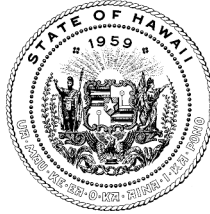


**SB2647,SD1**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committee on  
JUDICIARY AND LABOR**

**Friday, February 24, 2012  
9:30 AM  
State Capitol, Conference Room 016**

**In consideration of  
SENATE BILL 2647, SENATE DRAFT 1  
RELATING TO FIREARMS**

Senate Bill 2647, Senate Draft 1 proposes to restrict the possession and use of firearms to persons engaged in hunting in formal hunting areas which are defined as private or public land where the landowner has granted written permission to use the land for hunting or target shooting. The purpose of the bill is to address problems related to illegal trespass, vandalism and unauthorized use of firearms on private lands that creates safety risks and causes damage to property, crops, and livestock. The Department of Land and Natural Resources (Department) appreciates the intent of this bill to help reduce lawless behavior on private ranch and farmland, but oppose provisions of the measure that establish definitions of formal hunting that are confusing and difficult to enforce.

The Department supports measures to increase enforceability of trespass laws on private land, including hunting without permission, but urges an approach that does not deter the thousands of legal and courteous hunters that do follow the rules from participating, or hinder the ability of agencies and partners to implement hunting programs or carry out their statutory mandates to protect natural resources.

The Department opposes SECTIONs 2-11 of the bill related to the definition and use of "formal hunting areas" (amendments to Sections 134-1, 5, 17, 23, 24, 25, 27, Hawaii Revised Statutes (HRS), and Sections 183D-21 and 25, HRS). These provisions are confusing and may prohibit the carrying and use of firearms by government agencies and private partners charged with natural resource management and public safety mandates on state lands that are not "formal hunting areas". The use of firearms for the control of invasive species and predators on state lands not open to hunting because of location or size is a routine part of management. The definition of formal hunting area is also confusing as to what constitutes written permission to

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AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

use public lands for hunting or target shooting. The proposed definition seemingly requires an individual to get prior written permission (permit or license?) from each public landowner to hunt or target shoot on established hunting areas or shooting ranges, including county outdoor shooting ranges. In the case of private shooting ranges, a customer would have to secure written permission to transport a firearm to an indoor shooting range, prior to driving to the shooting range with the firearm.

The problem that this bill is trying to address is one of trespass and hunting on private property without permission. The Department supports the change in SECTION 13, amending the criminal trespass statutes, “§708-813 Criminal trespass in the first degree” to make trespass an easier offense to enforce. This would enable a greater response from the county police departments, who have far greater resources to assist private landowners with trespass than does the Department’s Division of Conservation and Resources Enforcement (DOCARE). DOCARE is already stretched to the limits with enforcement on State lands and does not have the resources to cover private lands.

The measure also proposes making changes to Chapter 183D, HRS, related to hunting that would require hunters to obtain “written permission” to hunt on private land. The department supports amendments to Section 183D-26(a), HRS, to add a provision to require “written permission”, and also to delete Section 183D-26(b), HRS, to make the section more enforceable. However, the Department has concerns that the title “Relating To Firearms” does not support amendments to this section related to hunting in general, including archery, spear and knife hunting that does not involve firearms.

The Department suggests the measure be revised and moved forward with Section 13, the proposed amendments to criminal trespass, Section 708-813, HRS, and, if the title supports a change to the hunting statutes, include SECTION 12, to amend Section 183D-26(a) and (b), HRS, related to hunting on private land.



**SB 2647 SD 1**  
**RELATING TO FIREARMS**  
Senate Committee on Judiciary and Labor

February 24, 2012

9:30 a.m.

Room 016

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The Office of Hawaiian Affairs (OHA) **OPPOSES** SB 2647 SD 1, which would require written permission from owners of privately owned land to allow persons with valid hunting licenses to hunt on the privately owned land.

Many Native Hawaiians currently practice hunting for subsistence and other purposes as a traditional and customary practice. The Hawai'i Constitution, Supreme Court, and this Legislature consistently protect the perpetuation of these historic practices as a living component of the Hawaiian Culture. Requiring Native Hawaiian practitioners to obtain written permission from private landowners prior to engaging in these practices would unduly burden the practices and, in some areas, could regulate them out of existence.

Hunting remains an important cultural and subsistence practice for many Native Hawaiians in rural regions. For example, a report issued by the Governor's Moloka'i Subsistence Task Force found that Hawaiian families on Moloka'i continue to rely heavily upon subsistence to supplement meager incomes, deriving 38% of their food from these activities. These practices rely primarily upon wildlife game that is abundant on privately owned land because the game on public lands is too scarce to be hunted. This report revealed that subsistence activities, including hunting, were also critical to the persistence of Hawaiian cultural customs and values.

