

**CHAPTER 183D**  
**WILDLIFE**

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### **Note**

Department of transportation's bridge rehabilitation and replacement program; temporary exemption from certain construction requirements of this chapter through June 30, 2017 or until completion. L 2012, c 218.

### **Cross References**

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

### **Case Notes**

Sections 183D-22 and 183D-10.5 provided the authority for the department of land and natural resources to require payment of a fee for a hunting-related article such as a stamp; however, since game bird hunting was an activity permitted under this chapter, the department was required under §183D-3 to adopt a rule pursuant to §91-3 when setting the stamp fees for hunting. 117 H. 16 (App.), 175 P.3d 126.

## **"PART I. GENERAL PROVISIONS**

**§183D-1 Definitions.** As used in this chapter, unless the context indicates otherwise:

"Aquaculture" means the propagation, cultivation, or farming of aquatic plants and animals in controlled or selected environments for research purposes, commercial purposes, or stocking purposes.

"Aquatic life" means any type of species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment, and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, and other parts thereof.

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Feral deer" means a deer that has escaped or been released from domestication and is living in a wild and unconfined state.

"Game" means birds and mammals designated by law or by rule for hunting.

"Game birds" means birds designated by law or by rule for hunting.

"Game mammals" means mammals designated by law or by rule for hunting.

"Possess" means to place under direct physical control, restraint, or confinement.

"Predators" means animals destructive of wildlife by nature of their predatory habits, including mongooses, cats, dogs, and rats.

"Release" means to free an animal from effective confinement or restraint.

"Take" means to injure, hunt, shoot, wound, kill, trap, net, capture, or possess.

"Wild birds" means birds, other than game birds, living in a wild and undomesticated state, and the young and eggs of those birds.

"Wildlife" means any nondomesticated member of the animal kingdom, including game, whether reared in captivity or not, and includes any part, product, egg, or offspring thereof, except aquatic life as defined in this section.

"Wild mammals" means mammals, other than game mammals, living in a wild and undomesticated state, and the young of those mammals. [L 1985, c 174, pt of §4; am L 1986, c 272, §1; am L 2001, c 177, §1; am L 2012, c 144, §3]

" **§183D-2 Powers and duties of department.** The department shall:

- (1) Manage and administer the wildlife and wildlife resources of the State;
- (2) Enforce all laws relating to the protecting, taking, hunting, killing, propagating, or increasing the wildlife within the State and the waters subject to its jurisdiction;
- (3) Establish and maintain wildlife propagating facility or facilities;
- (4) Subject to the provisions of title 12, import wildlife for the purpose of propagating and disseminating the same in the State and the waters subject to its jurisdiction;
- (5) Distribute, free of charge, as the department deems to be in the public interest, game for the purpose of increasing the food supply of the State; provided that when in the discretion of the department the public interest will not be materially interfered with by so doing, the department may propagate and furnish wildlife to private parties, upon such reasonable terms, conditions, and prices as the department may determine;
- (6) Ascertain, compile, and disseminate, free of charge, information and advice as to the best methods of

- protecting, propagating, and distributing wildlife in the State and the waters subject to its jurisdiction;
- (7) Gather and compile information and statistics concerning the area, location, character, and increase and decrease of wildlife in the State;
  - (8) Gather and compile information concerning wildlife recommended for release in different localities, including the care and propagation of wildlife for protective, productive, and aesthetic purposes and other useful information, which the department deems proper;
  - (9) Have the power to manage and regulate all lands which may be set apart as game management areas, public hunting areas, and wildlife sanctuaries;
  - (10) Pursuant to section 183D-65 of this chapter, destroy predators deemed harmful to wildlife;
  - (11) Formulate, and from time to time recommend to the governor and legislature, such additional legislation necessary or desirable to implement the objectives of title 12; and
  - (12) Preserve, protect, and promote public hunting. [L 1985, c 174, pt of §4; am L 1999, c 122, §2]

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

- (1) Concerning the preservation, protection, regulation, extension, and utilization of, and conditions for entry into wildlife sanctuaries, game management areas, and public hunting areas designated by the department;
- (2) Protecting, conserving, monitoring, propagating, and harvesting wildlife;
- (3) Concerning size limits, bag limits, open and closed seasons, and specifications of hunting gear which may be used or possessed; and
- (4) Setting fees for activities permitted under this chapter, unless otherwise provided for by law.

