

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO WILDLIFE.

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

1           SECTION 1. The legislature finds that Hawaii has an urgent  
2 need to reduce the number of wild ungulates (i.e., free-roaming  
3 hooved mammals), including wild pigs, goats, sheep, and deer.  
4 The hunting program that imposed shooting restrictions on these  
5 animals was created in the 1950's based on a model of game  
6 management used on the mainland, but these policies have proven  
7 inadequate to control introduced animal populations in Hawaii.  
8 As a result, wild ungulate populations in Hawaii have exploded  
9 and animals continue to damage crops and other private property,  
10 degrade watersheds, and destroy native plants and animals on all  
11 islands. Populations of wild ungulates continue to grow in  
12 number and expand in territorial range. At the same time,  
13 hunters are being denied many opportunities to hunt because of  
14 restrictions on hunting days and limits on maximum allowed take.

15           The legislature further finds that restrictions should be  
16 removed on the hunting of wild ungulates to allow for greater  
17 control of ungulate populations to protect and preserve  
18 watershed function, agriculture, personal property, traffic



1 safety, and native species of plants and animals and their  
2 habitats. The legislature acknowledges concerns that fewer  
3 hunting restrictions could lead to the eradication of ungulate  
4 species. However, there is a large body of research  
5 demonstrating that these species are extremely difficult to  
6 control or eradicate once established, and the legislature finds  
7 that wild ungulates exist in sufficient numbers to sustain  
8 recreational hunting practices despite the removal of hunting  
9 restrictions. The legislature further finds that the codified  
10 term "game mammal" effectively creates a protected class of  
11 species that does not need protection but rather greater  
12 control.

13 Accordingly, the purpose of this Act is to remove  
14 restrictions on the hunting of wild ungulates in order to  
15 control their populations.

16 SECTION 2. Chapter 142, Hawaii Revised Statutes, is  
17 amended by adding a new section to be appropriately designated  
18 and to read as follows:

19 "§142- Wild ungulates; destruction allowed. (a) No  
20 person shall be prohibited from causing the destruction of a  
21 wild ungulate in a manner not prohibited by law.



1        (b) Nothing in this section shall permit the taking,  
2 catching, pursuing, or killing of any animal in the legal  
3 possession or control of any person, or where otherwise  
4 prohibited by law or by rule of the department.

5        (c) For the purposes of this section, "wild ungulate"  
6 means any hooved mammal living in a wild or feral state,  
7 including but not limited to deer (family Cervidae), goat (Capra  
8 hircus), sheep (genus Ovis), and pig (Sus scrofa)."

9        SECTION 3. Chapter 183D, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12        "§183D-     Disturbing indigenous animals in forest reserve;  
13 prohibited. The hunting, fishing, trapping, or disturbing of  
14 any indigenous animal in a forest reserve is prohibited;  
15 provided that the hunting, fishing, trapping, or disturbing of  
16 any game bird or game fish in a forest reserve is prohibited  
17 except as permitted by rule.

18        As used in this section, "indigenous animal" means any  
19 species of wildlife or aquatic life living naturally in Hawaii  
20 without having been brought to Hawaii by humans."

21        SECTION 4. Section 134-5, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§134-5 Possession by licensed hunters and minors; target  
2 shooting; game hunting. (a) Any person of the age of sixteen  
3 years, or over or any person under the age of sixteen years  
4 while accompanied by an adult, may carry and use any lawfully  
5 acquired rifle or shotgun and suitable ammunition while actually  
6 engaged in hunting or target shooting or while going to and from  
7 the place of hunting or target shooting; provided that the  
8 person has procured a hunting license under chapter 183D, part  
9 II. A hunting license shall not be required for persons engaged  
10 in target shooting.

11           (b) A permit shall not be required when any lawfully  
12 acquired firearm is lent to a person, including a minor, upon a  
13 target range or similar facility for purposes of target  
14 shooting; provided that the period of the loan does not exceed  
15 the time in which the person actually engages in target shooting  
16 upon the premises.

