or may conditionally decline to

10 suspend or revoke a license, but such condition shall have

11 appropriate relation to the administration of this chapter."

12 SECTION 36. Section 161-29, Hawaii Revised Statutes, is

13 amended as follows:

14 1. By amending subsection (b) to read:

15 "(b) The transportation by commercial carrier of

16 carcasses, parts thereof, poultry, or poultry products produced

17 without inspection under subsection (a) is prohibited, except

18 under permit issued by the [~~board~~] department of permitting."

19 2. By amending subsection (e) to read:

20 "(e) A person conducting custom exempt operations shall

21 register with the board as a custom exempt operator under this

22 subsection and shall obtain a permit for exemption from the



1 ~~[board]~~ department of permitting to conduct those operations.
2 In its discretion, the ~~[board]~~ department of permitting may
3 refuse, withdraw, or modify any permit for exemption under this
4 subsection if it determines that the action is necessary to
5 effectuate the purposes of this chapter."

6 SECTION 37. Section 166-6, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) The ~~[board of agriculture]~~ department of permitting
9 may issue easements, permits, and rights of entry covering
10 agricultural park lands for uses consistent with the purposes
11 for which the lands were set aside or are otherwise subject to
12 the authority of the department pursuant to section 166-3."

13 SECTION 38. Section 166E-8, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) The ~~[board]~~ department of permitting may issue
16 easements, licenses, permits, and rights-of-entry for uses that
17 are consistent with the purposes for which the lands were set
18 aside or are otherwise subject to the authority of the
19 department pursuant to section 166E-9."

20 SECTION 39. Effective January 1, 2011, the functions and
21 employees relating to permits and licenses of the department of



1 agriculture shall be transferred to the department of
2 permitting.

3 PART III

4 SECTION 40. Section 26-15, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) The department shall manage and administer the public
7 lands of the State and minerals thereon and all water and
8 coastal areas of the State except the commercial harbor areas of
9 the State, including the soil conservation function, the forests
10 and forest reserves, aquatic life, wildlife resources, state
11 parks, including historic sites, and all activities thereon and
12 therein including[~~7~~] but not limited to[~~7~~] boating, ocean
13 recreation, and coastal areas programs[~~-~~]; provided that all
14 permitting functions shall be the responsibility of the
15 department of permitting."

16 SECTION 41. Section 171-24, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§171-24 Land conveyances, preparation, signing, record,**
19 **copies.** Except for the preparation and execution of leases and
20 licenses and the issuance of revocable permits and rights of
21 entry by the department of transportation, in its harbor and
22 airport functions, all land patents, deeds, leases, grants, or



1 other conveyances of any public land or any interest therein,
2 shall be prepared by the department of land and natural
3 resources[-]; provided that the issuance of permits shall be the
4 responsibility of the department of permitting. The department
5 of transportation shall, within thirty days after the execution
6 or issuance of such documents, file or record as directed by the
7 board of land and natural resources the original of the same
8 with the board.

9 Documents setting aside lands for public purposes or
10 withdrawing the same shall be signed by the governor. All other
11 documents prepared by the department of land and natural
12 resources shall be signed by its chairperson or any authorized
13 employee.

14 The board shall keep a complete record of all such
15 documents. The record shall be open to public inspection and
16 the board shall furnish a certified copy, under its official
17 seal, of any document to any person applying therefor, upon
18 payment of reasonable charges set by the board for certified
19 copies."

20 SECTION 42. Section 171-40, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§171-40 Expired leases; holdover. Upon expiration of the
2 lease term, if the leased land is not otherwise disposed of, the
3 board of land and natural resources may allow the lessee to
4 continue to hold the land for a period not exceeding one year
5 upon such rent, terms, and conditions as the board may
6 prescribe; provided that if, immediately prior to the expiration
7 of the lease, the land was cultivated with crops having ratoons
8 for at least one cycle, as defined hereinafter, the board may
9 permit the lessee to continue to hold the leased land until the
10 crops from the last remaining cycle have been harvested. The
11 term "cycle" as used in this section means the period required
12 to plant and cultivate the original crop, including the
13 harvesting of the first ratoon, being a period exceeding two
14 years.

15 Upon expiration of the one-year extension, if the board has
16 not yet decided upon the re-lease of the land or reservation for
17 other purposes, the [~~board~~] department of permitting may issue a
18 temporary permit to the lessee, subject to section 171-55 and
19 the rent and such other terms and conditions as the board may
20 prescribe."

21 SECTION 43. Section 171-55, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§171-55 Permits.** Notwithstanding any other law to the
2 contrary, the [~~board of land and natural resources~~] department
3 of permitting may issue permits for the temporary occupancy of
4 state lands or an interest therein on a month-to-month basis by
5 direct negotiation without public auction, under conditions and
6 rent which will serve the best interests of the State, subject,
7 however, to those restrictions as may from time to time be
8 expressly imposed by the board. A permit on a month-to-month
9 basis may continue for a period not to exceed one year from the
10 date of its issuance; provided that the [~~board~~] department of
11 permitting may allow the permit to continue on a month-to-month
12 basis for additional one year periods."

13 SECTION 44. Section 171-56, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§171-56 Contract or license for concessions or concession**
16 **space.** The [~~board of land and natural resources~~] department of
17 permitting may, subject to chapter 102, dispose of concessions,
18 as defined in chapter 102, and shall enter into contracts or
19 issue licenses for such concessions; provided that the duration
20 of the contract or license shall be related to the investment
21 required, but in no event to exceed fifteen years."



1 SECTION 45. Section 174C-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~]~~§174C-9~~[~~+~~] **Proceedings before the commission**
4 **concerning water resources.** All proceedings before the
5 commission concerning the enforcement or application of any
6 provision of this chapter or any rule adopted pursuant thereto,
7 or the issuance, modification, or revocation of any permit or
8 license under this code issued by the [~~commission,~~] department
9 of permitting, shall be conducted in accordance with chapter 91.
10 Hearings regarding particular water resources shall be conducted
11 on the island where those water resources are located."

12 SECTION 46. Section 174C-27, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) When a declaration has been filed in accordance with
15 this section and the [~~commission~~] department of permitting has
16 determined that the use declared is a reasonable, beneficial
17 use, the [~~commission~~] department of permitting shall issue a
18 certificate describing the use. The certificate shall be deemed
19 to constitute a description of the use declared. With respect
20 to certificates for water use, the confirmed usage shall be
21 recognized by the commission in resolving claims relating to



1 existing water rights and uses including appurtenant rights,
2 riparian and correlative use."

3 SECTION 47. Section 174C-31, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (j) to read:

6 "(j) The [~~commission~~] department of permitting shall
7 condition permits under part IV of this chapter in such a manner
8 as to protect instream flows and maintain sustainable yields of
9 ground water established under this section."

10 2. By amending subsection (l) to read:

11 "(l) The commission may designate certain uses in
12 connection with a particular source of supply which, because of
13 the nature of the activity or the amount of water required,
14 would constitute an undesirable use for which the [~~commission~~]
15 department of permitting may deny a permit under the provisions
16 of part IV."

17 SECTION 48. Section 174C-48, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) No person shall make any withdrawal, diversion,
20 impoundment, or consumptive use of water in any designated water
21 management area without first obtaining a permit from the
22 [~~commission~~] department of permitting. However, no permit



1 shall be required for domestic consumption of water by
2 individual users, and no permit shall be required for the use of
3 a catchment system to gather water. An existing use in newly
4 designated areas may be continued until such time as the
5 [~~commission~~] department of permitting has acted upon the
6 application subject to compliance with section 174C-51."

7 SECTION 49. Section 174C-49, Hawaii Revised Statutes, is
8 amended by amending subsection (e) to read as follows:

9 "(e) All permits issued by the [~~commission~~] department of
10 permitting shall be subject to the rights of the department of
11 Hawaiian home lands as provided in section 221 of the Hawaiian
12 Homes Commission Act, whether or not the condition is explicitly
13 stated in the permit."

