

SB 2647

RELATING TO FIREARMS

Description:

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.

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
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS**

**Tuesday, February 14, 2012
3:15 PM
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 2647
RELATING TO HUNTING**

Senate Bill 2647 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. The purpose of the bill is to address problems related to the 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) is opposed to this bill because statute and administrative rules already exist to prohibit hunting on private lands without the permission of the landowner, and because the measure would prohibit the legitimate use of firearms for natural resource protection and public safety.

Current laws already prohibit trespassing, vandalism, property damage, and poaching on private lands regardless of whether the perpetrator is carrying a firearm or claims to be legally hunting. The Department's hunting rules, Chapters 13-122 and 13-123, require landowner's approval to hunt on private lands. Requiring "written permission" may be a burden for many hunters that have good working relationships with private landowners, and hunt on neighbor islands, where obtaining written permission is difficult.

The Department also has concerns with the change in Sections 134-23, 24, 25, and 27 of its rules to allow carrying a firearms or ammunition only to "formal hunting areas". 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". For example, invasive species pose a significant threat to natural and cultural resources, agriculture, public safety, and the economy in Hawaii. The use of firearms for the control of invasive species on state lands that are not open to hunting because of location or size is a routine part of management. This measure would prohibit the transport of

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COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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

firearms to those locations. This measure would also turn hunting on private property without a landowner written permission into a felony firearms offense.

While the Department recognizes the need to address the issues cited in this bill, we suggest that other approaches be explored that would not punish the thousands of legal and courteous hunters that do follow the rules, or hinder the ability of agencies and partners to carry out their statutory mandates to protect natural resources.



SB2647
RELATING TO FIREARMS

Senate Committee on Public Safety, Government Operations, and Military Affairs

February 14, 2012

3:15p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2647, 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, SB2647 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, SB2647 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 SB2647. Mahalo for the opportunity to testify on this important measure.



TESTIMONY BEFORE THE COMMITTEE ON PUBLIC
SAFETY, GOVERNMENT OPERATIONS, AND MILITARY
AFFAIRS

SENATE BILL 2647
RELATING TO FIREARMS

PRESENTED TO THE TWENTY-SIXTH LEGISLATURE

FEBRUARY 2012

CHAIRPERSON WIL ESPERO and Members of the Committees:

STRONG SUPPORT.

My name is Loren Mochida, Director of Agricultural Operations at W. H. Shipman, Limited in Keaau on the Big Island. We are a local kamaaina-family owned land management company that is engaged in Agriculture and Commercial/Industrial development and leasing. We currently lease lands to over 130 individually growers at W.H. Shipman, Ltd.

W. H. Shipman, Ltd., and their growers provide strong support to SB 2647, Relating to Firearms. This Act will require those who wish to access private land for hunting or other legitimate purposes to obtain written permission from the landowner. Presently there are no procedures to control illegal hunters on private lands.

This is a safety issue to the farmers and ranchers and their families and workers. Illegal hunters can verbally tell anyone that they obtained permission from the owners or the owner's representative. Existing provisions in the law are inadequate to deter persons with firearms from trespassing on lands and potentially causing bodily injury to others and damage to property, livestock, and crops.



Thank you very much for the opportunity to provide testimony on SB 1950.



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SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS

Tuesday February 14, 2012 3:15 am Room 224

SB 2647 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 Espero, Vice Chair Kidani 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

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.

The bill as written will certainly have many folks "up in arms" and some of the language may need tweaking, but 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 tall 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.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 4:36 PM
To: PGM Testimony
Cc: trkahua@aol.com
Subject: Testimony for SB2647 on 2/14/2012 3:15:00 PM

Testimony for PGM 2/14/2012 3:15:00 PM SB2647

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: Herbert M "Tim" Richards III
Organization: Kahua Ranch Ltd
E-mail: trkahua@aol.com
Submitted on: 2/13/2012

Comments:

As a land manager we support allowing hunting but only to those that have been granted permission. Some of the language in the bill needs work but I support the intent.