The rules may vary from county to county or in any part of the county and may specify certain days of the week or certain hours of the day in designating open seasons, except that any fees established by rule shall be the same for each county. All rules shall have the force and effect of law. [L 1985, c 174, pt of §4; am L 1988, c 12, §1]

#### **Case Notes**

Sections 183D-22 and 183D-10.5 provided the authority for the department of land and natural resources to require payment of a fee for a hunting-related article such as a stamp; however, since game bird hunting was an activity permitted under this chapter, the department was required under this section to adopt a rule pursuant to §91-3 when setting the stamp fees for hunting. 117 H. 16 (App.), 175 P.3d 126.

Since the addition of two extra hunting days to each week of the hunting season concerned "conditions for entry into game management areas, and public hunting areas designated by the department of land and natural resources" and "open seasons" for hunting, the express language of this section mandated that in order to add the two weekdays for bird hunting, the department had to amend Hawaii administrative rule 13-122-4 pursuant to chapter 91. 117 H. 16 (App.), 175 P.3d 126.

" **§183D-4 Game management areas, wildlife sanctuaries, public hunting areas.** (a) For the purposes of preserving, protecting, conserving, and propagating wildlife, the department shall establish, maintain, manage, and operate game management areas, wildlife sanctuaries, and public hunting areas on land under its control and, as it deems desirable, enter into agreements for taking control of privately owned lands for those purposes.

(b) For the purposes of this section:

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

"Public hunting area" means those lands designated by the board of land and natural resources as areas where the public may hunt game birds and mammals, including:

- (1) Game management areas;
- (2) Forest reserves and surrendered lands;
- (3) Natural area reserves;
- (4) Restricted watersheds;
- (5) Cooperative game management areas;
- (6) Military training areas;
- (7) Unencumbered state lands;
- (8) Designated sanctuaries; and
- (9) Other lands designated by the board. [L 1985, c 174, pt of §4; am L 1999, c 122, §1; am L 2001, c 118, §1]

" **[§183D-4.5] Game management advisory commission.** (a)

There is established within the department a game management advisory commission, which shall serve in an advisory capacity to the board. The game management advisory commission shall consist of nine members to be appointed by the governor in the manner provided in section 26-34. Membership on the game management advisory commission shall include:

- (1) One member from the county of Kauai;
- (2) Three members from the county of Maui, with one member from each of the islands of Maui, Lanai, and Molokai;
- (3) Two members from the county of Hawaii, with one member from east Hawaii and one member from west Hawaii;
- (4) One member from the city and county of Honolulu;
- (5) One at-large member; and
- (6) The chairperson of the board of land and natural resources or the chairperson's designated representative, who shall serve as an ex officio, voting member;

provided that each member, other than the chairperson of the board, shall be a hunter licensed in the State under this chapter and shall have leadership experience in working directly with local hunter or shooting organizations; at least one member shall have knowledge, experience, and expertise in the area of native Hawaiian cultural practices; and no more than three members shall represent, be employed by, or be under contract to any sector of government.

(b) The game management advisory commission shall select its own chairperson from among its members. The members shall receive no compensation for their services on the game management advisory commission but shall be entitled to reimbursement for necessary expenses, including travel expenses, while attending meetings and while in the discharge of their duties.

(c) The game management advisory commission may recommend policies and criteria regarding the management, protection, and promotion of public hunting in Hawaii and may recommend amendments to existing department policies and procedures relating to hunting, particularly regarding this chapter and chapters 122, 123, and 124 of title 13, Hawaii Administrative Rules.

- (d) The game management advisory commission shall:
- (1) Consult and advise the board on any matter affecting hunting, including proposed rules and regulations;
  - (2) Assist in the evaluation and development of game management plans as appropriate or required and any changes to those plans as necessary;

- (3) Assist in establishing criteria to be used in determining whether an area is suitable for hunting;
- (4) Advise on studies of areas for sustainable yield game production or enhancement;
- (5) Recommend to the board the areas that are suitable for game production or enhancement;
- (6) Recommend policies and criteria regarding the management, protection, and permitted uses of areas that are used for hunting;
- (7) Assist the department in developing ways and means to extend and strengthen game management areas, other designated hunting areas, and mixed-use areas within the State;
- (8) In carrying out its duties, consult the most comprehensive up-to-date compilation of scientific data;
- (9) Make recommendations relating to the process of hunting rules modification;
- (10) Collaborate with agencies and other persons who gather information and implement hunting programs and data;
- (11) Take testimony and acquire information as it desires and communicate its findings and recommendations to the board; and
- (12) Assist the department on policies, plans, and procedures related to the control of game mammals, including aerial shooting activities by the department and its contractors.