OHA appreciates the desire to protect property rights and ensure the safety of all citizens of Hawai'i. However, SB 2647 SD 1 reaches too broadly by requiring prior permission from private landowners. Such requirements do not consider the difficulty most will find in attempting to obtain such permission. Much of Hawai'i's land is owned by large landowner corporations whose offices may exist on a different island from the land in question, and most landowners—even if they know hunting currently takes place on their land—would not open themselves to the liability inherent in conferring written permission for hunters to bear and use firearms on their properties.

Additionally, this bill presents many practical concerns for practitioners on the ground. The boundaries between public and private property in forested and undeveloped areas are rarely clearly marked. Also, although the Constitution broadly

protects these activities , practitioners in the field could still experience a chilling effect, as they could not be assured that agents enforcing this law properly understood the complex legal authority protecting their practices. Moreover, SB 2647 SD 1 places the burden upon Native Hawaiian practitioners to legally defend themselves and their lawful actions.

In light of all these concerns, OHA urges the committee to HOLD SB 2647 SD 1. Mahalo for the opportunity to testify on this important measure.



## Hawaii Cattlemen's Council, Inc.

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### SENATE COMMITTEE ON JUDICIARY & LABOR

Friday February 24, 2012 9:30 am Room 016

#### SB 2647 SD 1 RELATING TO FIREARMS

Restricts hunting to areas on public land where hunting is permitted or to areas on private land where the landowner has granted written permission. Allows transport and possession of firearms and ammunition in areas where hunting is permitted. Effective July 1, 2012.

Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly supports** SB 2647 SD1

As you can well imagine, it is bad enough for landowners to have trespassers (by definition: without permission) on their property, but when trespassers carry firearms we are extremely concerned. Folks with guns often discourages the bravest of us from approaching these trespassers and asking them to leave.

Many Hawaii ranchers already allow hunters on their property, and some have worked with a permission system. Hunters who ask permission often help us take care of feral pig populations, close gates behind them, and let us know when our water troughs are overflowing, or a gate has been cut. Hunters who do not seek permission are by definition not respectful of our property, and often times cut fences (allowing cattle out onto the road, a great danger to the public), leave gates open and destroy private property. The hunters who ask permission are often the ones who help us keep out the ones who don't.

We really do feel that something must be done to prevent folks from coming onto private property with guns, without permission. Of course, if asked, any trespasser I have ever met says "the other guy said I can hunt here" so requiring written permission from the landowner or land manager takes away that lie, and allows the police to verify that the person really does have permission.

Thank you for giving me the opportunity to testify in favor of this very important issue.



# Hawaii Rifle Association

State Affiliate of the National Rifle Association  
Founded in 1857

February 23, 2012

Testimony on SB2647, SD1 **IN OPPOSITION**

Before: JDL Friday Feb 24, 2012, 9am, Rm 016

Hon. Chair, Co-Chair, Members,

HRA opposes this bill. We empathize with landowners and their frustration over the rampant poaching and agricultural theft throughout our state. Poaching is stealing from ethical hunters. We strongly believe that ethical hunters must always obtain landowner permission.

We would like to see this bill move forward with amendments. Unfortunately, it still cannot achieve its purpose given the current level of enforcement and the pervasive public sentiment that poaching is acceptable.

We appreciate very much that the proposed penalty is reduced from a felony to a misdemeanor in this SD1.

We concur with DLNR's position that creating a new term "place of formal hunting" in the 134 firearms statutes is unwise and that the intent of the bill would be best served by changes to the hunting and trespassing statutes. We concur with removing the 183D-26 (b) requirement for a sworn complaint of the owner before prosecution can be brought. We agree that the "fenced or enclosed in a manner designed to exclude intruders" requirement in current statute should be removed, but **the landowner should have to meet the §708-814 requirements for posting boundaries**. The County PD's need to step up enforcement because DLNR has no money. These changes should make it easier for them.

We agree with OHA's position that requiring written permission, especially from corporate landowners in Honolulu, will discourage those landowners from allowing hunters on their property. Lack of access to control feral pigs is a problem now and will only get worse with this bill. The best hunting is on private land. Enforcement officers in the field can determine whether a hunter has permission by asking the hunter for the name and phone number of the landowner. The officer can verify by radio with dispatch. Written permission is not needed to achieve the goals of this bill, only better enforcement.

We also propose an amendment requiring the landowner to keep a record of the hunting license number of permittees, available to enforcement officers.

DLNR's Hawaii State Comprehensive Recreation Plan (SCORP ) update of 2008 reports 18,000 hunters hunted an average of 23 days in 2006, the latest year reported. However, only about 10,000 hunters buy a license each year. Not just the revenues from license sales are lost. Pittman-Robertson funds (from a federal excise tax on guns, ammunition, and archery equipment) are distributed among the states according to the number of hunting licenses sold each year. The monies must be used to support wildlife areas and resources and hunter education. We lose our fair share because a large portion of HI hunters don't buy a license. Each Hawaii hunting license number starts with the year of issue, so the number itself establishes a current license. Licenses expire each July 1.

Thank you for the opportunity to testify on behalf of HRA.

Dr. Maxwell Cooper

225-6944