14 SECTION 50. Section 174C-50, Hawaii Revised Statutes, is
15 amended by amending subsections (b) to (h) to read as follows:

16 "(b) After publication as provided in section 174C-52, the
17 [~~commission~~] department of permitting shall issue a permit for
18 the continuation of a use in existence on the effective date of
19 designation, if the criteria in subsection (a) are met and the
20 existing use is reasonable and beneficial.

21 Whether the existing use is a reasonable-beneficial use and
22 is allowable under the common law of the State shall be



1 determined by the [~~commission~~] department of permitting after a
2 hearing; provided that the [~~commission~~] department may make such
3 a determination without a hearing, if the quantity of water
4 applied for does not exceed an amount per month established by
5 rule or if the quantity of water applied for exceeds an amount
6 per month established by rule, but no objection to the
7 application is filed by any person having standing to file an
8 objection. In determining whether an application does not
9 exceed the amount per month established by rule, the
10 [~~commission~~] department shall consider an average of water use
11 over the three-month period immediately preceding the filing of
12 the application.

13 (c) An application for a permit to continue an existing
14 use must be made within a period of one year from the effective
15 date of designation. Except for appurtenant rights, failure to
16 apply within this period creates a presumption of abandonment of
17 the use, and the user, if the user desires to revive the use,
18 must apply for a permit under section 174C-51. If the
19 [~~commission~~] department of permitting determines that there is
20 just cause for the failure to file, it may allow a late filing.
21 However, the [~~commission~~] department may not allow a late filing
22 more than five years after the effective date of rules



1 implementing this chapter. The [~~commission~~] department shall
2 send two notices, one of which shall be by registered mail, to
3 existing users to file for an application for a permit to
4 continue an existing use.

5 (d) An application shall be acted upon by the [~~commission~~]
6 department of permitting within ninety calendar days of an
7 application not requiring a hearing, or within one hundred
8 eighty calendar days of an application requiring a hearing. The
9 time periods prescribed in this subsection shall not be deemed
10 to run for any period in which an application is not complete in
11 all material respects in the judgment of the [~~commission~~.]
12 department.

13 (e) The [~~commission~~] department of permitting shall issue
14 an interim permit; provided that the existing use meets the
15 conditions of subsection (b). The [~~commission~~] department shall
16 also issue an interim permit for an estimated, initial
17 allocation of water if the quantity of water consumed under the
18 existing use is not immediately verifiable, but the existing use
19 otherwise meets the conditions of subsection (b) for a permit or
20 an interim permit. An interim permit is valid for such time
21 period specified therein. The [~~commission~~] department may issue
22 successive interim permits of limited duration. Interim permits



1 are subject to revocation under section 174C-58. Whenever
2 interim permits are to be issued, the time periods specified in
3 subsection (d) apply to the issuance or nonissuance of interim
4 permits.

5 (f) A permit to continue an existing use shall be for a
6 quantity of water not exceeding that quantity being consumed
7 under the existing use. The quantity being consumed shall be
8 determined and verified by the best available means not unduly
9 burdensome on the applicant, as determined by the [~~commission~~]
10 department of permitting. The [~~commission~~] department may
11 prescribe the installation of metering or gauging devices, and,
12 if so prescribed, such metering or gauging devices shall be in
13 place and operational for at least one year before a
14 determination is made as to the quantity of water being consumed
15 in an existing use and a final permit is issued.

16 (g) If an interim permit is issued pending verification of
17 the actual quantity of water being consumed under the existing
18 use, a final determination of that quantity shall be made within
19 five years of the filing of the application to continue the
20 existing use. In the final determination, the [~~commission~~]
21 department of permitting may increase or reduce the amount
22 initially granted the permittee.



1 (h) Two or more existing uses of water are deemed to be
2 competing when they draw water from the same hydrologically
3 controllable area and the aggregate quantity of water consumed
4 by the users exceeds the appropriate sustainable yield or
5 instream flow standards established pursuant to law for the
6 area. If applications are made to continue existing uses which
7 are competing and the uses otherwise meet the requirements of
8 subsection (b), the [~~commission~~] department of permitting shall
9 hold a hearing to determine the quantity of water that may be
10 consumed and the conditions to be imposed on each existing use."

11 SECTION 51. Section 174C-53, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§~~**§174C-53**[+] **Permit issuance.** (a) The [~~commission~~]
14 department of permitting shall determine, after a hearing, if
15 required, whether the conditions set forth in section 174C-49(a)
16 have been established; provided that the [~~commission~~] department
17 may make such determination without a hearing if the quantity of
18 water applied for does not exceed an average amount per month to
19 be established by rule or if the quantity of water applied for
20 exceeds an average amount per month to be established by rule,
21 but no objection to the application is filed by any person
22 having standing to file an objection.



1 (b) In acting upon any application, the [~~commission~~]
2 department of permitting need consider only those objections
3 filed by a person who has some property interest in any land
4 within the hydrologic unit from which the water sought by the
5 applicant is to be drawn or who will be directly and immediately
6 affected by the water use proposed in the application. The
7 commission shall adopt rules governing the filing of objections
8 and the persons having standing to file objections.

9 (c) An application shall be acted upon within ninety
10 calendar days of an application not requiring a hearing, or
11 within one hundred eighty calendar days of an application
12 requiring a hearing. The time periods prescribed in this
13 section shall not be deemed to run for any period in which an
14 application is not complete in all material respects, in the
15 judgment of the [~~commission~~] department.

16 (d) As a condition for the issuance of a permit the
17 [~~commission~~] department of permitting may require the permittee
18 to install meters, gauges, or other appropriate measuring
19 devices."

20 SECTION 52. Section 174C-58, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~[+]~~\$174C-58~~[+]~~ **Revocation of permits.** After a hearing,
2 the [~~commission~~] department of permitting may suspend or revoke
3 a permit for:

4 (1) Any materially false statement in the application for
5 the water permit, a modification of a permit term, or
6 any materially false statement in any report or
7 statement of fact required of the user pursuant to
8 this part.

9 (2) Any wilful violation of any condition of the permit.

10 (3) Any violation of any provision of this chapter.

11 (4) Partial or total nonuse, for reasons other than
12 conservation, of the water allowed by the permit for a
13 period of four continuous years or more. The
14 [~~commission~~] department may permanently revoke the
15 permit as to the amount of water not in use unless the
16 user can prove that the user's nonuse was due to
17 extreme hardship caused by factors beyond the user's
18 control. The [~~commission~~] department and the
19 permittee may enter into a written agreement that, for
20 reasons satisfactory to the [~~commission~~] department,
21 any period of nonuse may not apply towards the four-
22 year revocation period. Any period of nonuse which is



1 caused by a declaration of water shortage pursuant to
2 section 174C-62 shall not apply towards the four-year
3 period of forfeiture.

4 The [~~commission~~] department of permitting may cancel a permit,
5 permanently and in whole, with the written consent of the
6 permittee."

7 SECTION 53. Section 174C-59, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§174C-59 Transfer of permit.** A permit may be
10 transferred, in whole or in part, from the permittee to another,
11 if:

12 (1) The conditions of use of the permit, including, but
13 not limited to, place, quantity, and purpose of the
14 use, remain the same; and

15 (2) The [~~commission~~] department of permitting is informed
16 of the transfer within ninety days.

17 Failure to inform the [~~commission~~] department of the
18 transfer invalidates the transfer and constitutes a ground for
19 revocation of the permit. A transfer which involves a change in
20 any condition of the permit, including a change in use covered
21 in section 174C-57, is also invalid and constitutes a ground for
22 revocation."