(e) Any action taken by the game management advisory commission shall be validated by a simple majority of its members. Five members shall constitute a quorum.

(f) All meetings of the game management advisory commission shall be conducted subject to chapter 92.

(g) Except as otherwise provided in this chapter, the game management advisory commission shall be subject to sections 26-34, 26-35, 26-35.5, and 26-36.

(h) The department shall provide administrative support to the game management advisory commission. Federal moneys and other moneys that become available to the department may be used to offset administrative costs incurred by the department for purposes of this subsection.

(i) The game management advisory commission shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2017, and each regular session thereafter, on its efforts to comply with this section, including a summary of its activities during the year preceding the regular session for which the report was prepared.

(j) The game management advisory commission may adopt rules pursuant to chapter 91 to implement this section. [L 2016, c 210, §2]

" **§183D-5 Penalties.** (a) Any person violating section 183D-21, 183D-25, 183D-33, or 183D-63 or any rule adopted under this chapter shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$100, or imprisonment of not more than thirty days, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State.

(b) Any person violating section 183D-66, 183D-25.5, 183D-26, 183D-27, 183D-32, 183D-62, or 183D-64 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction by a mandatory fine of not less than \$200, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts, products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$2,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts, products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State.

(c) Any person who violates section 183D-52 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$10,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$15,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$25,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both.

(d) Any person who violates section 183D-35, 183D-36, 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be fined not less than \$100 or imprisoned not more than thirty days, or both.

(e) In addition to any other penalty imposed under this section, a mandatory fine of \$100 shall be levied for each bird illegally taken under this chapter and a mandatory fine of \$500 shall be levied for each mammal illegally taken under this chapter.

(f) Any person who is convicted of violating any of the game laws of the State shall immediately have the person's hunting license forfeited and any person convicted for a second offense shall not be granted a license to hunt for a period of three years after the date of the second conviction.

(g) The environmental court, in lieu of the actual cash payment of any mandatory fine, may allow the defendant to perform the community service as directed by the department of land and natural resources at the rate of one hour of service for every \$10 of mandatory fine imposed.

(h) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a

person to recover administrative fines and costs for any violation of subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person. [L 1985, c 174, pt of §4; am L 1996, c 50, §2 and c 152, §2; am L 1999, c 196, §1; am L 2012, c 144, §4; am L 2014, c 218, §8; am L 2016, c 125, §3]

#### **Note**

No enforcement actions pursuant to L 2016, c 125, prior to June 30, 2017. L 2016, c 125, §7.

" **§183D-6 Permits for taking wildlife for scientific, educational, or propagation purposes.** (a) Notwithstanding the provisions of any other law, the department may take wildlife for scientific, educational, or propagation purposes, except as prohibited by chapter 195D.

(b) Notwithstanding the provisions of any other law, the department may issue permits to any person to take wildlife in any part of the State, for scientific, educational, or propagation purposes, except as prohibited by chapter 195D and subject to the rules adopted by the department. The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.

(c) Any wildlife taken under the authority of the permit shall be accompanied by the permit while being taken or transported and shall be exempt from seizure while being transported or while in possession, in accordance with the permit. [L 1985, c 174, pt of §4]

" **§183D-7 Expenditures.** (a) The department may expend all appropriations made for the purpose of effectuating the objectives of title 12. The department may expend proceeds in the wildlife revolving fund, without appropriation or allotment as authorized under section 37-40, for the purposes specified under section 183D-10.5. All expenditures by the department shall be approved and certified by the board.

(b) To further the purposes of title 12, the department may use lands set apart for its use by the governor, and may accept gifts and contributions of property or service or enter into contracts for the furtherance of the purposes of this chapter, from the State or from any county or other government or from private parties. [L 1985, c 174, pt of §4; am L 1988, c 67, §2]

" **§183D-8 Cooperation with other governmental authorities.**

The department shall endeavor to secure the cooperation and assistance of and shall cooperate with the appropriate agency of the United States, or other governmental authorities having an interest in the subject matter of this chapter, in every way possible, for the promotion of the purposes of this chapter. More specifically the department may permit the appropriate agency of the United States to occupy any land or building and use any appliance, apparatus, or property held or controlled by the department, either independently or in conjunction with the department, upon such terms and conditions as the department and the agency may mutually agree. [L 1985, c 174, pt of §4]

**Cross References**

Wildlife restoration projects, cooperation of Interior Department, see 55 Stat. 632, §367.

