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# A BILL FOR AN ACT

RELATING TO ENDANGERED SPECIES.

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

1           SECTION 1. The number of species of plants, animals, and  
2 microorganisms; the enormous diversity of genes in these  
3 species; and the different ecosystems on the planet, such as  
4 deserts, rainforests, and coral reefs, are all part of a  
5 biologically diverse Earth. Biodiversity ensures natural  
6 sustainability for all life forms and healthy ecosystems that  
7 can better withstand and recover from a variety of disasters.  
8 Human activity is causing a tremendous number of species  
9 extinctions, from animal species, forests, and the ecosystems  
10 that forests support, to marine life.

11           The federal Endangered Species Act of 1973, as amended,  
12 establishes a process of identifying species that are in danger  
13 of becoming extinct. The green sea turtle, the nene goose, and  
14 the Hawaiian monk seal are all endangered species. Despite the  
15 protections provided by the federal Endangered Species Act,  
16 these animals continue to be at risk. Two recent incidents of  
17 intentionally killed Hawaiian monk seals on Kauai and one on  
18 Molokai have brought attention to the human threat to Hawaii's



1 endangered species. In September, a Kauai man plead guilty to  
2 shooting a Hawaiian monk seal in violation of the federal  
3 Endangered Species Act. The man received a ninety-day prison  
4 term, one year supervised release, and a \$25 fine. The  
5 legislature finds that this sentence is not sufficient to deter  
6 future harassment of Hawaii's endangered species, specifically  
7 monk seals. To protect Hawaiian monk seals from future  
8 harassment and death, greater penalties need to be available and  
9 imposed.

10 The purpose of this Act is to establish the crime of  
11 intentional or knowing taking of a Hawaiian monk seal as a class  
12 C felony.

13 SECTION 2. Section 195D-9, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§195D-9 Penalty. (a) Any person who violates any of the  
16 provisions of this chapter [†]or[†] the provisions of any rule  
17 adopted [~~hereunder~~] under this chapter shall be guilty of a  
18 misdemeanor and shall be punished as follows:

19 (1) For a first offense by a fine of not less than \$250 or  
20 by imprisonment of not more than one year, or both;  
21 and



1 (2) For a second or subsequent offense within five years  
2 of a previous conviction by a fine of not less than  
3 \$500 or by imprisonment of not more than one year, or  
4 both.

5 (b) In addition to the above penalties, except for  
6 violations under approved habitat conservation plans under  
7 section 195D-21 or approved safe harbor agreements under section  
8 195D-22 as determined by the board, a fine of \$5,000 for each  
9 specimen of a threatened species and \$10,000 for each specimen  
10 of an endangered species intentionally, knowingly, or recklessly  
11 killed or removed from its original growing location, shall be  
12 levied against the convicted person.

13 (c) The disposition of fines collected for violations of  
14 the provisions concerning wildlife conservation shall be subject  
15 to section 183D-10.5.

16 (d) Except as otherwise provided by law, the board or its  
17 authorized representative by proper delegation is authorized to  
18 set, charge, and collect administrative fines or bring legal  
19 action to recover administrative fees and costs as documented by  
20 receipts or affidavit, including attorneys' fees and costs, or  
21 bring legal action to recover administrative fines, fees, and  
22 costs, including attorneys' fees and costs, or payment for

1 damages or for the cost to correct damages resulting from a  
2 violation of this chapter or any rule adopted [~~thereunder.~~]  
3 under this chapter. The administrative fines shall be as  
4 follows:

- 5 (1) For a first violation, a fine of not more than \$2,500;
- 6 (2) For a second violation within five years of a previous  
7 violation, a fine of not more than \$5,000; and
- 8 (3) For a third or subsequent violation within five years  
9 of the last violation, a fine of not more than  
10 \$10,000.

11 (e) In addition, an administrative fine of up to \$5,000  
12 may be levied for each specimen of wildlife or plant taken,  
13 killed, injured, or damaged in violation of this chapter or any  
14 rule adopted [~~thereunder.~~] under this chapter.

15 (f) Any criminal action against a person for any violation  
16 of this chapter or any rule adopted [~~thereunder~~] under this  
17 chapter shall not be deemed to preclude the State from pursuing  
18 civil legal action to recover administrative fines and costs  
19 against that person. Any civil legal action against a person to  
20 recover administrative fines and costs for any violation of this  
21 chapter or any rule adopted [~~thereunder~~] under this chapter



1 shall not be deemed to preclude the State from pursuing any  
2 criminal action against that person.

3 (g) Notwithstanding any other penalty in this section to  
4 the contrary, any person who intentionally or knowingly takes a  
5 Hawaiian monk seal in violation of this chapter shall be guilty  
6 of a class C felony; provided that the person may be sentenced  
7 to pay a fine not exceeding \$50,000."

8 SECTION 3. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2010.



**Report Title:**

Endangered Species; Hawaiian Monk Seal; Felony

**Description:**

Establishes the crime of intentional or knowing taking of a Hawaiian monk seal as a class C felony. Effective July 1, 2010.  
(SB2441 HD1)

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