1 SECTION 54. Section 174C-84, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**\$174C-84**[~~f~~] **Permits for well construction and pump**

4 **installation.** (a) No well construction and no installation of
5 pumps and pumping equipment shall commence without appropriate
6 permit from the [~~commission~~] department of permitting. An
7 application for a permit for well construction shall be required
8 for all areas of the State including water management areas and
9 shall be made by the well driller who will construct the well.

10 An application for a permit for installation of a pump and
11 pumping equipment shall be made by the pump installation
12 contractor who will install the pump and pumping equipment.

13 (b) Every application shall contain such data prescribed
14 by the [~~commission~~] department of permitting including the
15 applicant's name; the applicant's license number; the name and
16 address of the person who will control and operate the well; in
17 water management areas, the water use permit number; the
18 location of the well; the proposed depth and method of well
19 construction; the size and expected capacity of the well; and a
20 description of the pump and pumping equipment to be installed.

21 (c) The [~~commission~~] department of permitting may issue a
22 permit only if the proposed construction complies with all



1 applicable laws, rules, and standards. Before acting on any
2 application, the [~~commission~~] department shall cause the
3 application to be reviewed by the department of health for
4 compliance with their rules and standards concerning, among
5 other things, the appropriateness of the well location.

6 (d) Every permit shall direct the well driller and pump
7 installation contractor to file a well completion report, as
8 provided in section 174C-85. The permit shall be prominently
9 displayed at the site of the well at all times until the well
10 construction or the pump and pumping equipment installation is
11 completed.

12 (e) The holder of a permit for well construction, with the
13 approval of the [~~commission~~] department of permitting may
14 change the location of the well before construction is
15 completed. An application to change the location shall describe
16 the location, the proposed depth and method of construction, and
17 the size and expected capacity of the new well. It shall also
18 describe the manner of sealing or plugging the incomplete and
19 abandoned well. The [~~commission~~] department shall cause all
20 such applications to be reviewed by the department of health for
21 compliance with their rules and standards concerning, among
22 other things, the appropriateness of the location of the well.



1 The [~~commission~~] department may issue an amended permit if it
2 determines that the proposed new well location will serve the
3 same use as the original well and draw upon the same supply of
4 water and will not be contrary to any applicable law, rule,
5 order, or regulation, and that the incomplete and abandoned well
6 will be sealed or plugged in a manner to prevent waste of water
7 and damage to the water supply and to protect the public from
8 harm.

9 (f) Any applicant whose application is rejected may obtain
10 a hearing before the [~~commission~~] department by filing within
11 thirty days of the mailing of the notice of rejection a written
12 petition requesting such a hearing. The hearing shall be
13 conducted pursuant to part I.

14 (g) The [~~commission~~] department of permitting may suspend
15 or revoke a permit, after notice and hearing, on any of the
16 following grounds:

- 17 (1) Material misstatement or misrepresentation in the
18 application for a permit;
- 19 (2) Failure to comply with the provisions set forth in the
20 permit;
- 21 (3) Wilful disregard or violation of any provision of this
22 part or any rule adopted pursuant thereto; or



1 (4) Material change of circumstances or conditions
2 existing at the time the permit was issued."

3 SECTION 55. Section 174C-93, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{}~~§174C-93~~{}~~ **Permits for construction or alteration.**

6 No person shall construct or alter a stream diversion works,
7 other than in the course of normal maintenance, without first
8 obtaining a permit from the ~~[commission-]~~ department of
9 permitting. The ~~[commission]~~ department may impose such
10 reasonable conditions as are necessary to assure that the
11 construction or alteration of such stream diversion works will
12 not be inconsistent with the general plan and land use policies
13 of the State and the affected county. Nothing in this section
14 shall be construed to be inconsistent with part IV.

15 A person proposing to construct or alter a stream diversion
16 work shall apply to the ~~[commission]~~ department of permitting
17 for a permit authorizing such construction or alteration. The
18 application shall contain the following:

- 19 (1) Name and address of the applicant;
- 20 (2) Name and address of the owner or owners of the land
21 upon which the works are to be constructed and a legal
22 description of such land;



- 1 (3) Location of the work;
- 2 (4) Engineering drawings showing the detailed plans of
- 3 construction;
- 4 (5) Detailed specifications of construction;
- 5 (6) Name and address of the person who prepared the plans
- 6 and specifications for construction;
- 7 (7) Name and address of the person who will construct the
- 8 proposed work;
- 9 (8) General purpose of the proposed work; and
- 10 (9) Such other information as the [~~commission~~] department
- 11 may require."

12 SECTION 56. Section 174C-95, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "[+]§174C-95[+] **Abandonment.** Any owner of any stream
 15 diversion work wishing to abandon or remove such work shall
 16 first obtain a permit to do so from the [~~commission.~~] department
 17 of permitting."

18 SECTION 57. Section 181-2, Hawaii Revised Statutes, is
 19 amended by amending subsection (a) to read as follows:

20 "(a) The [~~board of land and natural resources~~] department
 21 of permitting shall grant upon application therefor being made
 22 under section 181-4 a permit to strip mine, and may modify,



1 suspend, revoke, or cancel the permit for cause as set forth in
2 subsection (b) of section 181-4. The board of land and natural
3 resources shall [~~also~~] have full power and authority to carry
4 out and administer this chapter and may designate one or more
5 agents to act in its stead."

6 SECTION 58. Section 181-3, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) It shall be unlawful for any person to engage in
9 strip mining without first obtaining from the [~~board of land and~~
10 ~~natural resources~~] department of permitting a permit so to do,
11 in the form hereinafter provided."

12 SECTION 59. Section 181-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§181-4~~ **Application for permit; fee.** (a) Any operator
15 desiring to engage in strip mining shall make written
16 application to the [~~board of land and natural resources~~]
17 department of permitting for a permit. Application for the
18 permit shall be made upon the form furnished by the [~~board,~~]
19 department, which form shall require a description of the pit
20 with such particularity as the board of land and natural
21 resources may require, the approximate number of acres of
22 mineral land that will be mined annually, the approximate date



1 upon which mining operations shall commence and such other
2 information as the board may require. The application shall be
3 accompanied by an annual fee determined by the number of acres
4 to be stripped in one year, as follows:

5	Less than ten acres	\$100
6	Ten to twenty-four acres	200
7	Twenty-five to forty-nine acres	300
8	Fifty to ninety-nine acres	400
9	One hundred acres	500

10 The application together with the proper fee shall also be
11 accompanied by a bond meeting the requirements of section 181-5.

12 Upon receipt of the application, fee, and bond, the [~~board~~]
13 department of permitting shall issue a permit to the applicant
14 which, upon the applicant's filing the plan required by
15 subsection (a) of section 181-6 shall entitle the applicant for
16 a period of one year next following to engage in strip mining of
17 the land identified in the application in the manner and subject
18 to the provisions set forth in the plan. The [~~board~~] department
19 shall refuse to issue a permit if the application is not in
20 proper form or is not accompanied by the correct amount of the
21 fee or if the bond does not meet the requirements of section
22 181-5.



1 (b) Each permit shall be renewed each year by the [~~board~~]
2 department of permitting upon receipt by it of the required
3 annual fee and the filing of the bond required by section 181-5.
4 The permit, whether originally issued or renewed, shall remain
5 in effect until terminated through lapse of time, or suspended,
6 revoked, or cancelled by the [~~board~~] department following a
7 hearing as provided in subsection (b) of section 181-7, for
8 failure of the operator to comply with the terms thereof or the
9 requirements of this chapter."