" **§183D-9 Federal aid in wildlife restoration.** The State assents to the provisions of the Pittman-Robertson Federal Aid in Wildlife Restoration Act (50 Stat. 917, 16 U.S.C. §669), as amended. The department shall perform those acts as may be necessary to the conduct and establishment of cooperative wildlife restoration and management projects, as defined in the Act of Congress and in compliance with the Act and rules and regulations promulgated by the Secretary of the Interior thereunder; provided that federal aid funds granted under the Act shall be used for the purposes of approved projects, and no funds accruing to the State from license fees paid by hunters shall be diverted for any purpose other than as provided for in the Act and rules and regulations promulgated pursuant thereto. [L 1985, c 174, pt of §4]

" **§183D-10 REPEALED.** L 1988, c 67, §4.

" **§183D-10.5 Wildlife revolving fund; establishment.** (a) There is established a wildlife revolving fund under the department of land and natural resources.

(b) The following proceeds shall be retained by or transmitted to the department of land and natural resources for deposit into the wildlife revolving fund:

- (1) Moneys collected as fees for hunting licenses, attendance of hunter education training programs, and use of public target ranges;

- (2) Moneys collected under the provision of any law relating to the importation, taking, catching, or killing of game, wildlife, and products thereof;
  - (3) Moneys, other than informers' fees authorized under section 183D-11, collected as fines or bail forfeitures for violation of this chapter or any provision of chapter 195D concerning wildlife conservation; and
  - (4) Moneys collected from the sale of:
    - (A) Any article, in addition to a hunting license, which a person is required to purchase from the department in order to hunt, when the requirement is established by law or rule; and
    - (B) Any work of art upon which the article under subparagraph (A) is based.
- (c) Expenditures from the wildlife revolving fund shall be limited to the following:
- (1) For programs and activities to implement or enforce this chapter, including the provision of state funds to match federal aid grants under the Pittman-Robertson Federal Aid in Wildlife Restoration Act (50 Stat. 917, 16 U.S.C. §669), as amended, for projects concerning wildlife;
  - (2) For programs and activities to implement or enforce chapter 195D concerning wildlife conservation;
  - (3) For acquisition of the use, development, or maintenance of trails and accessways into or through forest reserves, natural area reserves, game management areas, wildlife sanctuaries, public hunting areas, private and commercial shooting preserves, or private lands where hunting or hiking by the public is authorized; and
  - (4) For research programs and activities concerning wildlife conservation and management. Research programs and activities funded under this paragraph may be conducted by personnel of the department or through grants-in-aid to or contracts with the University of Hawaii or other qualified persons.
- (d) The proceeds of the wildlife revolving fund shall not be used as security for, or pledged to the payment of principal or interest on, any bonds or other instruments of indebtedness.
- (e) In addition to subsections (c) and (f), the department may use moneys in the wildlife revolving fund for the importation into, and the management, preservation, propagation, and protection of, game or wildlife in the State; provided that the department prior to authorizing expenditures or expending funds from the wildlife revolving fund shall first use those

funds to maximize the State's participation to secure federal funds under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, as amended.

(f) Nothing in this section shall be construed as prohibiting the funding with general funds or other funds of programs and activities to implement or enforce this chapter or chapter 195D concerning wildlife conservation.

(g) The department shall prepare and submit an annual report on the status of the wildlife revolving fund to the legislature no later than twenty days prior to the convening of each regular session. The report shall include but not be limited to:

- (1) The source and application of moneys deposited into the fund, including a description of the criteria and process used to determine funding priorities;
- (2) A description of programs and activities supported by the fund;
- (3) A summary of program highlights and accomplishments; and
- (4) A description of future program plans, including specific goals and objectives. [L 1988, c 67, §1; am L 1990, c 83, §1; am L 1991, c 290, §1]

#### **Case Notes**

Section 183D-22 and this section provided the authority for the department of land and natural resources to require payment of a fee for a hunting-related article such as a stamp; however, since game bird hunting was an activity permitted under this chapter, the department was required under §183D-3 to adopt a rule pursuant to §91-3 when setting the stamp fees for hunting. 117 H. 16 (App.), 175 P.3d 126.

