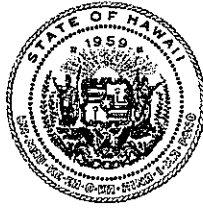


**SB 2855**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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

**Before the Senate Committees on  
ENERGY AND ENVIRONMENT  
and  
WATER, LAND AND HOUSING**

**Tuesday, February 7, 2012  
2:45 P.M.  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 2855  
RELATING TO EMERGENCY RULES FOR THREATS TO NATURAL RESOURCES  
OR THE HEALTH OF THE ENVIRONMENT**

Senate Bill 2855 proposes to broaden the conditions under which emergency rules may be adopted to include instances of imminent peril to natural resources or the health of the environment. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

Chapter 91, Hawaii Revised Statutes (HRS), describes the conditions under which emergency rules may be adopted as instances when "imminent peril to the public health, safety, or morals, or to livestock and poultry health" requires the adoption of such rules. At present, there are no conditions for emergency rule adoption in instances of imminent peril to Hawaii's natural resources or environmental health.

The recent discovery of axis deer (*Axis axis*) on Hawaii Island has highlighted the need for the ability to adopt emergency rules associated with significant environmental threats. Axis deer represent an imminent peril to native forest ecosystems on Hawaii Island as the introduction of feral ungulate species destroys understory vegetation and removes critical habitat for native species. At the time of discovery, Chapters 183D, 195D, and 197, HRS, did not effectively prohibit interisland transport of introduced wildlife, nor did Chapter 124, Hawaii Administrative Rules. In this instance, the ability to adopt an emergency rule related to natural resources and environmental health could have prevented the continued transportation of axis deer to Hawaii Island.

**WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT**

**GUY H. KAULUKUKUI  
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**WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER**

**AQUATIC RESOURCES  
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LAND  
STATE PARKS**

Axis deer is one of many nonnative species that threaten Hawaii's environment and natural resources. In Act 85, Session Laws of Hawaii 2003, the Legislature found that "the silent invasion of Hawaii by alien invasive species is the single greatest threat to Hawaii's economy, natural environment, and the health and lifestyle of Hawaii's people and visitors." In instances where threats to the environment constitute imminent peril and are not effectively regulated by existing statutes or rules, the ability to adopt emergency rules could protect Hawaii's natural resources while saving the state future restoration or control costs.

Passage of the bill would allow the Department and other agencies to adopt emergency rules in instances of imminent threat to natural resources or the health of the environment.



Testimony of the Maui Invasive Species Committee  
Senate Bill 2855, Relating to Emergency Rules for  
Threats to Natural Resources or the Health of the Environment  
Before the Senate Committee on Energy and Environment  
Senate Committee on Water, Land, and Housing  
Conference Room 225

February 7, 2012, 2:45PM

The Maui Invasive Species Committee (MISC) supports S.B. 2855, which will expand HRS § 91(3) to allow state agencies to adopt emergency rules in response to imminent threats to natural resources or the health of the environment. This bill is needed to address the rare but important instance where unanticipated events pose serious threats to our environment and immediate action is needed to prevent lasting or costly damage.

Axis deer provide a prime example. On Maui, axis deer are damaging agricultural crops, pose a serious safety hazard on our roads, and are decimating native forests. Axis deer were recently introduced to Hawai'i Island, but an existing loophole in current regulations is preventing the Department of Land and Natural Resources and the Department of Agriculture from taking action to stop the continued introduction. Agencies must have the same legal tools they have in other instances to adopt interim rules to address these types of situations. The same type of limitations on duration of the rules would exist to would prevent an agency from over-reaching or ignoring appropriate public input and review.

Thank you for your consideration.



Protecting nature. Preserving life.™

The Nature Conservancy of Hawai'i  
923 Nu'uuanu Avenue  
Honolulu, Hawai'i 96817

Tel (808) 537-4508  
Fax (808) 545-2019

[nature.org/hawaii](http://nature.org/hawaii)

Testimony of The Nature Conservancy of Hawai'i  
Supporting S.B. 2855 Relating to Emergency Rules for Threats to  
Natural Resources or Health of the Environment  
Senate Committee on Water, Land and Housing  
Senate Committee on Energy and Environment  
Tuesday, February 7, 2012, 2:45PM, Room 225

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 10 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.*

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The Nature Conservancy supports S.B. 2855 to provide emergency rulemaking authority to the Department of Land and Natural Resources (DLNR) to address issues of imminent peril to natural resources or the environment.

Invasive animals, weeds, insects, diseases, and other pests are one of the greatest threats to Hawai'i's economy, agriculture, natural environment, and the health and lifestyle of its people. Evidence from Hawai'i and around the world shows that preventing new pest establishment is exponentially more economical than eradicating a pest or, even worse, controlling it indefinitely once it becomes established.

Where established in Maui county, Axis deer are causing great damage to native habitat and agricultural crops, and are a danger to vehicle traffic on roadways. Unfortunately, the DLNR and the Department of Agriculture have not had the legal tools and authorities necessary to rapidly respond to the recent discovery of Axis deer on Hawai'i island.

For these reasons, we support this measure. Thank you for the opportunity to testify.

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COORDINATING GROUP ON  
ALIEN PEST SPECIES

The Senate  
Committee on Energy and Environment  
Committee on Water, Land, and Housing  
Tuesday, February 7, 2012  
2:45 p.m., Conference Room 225  
State Capitol

### Testimony in Support of SB 2855

Aloha Chairs Gabbard and Dela Cruz, and Members of the Committees,

The Coordinating Group on Alien Pest Species (CGAPS) **supports SB 2855**, *Relating to Emergency Rules for threats to natural resources or the health of the environment.*

Although agencies charged with protecting human health, safety, livestock, and poultry are able to adopt emergency rules when these values are threatened, agencies charged with protecting natural resources or the environment in general have been unable to do so. The introduction of axis deer to Hawai'i island, and the inability to enact emergency rules to clarify the illegal nature of such introductions is the latest example of the importance of this tool. Coqui frogs are another example of this need, where a pest of great concern didn't neatly fall into the established categories for emergency declaration. Protecting natural resources and the environment is one of our highest priorities, and SB 2855 gives agencies an important tool for this job. Mahalo for your consideration.

Aloha,

Christy Martin  
Coordinating Group on Alien Pest Species (CGAPS)  
Ph: (808) 722-0995