10 SECTION 60. Section 181-6, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) At the completion of each year, and at the time the
13 operator makes application to the [~~board~~] department of
14 permitting for a renewal of the operator's permit under section
15 181-4, the operator shall submit in duplicate to the [~~board~~]
16 department a map in a form approved by the [~~board~~,] department,
17 setting forth such description as will identify the land from
18 which the operator removed any mineral by strip mining during
19 the preceding permit year, with a legend upon the map showing
20 the number of acres affected and the extent that the topography
21 has been disturbed by the mining. The accuracy of the map may
22 be checked by the [~~board~~] department and if found to be



1 erroneous, it shall be corrected by the operator prior to the
2 issuance of a renewal permit."

3 SECTION 61. Section 182-6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§182-6 **Exploration.** Any person wishing to conduct
6 exploration on such state lands shall apply to the [~~board of~~
7 ~~land and natural resources~~] department of permitting who shall
8 issue exploration permits upon such terms and conditions as it
9 shall by regulation prescribe. During and as a result of the
10 exploration, no minerals of such types and quantity beyond that
11 reasonably required for testing and analysis shall be extracted
12 and removed from such state lands. Upon termination of the
13 exploration permit, the drill logs and the results of the assays
14 resulting from the exploration shall be turned over to the board
15 of land and natural resources and kept confidential by the
16 board. If the person shall not make application for a mining
17 lease of the lands within a period of six months from the date
18 the information is turned over to the board, the board in its
19 discretion need not keep the information confidential."

20 SECTION 62. Section 183C-3, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[-]§183C-3[+] Powers and duties of the board and

2 department. The board and department shall:

- 3 (1) Maintain an accurate inventory of lands classified
4 within the state conservation district by the state
5 land use commission, pursuant to chapter 205;
- 6 (2) Identify and appropriately zone those lands classified
7 within the conservation district;
- 8 (3) Adopt rules, in compliance with chapter 91 which shall
9 have the force and effect of law;
- 10 (4) Set, charge, and collect reasonable fees in an amount
11 sufficient to defray the cost of processing
12 applications for zoning, use, and subdivision of
13 conservation lands;
- 14 (5) Establish categories of uses or activities on
15 conservation lands, including allowable uses or
16 activities for which no permit shall be required;
- 17 (6) Establish restrictions, requirements, and conditions
18 consistent with the standards set forth in this
19 chapter on the use of conservation lands; and
- 20 (7) Establish and enforce land use regulations on
21 conservation district lands including the collection
22 of fines for violations of land use and terms and



1 conditions of permits issued by the department ~~[-]~~ of
2 permitting."

3 SECTION 63. Section 183C-6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§183C-6 Permits and site plan approvals.** (a) The
6 department shall regulate land use in the conservation district
7 [by]; provided that the issuance of permits[-] shall be the
8 responsibility of the department of permitting.

9 (b) The department of permitting shall render a decision
10 on a completed application for a permit within one-hundred-
11 eighty days of its acceptance by the department. If within one-
12 hundred-eighty days after acceptance of a completed application
13 for a permit, the department shall fail to give notice, hold a
14 hearing, and render a decision, the owner may automatically put
15 the owner's land to the use or uses requested in the owner's
16 application. When an environmental impact statement is required
17 pursuant to chapter 343, or when a contested case hearing is
18 requested pursuant to chapter 91, the one-hundred-eighty days
19 may be extended an additional ninety days at the request of the
20 applicant. Any request for additional extensions shall be
21 subject to the approval of the ~~[board-]~~ department of
22 permitting.



1 (c) The department of land and natural resources shall
2 hold a public hearing in every case involving the proposed use
3 of land for commercial purposes, at which hearing interested
4 persons shall be afforded a reasonable opportunity to be heard.
5 Public notice of the time and place of the hearing shall be
6 given at least once statewide and in the county in which the
7 property is located. The notice shall be given not less than
8 twenty days prior to the date set for the hearing. The hearing
9 shall be held in the county in which the land is located and may
10 be delegated to an agent or representative of the board as may
11 otherwise be provided by law and in accordance with rules
12 adopted by the board. For the purposes of its public hearing or
13 hearings, the department shall have the power to summon
14 witnesses, administer oaths, and require the giving of
15 testimony. As used in this subsection, the term "commercial
16 purposes" shall not include the use of land for utility
17 purposes.

18 (d) The department shall regulate the construction,
19 reconstruction, demolition, or alteration of any structure,
20 building, or facility [~~by~~]; provided that the issuance of site
21 plan approvals[~~-~~] shall be the responsibility of the department
22 of permitting.



1 (e) Any permit for the reconstruction, restoration,
2 repair, or use of any Hawaiian fishpond exempted from the
3 requirements of chapter 343 under section 183B-2 shall provide
4 for compliance with the conditions of section 183B-2."

5 SECTION 64. Section 183D-6, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Notwithstanding the provisions of any other law, the
8 department of permitting may issue permits to any person to take
9 wildlife in any part of the State, for scientific, educational,
10 or propagation purposes, except as prohibited by chapter 195D
11 and subject to the rules adopted by the department[-] of land
12 and natural resources. The department of permitting may revoke
13 any permit for any infraction of the terms and conditions of the
14 permit. Any person whose permit has been revoked shall not be
15 eligible to apply for another permit until the expiration of one
16 year from the date of revocation."

17 SECTION 65. Section 183D-22, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) A hunting license shall be issued to a person by an
21 agent of the department of permitting upon:



- 1 (1) Written application in the form prescribed by the
2 department;
- 3 (2) Payment of a hunting license fee or any other hunting
4 related fee the board of land and natural resources
5 may require as provided in this chapter; except that
6 payment of the fee shall be waived for any employee of
7 the department of land and natural resources who is
8 required to have a license to carry out duties of the
9 department; and
- 10 (3) Showing of a valid Hawaii hunter education certificate
11 or written exemption issued under section 183D-28 or
12 upon showing proof of completion of an approved hunter
13 education course described in section 183D-28(b)(2).

14 The application shall require a statement under oath of the
15 applicant's name, address, domicile or residence, length of
16 residence in the State, age, race, height, weight, and color of
17 hair and eyes."

18 2. By amending subsection (c) to read:

19 "(c) The department of permitting shall suspend, refuse to
20 renew, reinstate, or restore, or deny any license if the
21 department has received certification from the child support
22 enforcement agency pursuant to section 576D-13 that the licensee



1 or applicant is not in compliance with an order of support or
 2 has failed to comply with a subpoena or warrant relating to a
 3 paternity or child support proceeding. The department shall
 4 issue, renew, restore, or reinstate such a license only upon
 5 receipt of an authorization from the child support enforcement
 6 agency, the office of child support hearings, or the family
 7 court."

8 SECTION 66. Section 183D-34, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 **"§183D-34 Private and commercial shooting preserve and**
 11 **farmer's license.** (a) For the purpose of encouraging private
 12 and commercial shooting preserves, game bird farming, and the
 13 domestication and propagation of game birds, a license
 14 authorizing the licensee to engage in the business of conducting
 15 a private and commercial shooting game preserve, or breeding and
 16 selling game birds, as limited in this section, shall be issued
 17 by the department of permitting pursuant to rules as may be
 18 adopted by the department[~~7~~] of land and natural resources, to
 19 any responsible resident person duly applying therefor. The
 20 licenses shall expire on June 30 of each year.

21 (b) The fee for private and commercial shooting preserves
 22 and farmer's licenses shall be set by the department[~~7~~] of land



1 and natural resources; provided that the department of
2 permitting may authorize any governmental agency to breed and
3 sell game birds, and may authorize any person to possess
4 lawfully obtained game birds. The fees collected under this
5 subsection shall be deposited into the wildlife revolving fund
6 under section 183D-10.5."

7 SECTION 67. Section 183D-40, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§183D-40 Permit; authority under.** After first having
10 obtained a permit from the department[7] of permitting, a
11 licensee may obtain any number of game birds from any state game
12 farm or from city park boards from another county, state, or
13 foreign jurisdiction, or, with the consent of the department,
14 transfer to another licensee any game bird taken or secured
15 under this chapter. A licensee, after obtaining a permit may
16 sell, give away, or dispose of the eggs of any game bird,
17 lawfully in the licensee's possession, for propagation purposes
18 only."