17           (c) A person may carry unconcealed and use a lawfully  
18 acquired pistol or revolver while actually engaged in hunting  
19 [~~game mammals,~~] wild ungulates, if that [~~pistol or revolver and~~  
20 ~~its suitable ammunition are acceptable for hunting by rules~~  
21 ~~adopted pursuant to section 183D-3 and if that]~~ person is  
22 licensed pursuant to part II of chapter 183D. The pistol or



1 revolver may be transported in an enclosed container, as defined  
2 in section 134-25 in the course of going to and from the place  
3 of the hunt, notwithstanding section 134-26.

4 (d) For the purposes of this section, "wild ungulate"  
5 means any hooved mammal living in a wild or feral state,  
6 including but not limited to deer (family Cervidae), goat (Capra  
7 hircus), sheep (genus Ovis), and pig (Sus scrofa)."

8 SECTION 5. Section 183D-1, Hawaii Revised Statutes, is  
9 amended by:

10 (1) Deleting the definition of "game mammals":

11 [~~"Game mammals" means mammals designated by law or by rule~~  
12 ~~for hunting."~~]

13 (2) Amending the definition of "wild mammals" to read as  
14 follows:

15 "Wild mammals" means mammals [~~, other than game mammals,~~]  
16 living in a wild and undomesticated state, and the young of  
17 those mammals."

18 (3) Adding a new definition to be appropriately inserted  
19 and to read as follows:

20 "Wild ungulate" means any hooved mammal living in a wild  
21 or feral state, including but not limited to deer (family



1 Cervidae), goat (Capra hircus), sheep (genus Ovis), and pig (Sus  
2 scrofa)."

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

5 "§183D-3 Rules. Subject to chapter 91, the department  
6 shall adopt, amend, and repeal rules:

7 (1) Concerning the preservation, protection, regulation,  
8 extension, and utilization of, and conditions for  
9 entry into wildlife sanctuaries, game management  
10 areas, and public hunting areas designated by the  
11 department;

12 (2) Protecting, conserving, monitoring, and propagating  
13 native wildlife and game birds, and harvesting  
14 [~~wildlife~~] game birds;

15 (3) Concerning the hunting of game birds, including size  
16 limits, bag limits, open and closed seasons, and  
17 specifications of hunting gear which may be used or  
18 possessed; and

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

21 The rules may vary from county to county or in any part of the  
22 county and may specify certain days of the week or certain hours



1 of the day in designating open seasons, except that any fees  
2 established by rule shall be the same for each county. All  
3 rules shall have the force and effect of law."

4 SECTION 7. Section 183D-4, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) For the purposes of this section:

7 "Game management area" means an area so designated by  
8 either executive order, rule, cooperative agreement, or action  
9 of the board of land and natural resources that has been set  
10 aside for the primary purpose of managing, sustaining, and  
11 enhancing habitat and populations of [~~game mammals and/or~~] game  
12 birds[~~7~~] and providing public hunting and, secondarily, for  
13 other compatible uses.

14 "Public hunting area" means those lands designated by the  
15 board of land and natural resources as areas where the public  
16 may hunt game birds and [~~mammals,~~] other animals, including:

- 17 (1) Game management areas;
- 18 (2) Forest reserves and surrendered lands;
- 19 [~~3~~] ~~Natural area reserves;~~
- 20 ~~4~~] (3) Restricted watersheds;
- 21 [~~5~~] (4) Cooperative game management areas;
- 22 [~~6~~] (5) Military training areas;



1        [~~(7)~~] (6) Unencumbered state lands; and  
2        [~~(8)~~] ~~Designated sanctuaries; and~~  
3        ~~(9)~~ (7) Other lands designated by the board."

4        SECTION 8. Section 183D-21, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        "§183D-21 **Hunting licenses required.** No person shall  
7 hunt, pursue, kill, or take any game bird or [~~mammal~~] wild  
8 ungulate without first procuring a hunting license; provided  
9 that section 183D-32 to the contrary notwithstanding, no license  
10 shall be required of persons who may be authorized in writing by  
11 the board to destroy game birds or [~~game mammals~~] wild ungulates  
12 injurious to forest growth or agriculture, or that constitute a  
13 nuisance or a health hazard."