19 SECTION 68. Section 183D-61, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) Except as provided in subsection (a)(4), the rules
22 shall require the person or persons seeking authority to apply



1 for and obtain a written permit from the department[-] of
 2 permitting. The permits may prescribe terms and conditions the
 3 department deems necessary to prevent abuse of the authority
 4 granted thereby, and may be canceled by the department, after
 5 notice and hearing, for the violation of any term or condition."

6 SECTION 69. Section 183D-64, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "**§183D-64 Transportation of wild birds from the State**
 9 **prohibited.** No person shall transport or cause to be
 10 transported by any means any wild bird from any part of the
 11 State; provided that specimens of wild birds required for
 12 scientific or educational purposes may be exported from the
 13 State only when authorized under permits issued by the
 14 department[-] of permitting."

15 SECTION 70. Section 185-3, Hawaii Revised Statutes, is
 16 amended by amending subsection (c) to read as follows:

- 17 "(c) The manager shall have the power and duty to:
- 18 (1) Prepare a plan for fire protection within the meaning
 - 19 of section [+]185-1.5[+];
 - 20 (2) Take necessary measures for the prevention, control,
 - 21 and extinguishment of fires coming within the meaning
 - 22 of this chapter;



- 1 (3) Issue fire warning notices during dry periods or other
2 seasons when fire hazards are great;
- 3 (4) Close forest reserves, public hunting areas, wildlife
4 and plant sanctuaries, and natural area reserves to
5 public access or restrict their use during dry periods
6 when necessary, to reduce fire risk;
- 7 (5) Close public access to areas in which fire control
8 operations are ongoing;
- 9 ~~[(6) Issue burning permits as provided in section 185-7;~~
10 ~~(7)]~~ (6) Receive, audit, and if correct, approve and
11 transmit to the department through the administrator,
12 all reports and accounts for expenses incurred in the
13 prevention, control, and extinguishment of any fires
14 which come within the meaning of this chapter;
- 15 ~~[(8)]~~ (7) Summon, when necessary, additional firefighting
16 assistance, equipment, supplies, or materials to
17 assist in fighting a fire;
- 18 ~~[(9)]~~ (8) Assume full responsibility for directing the
19 control and extinguishment of any fire coming within
20 the meaning of this chapter, including directing the
21 control and extinguishment of any fire on or
22 threatening any lands included in section ~~[+]~~185-



1 1.5[+] as may be provided for under mutual aid
2 agreements with other fire control agencies; and
3 ~~[-10-]~~ (9) Conduct educational work in the protection of
4 forest reserves, public hunting areas, wildlife and
5 plant sanctuaries, and natural area reserves against
6 fires~~[-]~~;

7 provided that the issuance of burning permits shall be the
8 responsibility of the department of permitting."

9 SECTION 71. Section 185-7, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) The manager ~~[will]~~ shall minimize the threat of fires
12 ~~[by maintaining control through the issuance and management of~~
13 ~~burning permits or the establishment of]~~ pursuant to rules
14 adopted by the department, pursuant to chapter 91[-]; provided
15 that the issuance of burning permits shall be the responsibility
16 of the department of permitting. On other lands where the
17 department has direct fire protection responsibility, as
18 described in section ~~[-]~~185-1.5~~[-]~~, and on adjoining property
19 that offer a significant threat to those lands, the department
20 shall establish agreements with the department ~~[-]~~of~~[-]~~ health
21 to require burning plans acceptable to the managers and the
22 county fire chief. The issuance of permits shall be at the



1 discretion of the issuing officer who shall take into account
2 whether the issuance of a permit is compatible with safety.
3 Holders of permits shall start no fires during a heavy wind or
4 without sufficient help present to control same and shall
5 maintain a constant watch over the fires until they have been
6 extinguished."

7 SECTION 72. Section 187A-3.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+]§187A-3.5[+] **Aquaculturist license and license to sell**
10 **prohibited aquatic life.** (a) Notwithstanding the provisions in
11 subtitle 5 of title 12, or administrative rules adopted
12 thereunder, the department of permitting may issue to any
13 qualified aquaculturist a license to fish, possess, rear, and
14 sell any aquatic life whose fishing, possession or sale is
15 prohibited by closed season, minimum size, or bag limit;
16 provided that the qualified aquaculturist rears or reared the
17 aquatic life in an aquaculture facility.

18 (b) The department of permitting may further issue to any
19 person a license to possess or sell or offer for sale any
20 aquatic life whose possession or sale is prohibited by a closed
21 season, minimum size, or bag limit; provided that the aquatic



1 life was reared by a licensed qualified aquaculturist in an
2 aquaculture facility pursuant to subsection (a).

3 (c) The department may adopt rules pursuant to chapter 91,
4 to implement this section by establishing the licenses, fees,
5 and terms or conditions necessary for the fishing, possession,
6 or sale of aquatic life whose fishing, possession, or sale is
7 prohibited by closed season, minimum size, or bag limit."

8 SECTION 73. Section 187A-6, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Notwithstanding the provisions of any other law, the
11 department of permitting may issue permits, not longer than one
12 year in duration, to any person to take aquatic life, possess or
13 use fishing gear, or engage in any feeding, watching, or other
14 such non-consumptive activity related to aquatic resources,
15 otherwise prohibited by law, in any part of the State, for
16 scientific, educational, management, or propagation purposes,
17 subject to chapter 195D and subject to those restrictions the
18 department deems desirable. The department of permitting may
19 revoke any permit for any infraction of the terms and conditions
20 of the permit. Any person whose permit has been revoked shall
21 not be eligible to apply for another permit until the expiration
22 of one year from the date of revocation."



1 SECTION 74. Section 188-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§188-23 Possession or use of explosives, electrofishing
4 devices, and poisonous substances in state waters prohibited;
5 exception. (a) It is unlawful to possess or use on, in, or
6 near state waters, any explosives, electrofishing devices, or
7 any source of electrical energy with appurtenant devices for the
8 introduction of electricity into the water, for the purpose of
9 taking aquatic life, except under the terms and conditions of a
10 permit first obtained by the user from the department[-] of
11 permitting. The department may issue permits for the possession
12 or use of electrofishing devices consistent with other legal
13 requirements.

14 (b) It is unlawful to deposit in, permit to pass into, or
15 place where it can pass into the state waters for the purpose of
16 taking aquatic life any of the following:

17 (1) Any petroleum, coal or oil tar, lampblack, aniline,
18 asphalt, bitumen, or residuary product of petroleum or
19 carbonaceous material or substance;

20 (2) Hypochlorous acid or any of its salts, including
21 bleaches commonly sold under various trade names, such
22 as Clorox and Purex, and bleaching powders;



- 1 (3) Preparations containing rotenone, tephrosin, saponins,
2 or plant materials from *Barringtonia acutangula*,
3 *Barringtonia asiatica*, *Barringtonia racemosa*,
4 *Barringtonia longiracemosa*, *Barringtonia speciosa*,
5 *Careya australis*, *Cocculus ferrandianus*, *Cocculus*
6 *trilobus*, *Cocos nucifera*, *Hura crepitans*, *Hura*
7 *polyandra*, *Piscidia acuminata*, *Piscidia*
8 *carthagenensis*, *Piscidia erythrina*, *Planchonia careya*,
9 *Tephrosia purpurea*, *Tephrosia piscatoria*, *Wikstroemia*;
10 and
11 (4) Any other substance or material deleterious to aquatic
12 life;
13 except under the terms and conditions of a permit first obtained
14 by the user from the department[-] of permitting.

15 The department of permitting may issue permits to allow the
16 possession or use of stated amounts of these substances
17 poisonous to aquatic life if the department deems the amount in
18 possession is for legitimate purposes or in quantities too small
19 to harm aquatic life.

20 The possession or use of these substances without a permit
21 by any person on, in, or near the water where aquatic life can



1 be taken, or aboard any fishing vessel or boat is prima facie
2 evidence of a violation of this section.

3 The department of permitting may revoke any permit for any
4 infraction of the terms and conditions of the permit. Any
5 person whose permit has been revoked shall not be eligible to
6 apply for another permit until the expiration of one year from
7 the date of revocation.

8 Nothing in this section shall be held or construed to be an
9 amendment of the rules of the department of transportation."

10 SECTION 75. Section 188-31, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§188-31 Permits to take aquatic life for aquarium**
13 **purposes.** (a) Except as prohibited by law, the department[7]
14 of permitting, upon receipt of a written application, may issue
15 an aquarium fish permit, not longer than one year in duration,
16 to use fine meshed traps, or fine meshed nets other than throw
17 nets, for the taking of marine or freshwater nongame fish and
18 other aquatic life for aquarium purposes.

19 (b) Except as prohibited by law, the permits shall be
20 issued only to persons who can satisfy the department of
21 permitting that they possess facilities to and can maintain fish
22 and other aquatic life alive and in reasonable health.



1 (c) It shall be illegal to sell or offer for sale any fish
2 and other aquatic life taken under an aquarium fish permit
3 unless those fish and other aquatic life are sold alive for
4 aquarium purposes.

5 The department may adopt rules pursuant to chapter 91 for
6 the purpose of this section.

7 (d) For the purposes of this section:

8 (1) "Aquarium purposes" means to hold salt water fish,
9 freshwater nongame fish, or other aquatic life alive
10 in a state of captivity as pets, for scientific study,
11 or for public exhibition or display, or for sale for
12 these purposes; and

13 (2) "Aquarium fish permit" means a permit issued by the
14 [~~board~~] department of permitting for the use of fine
15 mesh nets and traps to take salt water fish,
16 freshwater nongame fish, or other aquatic life for
17 aquarium purposes."

18 SECTION 76. Section 188-34, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) It is unlawful to take or kill fish by means of any
21 net in the waters of that portion of the bay of Hilo bounded by
22 the breakwater, a line from the outer end of the breakwater to



1 Alealea Point, and the shoreline from Alealea Point to the
2 inshore end of the breakwater; provided that commercial marine
3 and pond operators with appropriate licenses issued by the
4 department of ~~land and natural resources~~ permitting may take
5 bait fish or pua, or persons may use throw net, opae net, crab
6 net, or nehu net not longer than fifty feet to take nehu for
7 family consumption or bait purposes."

8 SECTION 77. Section 188-35, Hawaii Revised Statutes, is
9 amended by amending subsections (c) through (e) to read as
10 follows:

11 "(c) An owner or operator of a fish pond may take pua or
12 other small fish, using nets, with a license obtained from the
13 department of ~~land and natural resources~~ permitting and under
14 rules the department of land and natural resources may adopt,
15 for the purpose of stocking the fish pond.

16 (d) Commercial marine licensees, with a license from the
17 department of ~~land and natural resources,~~ permitting, may take
18 nehu, iao, or any other species of baitfish as authorized by
19 section 188-45, using nets for bait purposes only.

20 (e) The department of permitting may issue licenses at its
21 discretion and at any time may revoke any or all licenses when,



1 in its judgment, the action is necessary to preserve the stock
2 of fish in the canals or waters."

3 SECTION 78. Section 188-37, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The department of permitting may issue permits to
6 those persons with a valid commercial marine license issued
7 pursuant to section 189-2 who own or operate a vessel deemed
8 capable by the department for effectively taking marine life
9 within the Northwestern Hawaiian Islands, and whenever the
10 department deems necessary, it may limit the number of permits
11 issued to take marine life in any particular area and such
12 limitation shall be on the basis of the order of application for
13 permits. Issuance of permits shall be limited to persons
14 utilizing methods or appliances approved by rule of the
15 department, which need not be legal elsewhere within the State,
16 and these permittees may take species of marine life, when and
17 as approved by rule of the department. The fee for the
18 Northwestern Hawaiian Islands taking permit shall be established
19 by the department by rules adopted in accordance with chapter
20 91.

21 The department of permitting may revoke any permit for any
22 infraction of the terms and conditions of the permit. Any



1 person whose permit has been revoked shall not be eligible to
2 apply for another permit until the expiration of one year from
3 the date of revocation."

4 SECTION 79. Section 188-44, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The department of permitting may issue a license to
7 any owner or operator of a fish pond to lawfully catch the young
8 mullet known as pua during the closed season, for the purpose of
9 stocking the owner's or operator's pond, and lawfully sell pond
10 raised mullet during the closed season."

11 SECTION 80. Section 188-45, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§188-45 Licenses for nehu, iao, and other baitfish.** The
14 department of permitting may issue to commercial marine
15 licensees, as defined in chapter 187A, licenses to take nehu,
16 iao, or any other species for use as bait only. The department
17 of land and natural resources may adopt rules pursuant to
18 chapter 91 for the purposes of this section. The licenses may
19 be issued by the department of permitting upon terms and
20 conditions the department may deem necessary to conserve the
21 supply of the fish within state waters. The license may be
22 summarily revoked for a violation of any term or condition of



1 the license, and any or all licenses may be revoked summarily
2 whenever, in the judgment of the department, the action is
3 necessary for the conservation of the fish."

4 SECTION 81. Section 188-50, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) It is unlawful for any person, except children below
7 nine years of age, to fish, take, or catch any introduced
8 freshwater game fish without first obtaining a license~~[-]~~ from
9 the department of permitting. Children exempt by this section
10 may fish, provided they are accompanied by a licensed person.
11 The department of land and natural resources may adopt rules
12 pursuant to chapter 91 necessary for the purposes of this
13 chapter and to set fees for freshwater game fish fishing."

14 SECTION 82. Section 188-53, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) It is unlawful for any person to enter any area
17 established under this section without first obtaining a permit
18 from the department~~[-]~~ of permitting, if permits are required,
19 or to violate any rule adopted by the department of land and
20 natural resources governing same.

21 The department of permitting may revoke any permit for any
22 infraction of the terms and conditions of the permit. Any



1 person whose permit has been revoked shall not be eligible to
2 apply for another permit until the expiration of one year from
3 the date of revocation."

4 SECTION 83. Section 188-57, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Any commercial marine dealer may sell, or any hotel,
7 restaurant, or other public eating house may serve, during the
8 closed season, Kona crabs or lobsters lawfully caught during the
9 open season by first procuring a license to do so[-] from the
10 department of permitting."

11 SECTION 84. Section 188-68, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§188-68 **Permits for coral and rock with marine life**
14 **attached.** The department of permitting may issue permits, as
15 authorized by this section, section 187A-6, chapter 183C, or
16 under rules adopted by the department of land and natural
17 resources pursuant to chapter 91 necessary for collecting live
18 stony corals or marine life visibly attached to rocks placed in
19 the water for a commercial purpose."

20 SECTION 85. Section 189-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§189-6 Licenses for marine life from waters not within**
2 **state jurisdiction.** Any other provision of law to the contrary
3 notwithstanding, wherever the possession or sale of marine life
4 or products within the State is prohibited as for instance by a
5 closed season, the prohibition shall not apply where the marine
6 life or products have been taken from or caught outside of the
7 waters of the State and the possession or sale has been licensed
8 by the department of [~~land and natural resources~~] permitting
9 under rules adopted by the department [-] of land and natural
10 resources. The department may make rules pursuant to chapter 91
11 governing the issuance, suspension, and revocation and all other
12 terms of the licenses. In addition, the department may specify
13 in the rules that any berried, undersized, or out-of-season
14 lobsters taken from the waters of the Northwestern Hawaiian
15 Islands may not be possessed and sold under authority of the
16 license."