14        SECTION 9. Section 183D-61, Hawaii Revised Statutes, is  
15 amended by amending the title and subsection (a) to read as  
16 follows:

17        "§183D-61 **Permits to take wild birds** [~~7~~] and **game birds** [~~7~~  
18 ~~and game mammals~~]. (a) Notwithstanding the provisions contained  
19 in this chapter, the department may adopt rules pursuant to  
20 chapter 91:

21        (1) Authorizing the taking and collecting of wild birds [~~7~~]  
22        and game birds [~~7~~, ~~and game mammals~~] for scientific and





1 educational purposes, or for the purpose of  
2 distributing wild birds to different localities in the  
3 State pursuant to this title;

4 (2) Authorizing the keeping of wild birds in captivity for  
5 the protection, treatment for injury or disease,  
6 propagation, and other similar purposes consistent  
7 with the preservation, protection, and conservation of  
8 wild birds;

9 (3) Authorizing the taking and destruction of those wild  
10 birds [~~7~~] and game birds [~~7~~ and ~~game mammals~~] the  
11 department may have found after investigation to be  
12 destructive to crops or to other game birds [~~and game~~  
13 ~~mammals~~] or otherwise harmful to agriculture or  
14 aquaculture, or to constitute a nuisance or a health  
15 hazard; or

16 (4) Authorizing without requiring permits or reports, the  
17 destruction within a district of wild birds [~~7~~] and game birds [~~7~~  
18 ~~and game mammals~~] which are generally destructive to crops or  
19 otherwise harmful to agriculture or aquaculture, or constitute a  
20 nuisance or a health hazard within the district."

21 SECTION 10. Section 183D-65, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) On any game management area, public hunting area, or  
2 forest reserve or other lands under the jurisdiction of the  
3 department, predators or other animals deemed harmful to  
4 wildlife or aquatic life by the department may be destroyed by  
5 any means deemed necessary by the department."

6           SECTION 11. Section 142-91, Hawaii Revised Statutes, is  
7 repealed.

8           ~~["§142-91 Destruction of animals ferae naturae. (a) No~~  
9 ~~person shall shoot or otherwise destroy any animal ferae naturae~~  
10 ~~or its progeny within ten years of the introduction of the~~  
11 ~~species into the State.~~

12           ~~(b) Nothing in this section shall be construed to prohibit~~  
13 ~~the destruction of such animals as shall be proved to be common~~  
14 ~~nuisances."]~~

15           SECTION 12. Section 183D-27, Hawaii Revised Statutes, is  
16 repealed.

17           ~~["§183D-27 Night hunting on private lands; prohibition.~~  
18 ~~Notwithstanding section 183D-26, no person shall take or pursue~~  
19 ~~any game bird, game mammal, wild bird, or wild mammal at night~~  
20 ~~on privately owned lands, except as authorized by the department~~  
21 ~~pursuant to section 183D-61. For the purpose of this section,~~



1 ~~"night" means the period between one half hour after sunset and~~  
2 ~~one half hour before sunrise."]~~

3 SECTION 13. Section 183D-51, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§183D-51 Game mammals defined; exception. (a) For the~~  
6 ~~purposes of enforcing the wildlife laws of the State the~~  
7 ~~following named mammals are hereby designated as game mammals~~  
8 ~~when living in a wild or feral state not under domestication:~~  
9 ~~deer (family Cervidae), pronghorn (family Antilocapridae), goat~~  
10 ~~(Capra hircus), sheep (Ovis aries), cattle (Bos taurus), pig~~  
11 ~~(Sus scrofa), and any other mammal that may be or has been~~  
12 ~~introduced into the State and released for hunting and for which~~  
13 ~~a hunting season is established by law or by rule of the~~  
14 ~~department.~~

15 ~~(b) Nothing in this section shall permit the taking,~~  
16 ~~catching, pursuing, or killing of any mammal in the legal~~  
17 ~~possession or control of any person, or where otherwise~~  
18 ~~prohibited by law or by rule of the department."]~~

19 SECTION 14. No later than December 31, 2011, the  
20 department of land and natural resources shall adopt rules  
21 pursuant to chapter 91 to implement the amendments to the Hawaii  
22 Revised Statutes made by this Act.




1 SECTION 15. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 16. This Act shall take effect upon its approval.

4

INTRODUCED BY:

  
By Request



**Report Title:**

Game Mammals; Hunting

**Description:**

Repeals definition of "game mammal" and removes restrictions on the hunting of these animals.

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