17 SECTION 86. Section 190-4, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§190-4 Permits.** The department of land and natural
20 resources may, in any conservation district, prohibit the taking
21 of marine life or the engaging in activities prohibited by this
22 chapter and rules adopted thereunder, except by permit issued by



1 [~~it~~] the department of permitting for scientific, education, or
 2 other public purposes on such terms and conditions deemed
 3 necessary to minimize any adverse effect within the conservation
 4 district. The department of permitting may revoke any permit
 5 for any infraction of the terms and conditions of the permit.
 6 Any person whose permit has been revoked shall not be eligible
 7 to apply for another permit until the expiration of one year
 8 from the date of revocation."

9 SECTION 87. Section 195D-4, Hawaii Revised Statutes, is
 10 amended by amending subsections (f) and (g) to read as follows:

11 "(f) The department of permitting may issue temporary
 12 licenses, under such terms and conditions as it may prescribe,
 13 to allow any act otherwise prohibited by subsection (e), for
 14 scientific purposes or to enhance the propagation or survival of
 15 the affected species.

16 (g) After consultation with the endangered species
 17 recovery committee, the [~~board~~] department of permitting may
 18 issue a temporary license as a part of a habitat conservation
 19 plan to allow a take otherwise prohibited by subsection (e) if
 20 the take is incidental to, and not the purpose of, the carrying
 21 out of an otherwise lawful activity; provided that:



- 1 (1) The applicant, to the maximum extent practicable,
2 shall minimize and mitigate the impacts of the take;
- 3 (2) The applicant shall guarantee that adequate funding
4 for the plan will be provided;
- 5 (3) The applicant shall post a bond, provide an
6 irrevocable letter of credit, insurance, or surety
7 bond, or provide other similar financial tools,
8 including depositing a sum of money in the endangered
9 species trust fund created by section 195D-31, or
10 provide other means approved by the board, adequate to
11 ensure monitoring of the species by the State and to
12 ensure that the applicant takes all actions necessary
13 to minimize and mitigate the impacts of the take;
- 14 (4) The plan shall increase the likelihood that the
15 species will survive and recover;
- 16 (5) The plan takes into consideration the full range of
17 the species on the island so that cumulative impacts
18 associated with the take can be adequately assessed;
- 19 (6) The measures, if any, required under section 195D-
20 21(b) shall be met, and the department has received
21 any other assurances that may be required so that the
22 plan may be implemented;



1 (7) The activity, which is permitted and facilitated by
2 issuing the license to take a species, does not
3 involve the use of submerged lands, mining, or
4 blasting;

5 (8) The cumulative impact of the activity, which is
6 permitted and facilitated by the license, provides net
7 environmental benefits; and

8 (9) The take is not likely to cause the loss of genetic
9 representation of an affected population of any
10 endangered, threatened, proposed, or candidate plant
11 species.

12 ~~[Board approval shall require an affirmative vote of not less~~
13 ~~than two thirds of the authorized membership of the board after~~
14 ~~holding a public hearing on the matter on the affected island.]~~

15 The department shall notify the public of a proposed license
16 under this section through publication in the periodic bulletin
17 of the office of environmental quality control and make the
18 application and proposed license available for public review and
19 comment for not less than sixty days prior to approval."

20 SECTION 88. Section 200-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~§~~200-6~~§~~ Limitation of private use of ocean waters
2 and navigable streams. (a) No person shall erect or place any
3 structure or similar object, or sink any type of watercraft or
4 other sizeable object, or abandon any type of watercraft or
5 other sizeable object, either sunk or unsunk, on or within the
6 ocean waters or navigable streams of the State without a written
7 permit from the department~~[-]~~ of permitting. The department may
8 require any person violating this section to remove any
9 structure, similar object, watercraft, or other sizeable object
10 on or within the ocean waters or navigable streams of the State.
11 If any person fails to remove the same within a time limit set
12 by the department, the department may effect the removal and
13 charge the person with the cost thereof. The department may
14 enforce compliance with this section by the use of any
15 appropriate remedy including, but not limited to, injunction or
16 other equitable or legal process in the courts of the State.

17 (b) No person shall anchor, moor, or otherwise place any
18 vessel, houseboat, or other contrivance on or within the ocean
19 waters or navigable streams of the State without a permit from
20 the department~~[-]~~ of permitting. This section shall not apply
21 to:

22 (1) Vessels owned by the United States;



- 1 (2) Vessels engaged in interstate or foreign commerce; or
- 2 (3) Pleasure craft or fishing vessels temporarily anchored
- 3 for a period of less than seventy-two hours.

4 The department may require any person violating this section to
5 remove any vessel, houseboat, or other contrivance from the
6 ocean waters or navigable streams of the State. If any person
7 fails to remove the same within the time limit set by the
8 department, the department may effect the removal and charge the
9 person with the cost thereof. The department may enforce
10 compliance with this section by the use of any appropriate
11 remedy, including, but not limited to, injunction or other
12 equitable or legal process in the courts of the State. As used
13 in this section:

14 "Contrivance" means any human-made object or artificial
15 arrangement not used or intended to be used for transportation
16 which may be floated upon or suspended within the water.

17 "Houseboat" means any vessel which is fitted for use as a
18 permanent or temporary place of habitation, and is either
19 stationary or capable of being moved by oars, sweeps, or towing.

20 "Vessel" means every description of watercraft used or
21 capable of being used as a means of transportation on water,
22 including, but not limited to, power boats, ships, tugs, sailing



1 vessels, barges, scows, lighters, ferry boats, pleasure craft,
2 floating equipment, floating gear, dry docks, and any and all
3 other watercraft.

4 (c) The permittee shall pay fees to the department for the
5 offshore mooring permit issued by the department [~~-~~] of
6 permitting. The fees shall be based on, but not limited to, the
7 use of the vessel, its effect on the waters and aquatic
8 resources of the State, and the administrative expenses incurred
9 by the department and other state agencies in administering
10 offshore mooring. All revenues collected under this section
11 shall be deposited in the boating special fund."

12 SECTION 89. Section 200-9, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Vessels used for purposes of recreational boating
15 activities which are also the principal habitation of the owners
16 shall occupy no more than one hundred twenty-nine berths at Ala
17 Wai boat harbor and thirty-five berths at Keehi boat harbor,
18 which is equal to fifteen per cent of the respective total
19 moorage space that was available as of July 1, 1976, at the Ala
20 Wai and Keehi boat harbors. Notwithstanding the purposes of
21 small boat harbors, moorage for commercial vessels and
22 commercial vessel activities is not permitted in the Ala Wai and



1 Keehi boat harbors; provided that commercial catamarans, for
2 which valid permits or registration certificates have been
3 issued by the department of permitting which allow the
4 catamarans to operate upon Waikiki shore waters for hire, may be
5 permitted to moor in Ala Wai boat harbor at facilities leased
6 for commercial purposes. The department shall allow a sole
7 proprietor of a catamaran operating with a valid commercial
8 registration certificate issued by the department of permitting
9 for a commercial catamaran to land its commercial catamaran on
10 Waikiki beach and to operate upon Waikiki shore waters for hire,
11 to transfer the ownership of the vessel from personal ownership
12 to corporate or other business ownership without terminating the
13 right to operate under the commercial registration certificate.
14 The existing commercial registration certificate shall be
15 reissued in a timely manner in the name of the transferee
16 corporation or other business entity. No commercial
17 registration issued to an owner of a commercial catamaran
18 operating in the Waikiki area shall be denied or revoked without
19 a prior hearing held in accordance with chapter 91."

20 SECTION 90. Section 200-10, Hawaii Revised Statutes, is
21 amended as follows:

22 1. By amending subsection (a) to read:



1 "(a) No person shall moor a vessel in a state small boat
2 harbor without:

3 (1) First obtaining a use permit from the department[+] of
4 permitting; and

5 (2) Being the owner of the vessel."

6 2. By amending subsection (d) to read:

7 "(d) The department of permitting shall not renew or issue
8 a permit to a person who is not the owner of the vessel which is
9 moored or which the person desires to moor in a state small boat
10 harbor. Any individual who is an owner of a vessel used for
11 commercial purposes, including commercial fishing as a principal
12 means of livelihood, and possesses a valid mooring permit or
13 commercial permit, or both, in accordance with the rules adopted
14 by the chairperson pursuant to chapter 91, may transfer
15 ownership of the vessel from personal ownership to corporate or
16 other business ownership without terminating the right to moor
17 or operate the vessel under the permit or permits. The existing
18 permit or permits shall be reissued in the name of the
19 transferee corporation or other business entity.

20 For the purposes of this section, "person" means any
21 individual, firm, partnership, corporation, trust, association,
22 joint venture, organization, institution, or any other legal



1 entity, and "owner" includes the legal owner of a vessel where
2 there is no security interest held by anyone on the vessel, a
3 buyer under a purchase money security interest, a debtor under
4 any security interest, a demise charterer of a vessel, or a
5 lessee or charterer of a vessel under a lease or charter which
6 provides the lessee or charterer with exclusive right to
7 possession of the vessel to the exclusion of the lessor or the
8 person from whom the vessel is chartered. No permittee shall be
9 allowed to moor a leased vessel in a berth unless the terms of
10 the lease are set at fair market value. A "legal owner"
11 includes a person who holds unencumbered title to a vessel or is
12 a secured party under a security interest in the vessel. An
13 owner who is issued a permit to moor a vessel in a state small
14 boat harbor shall notify the department in writing of a transfer
15 of interest or possession in the vessel within seven days of
16 transfer.

17 Any person owning an interest in a corporation or other
18 business entity possessing a valid commercial permit issued by
19 the department [7] of permitting, in accordance with rules
20 adopted by the chairperson pursuant to chapter 91, may transfer
21 any or all stock or other interest to another person without
22 terminating the right of the corporation or business entity to



1 retain or renew its commercial permit or any other permit issued
2 to it by the department[+] of permitting; provided that:

3 (1) The corporation or business entity has been engaged in
4 the same commercial vessel activity, as defined in
5 section 200-9, for a minimum of one year; and

6 (2) The seller shall pay the department a business
7 transfer fee based on the passenger-carrying capacity
8 of the vessels owned or operated by the corporation or
9 business entity as provided by rules adopted by the
10 chairperson pursuant to chapter 91.

11 Any person possessing a commercial permit shall be required to
12 meet minimum revenue standards, as a condition of retaining or
13 renewing the commercial permit."

14 SECTION 91. Section 200-37, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (j) to read:

17 "(j) All commercial use and operator permits issued by the
18 department of permitting for commercial thrill craft, and
19 parasailing activities shall be fully transferable upon the
20 payment of a business transfer fee in an amount determined by
21 the department, which shall be no greater than six per cent of
22 the transfer price; provided that no more than one transfer



1 every two years shall be authorized with respect to any given
2 permit, except transfers between family members for the purpose
3 of business reorganization."

4 2. By amending subsections (l) and (m) to read:

5 "(l) All new commercial use and operator permits issued by
6 the department of permitting for commercial thrill craft, and
7 parasailing activities after June 18, 1996 shall be issued at
8 public auction.

9 (m) Each commercial use and operator permit issued by the
10 department of permitting for commercial thrill craft, and
11 parasailing activities shall be valid for five years from the
12 date of issuance and shall be renewed by the department of
13 permitting for additional five-year periods, not to exceed a
14 maximum of twenty years; provided that the permit holder shall
15 have met the following conditions:

16 (1) The permit holder shall be in compliance with all
17 applicable rules of the department;

18 (2) The permit holder shall have timely filed and paid all
19 applicable state taxes during the year; and

20 (3) The permit holder shall have a good safety record
21 regarding the operation of a commercial thrill craft,
22 or parasailing activity."



1 SECTION 92. Section 200-39, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Permits issued by the department of permitting for
4 the commercial operation of ocean use activities in Kaneohe Bay
5 shall be limited to the number and locations, by permit type and
6 vessel and passenger capacity, provided in the Kaneohe Bay
7 master plan developed pursuant to Act 208, Session Laws of
8 Hawaii 1990, until applicable rules consistent with the master
9 plan are adopted by the department; provided that the passenger
10 capacity for snorkeling tours and glassbottom boat tours shall
11 be set through rules adopted pursuant to chapter 91. No thrill
12 craft permit may be transferred after June 21, 1998; provided
13 that transfers of permits may be made at any time between family
14 members."

15 SECTION 93. Effective July 1, 2011, the functions and
16 employees relating to permits and licenses of the department of
17 land and natural resources shall be transferred to the
18 department of permitting.

19 PART IV

20 SECTION 94. All rights, powers, functions, and duties of
21 the department of agriculture and the department of land and



1 natural resources relating to permitting are transferred to the
2 department of permitting.

3 All officers and employees whose functions are transferred
4 by this Act shall be transferred with their functions and shall
5 continue to perform their regular duties upon their transfer,
6 subject to the state personnel laws and this Act.

7 No officer or employee of the State having tenure shall
8 suffer any loss of salary, seniority, prior service credit,
9 vacation, sick leave, or other employee benefit or privilege as
10 a consequence of this Act, and such officer or employee may be
11 transferred or appointed to a civil service position without the
12 necessity of examination; provided that the officer or employee
13 possesses the minimum qualifications for the position to which
14 transferred or appointed; and provided that subsequent changes
15 in status may be made pursuant to applicable civil service and
16 compensation laws.

17 An officer or employee of the State who does not have
18 tenure and who may be transferred or appointed to a civil
19 service position as a consequence of this Act shall become a
20 civil service employee without the loss of salary, seniority,
21 prior service credit, vacation, sick leave, or other employee
22 benefits or privileges and without the necessity of examination;



1 provided that such officer or employee possesses the minimum
2 qualifications for the position to which transferred or
3 appointed.

4 If an office or position held by an officer or employee
5 having tenure is abolished, the officer or employee shall not
6 thereby be separated from public employment, but shall remain in
7 the employment of the State with the same pay and classification
8 and shall be transferred to some other office or position for
9 which the officer or employee is eligible under the personnel
10 laws of the State as determined by the head of the department or
11 the governor.

12 SECTION 95. All appropriations, records, equipment,
13 machines, files, supplies, contracts, books, papers, documents,
14 maps, and other personal property heretofore made, used,
15 acquired, or held by the department of agriculture or the
16 department of land and natural resources relating to the
17 functions transferred to the department of permitting shall be
18 transferred with the functions to which they relate.

19 PART V

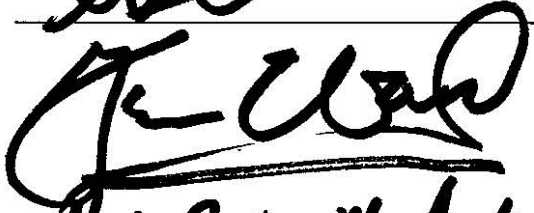

20 SECTION 96. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.




1 SECTION 97. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 98. Except as specifically provided in this Act,
5 this Act shall take effect upon its approval.
6

INTRODUCED BY:



Rida Custonilla-Arakawa
Kenneth








Report Title:

Department of Permitting; DOA; DLNR

Description:

Establishes a state department of permitting. Transfers functions and duties relating to permits and licenses from department of agriculture and department of land and natural resources to department of permitting.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