" **§183D-11 Informer's fee.** One-half of the fine imposed and collected in all cases where the defendant has been convicted for a violation of any of the provisions of this chapter or chapter 195D shall be paid to the person giving the information leading to the arrest of the person so convicted; provided that this section shall not apply, if the informer is a regular salaried sheriff, deputy sheriff, police officer, warden or constable, or officer or agent of the department. [L 1985, c 174, pt of §4; am L 1987, c 283, §17; am L 1989, c 211, §10; am L 1990, c 281, §11]

" **[§183D-12] General administrative penalties.** (a) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines or bring legal action

to recover administrative costs of the department or payment for damages or for the cost to correct damages resulting from a violation of subtitle 4 of title 12 or any rule adopted thereunder. The administrative fines shall be as follows:

- (1) For a first violation, by a fine of not more than \$10,000;
- (2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and
- (3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.

(b) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife taken, killed, injured, or damaged in violation of subtitle 4 of title 12 or any rule adopted thereunder.

(c) Any criminal action against a person for any violation of subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person. [L 1996, c 152, §1]

## **"PART II. HUNTING IN GENERAL**

**§183D-21 Hunting licenses required.** No person shall hunt, pursue, kill, or take any game bird or mammal without first procuring a hunting license; provided that section 183D-32 to the contrary notwithstanding, no license shall be required of persons who may be authorized in writing by the board to destroy game birds or game mammals injurious to forest growth or agriculture, or that constitute a nuisance or a health hazard. [L 1985, c 174, pt of §4; am L 1998, c 88, §1]

**" §183D-22 Application and issuance of licenses; fees.** (a) A hunting license shall be issued to a person by an agent of the department upon:

- (1) Written application in the form prescribed by the department;
- (2) Payment of a hunting license fee or any other hunting related fee the board may require as provided in this chapter; except that payment of the fee shall be waived for any employee of the department who is required to have a license to carry out duties of the department; and

- (3) Showing of a valid Hawaii hunter education certificate or written exemption issued under section 183D-28 or upon showing proof of completion of an approved hunter education course described in section 183D-28(b)(2).

The application shall require a statement under oath of the applicant's name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes.

(b) The hunting license fee shall be:

- (1) \$10 for any person who has resided in the State for one year or longer, or who is a member of the armed forces of the United States on active duty and the spouse and children thereof, or who elects to forgo the exemption provided in paragraph (4);
- (2) \$95 for all other persons;
- (3) \$50 for a three-day period and \$95 for a seven-day period for hunting on a private and commercial shooting preserve for persons who do not meet the requirements of paragraph (1) or (4); and
- (4) Free to all Hawaii residents sixty-five years of age or older and to all persons with Hansen's disease who are residents of Kalaupapa, Molokai.

(c) The department shall suspend, refuse to renew, reinstate, or restore, or deny any license if the department has received certification from the child support enforcement agency pursuant to section 576D-13 that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. The department shall issue, renew, restore, or reinstate such a license only upon receipt of an authorization from the child support enforcement agency, the office of child support hearings, or the family court. [L 1985, c 174, pt of §4; am L 1988, c 12, §2 and c 31, §1; am L 1989, c 96, §1; am L 1992, c 127, §1; am L 1997, c 293, §10; am L 1998, c 88, §2; am L 1999, c 224, §1; am L 2007, c 129, §1]

#### **Note**

The amendment made by L 2014, c 218, §8 is not included in this section.

#### **Case Notes**

Section 183D-10.5 and this section provided the authority for the department of land and natural resources to require payment of a fee for a hunting-related article such as a stamp; however, since game bird hunting was an activity permitted under this

chapter, the department was required under §183D-3 to adopt a rule pursuant to §91-3 when setting the stamp fees for hunting. 117 H. 16 (App.), 175 P.3d 126.

" **§183D-23 Licenses expire when.** All licenses shall expire on June 30 next following the date of issuance, except for licenses obtained pursuant to section 183D-22(b)(3). [L 1985, c 174, pt of §4; am L 2007, c 129, §2]

" **§183D-24 Duplicate licenses.** Duplicate licenses may be issued upon application stating under oath that the original license has been lost or destroyed and upon payment of a fee of fifty per cent of the current cost of a resident license as provided in section 183D-22(b)(1). [L 1985, c 174, pt of §4; am L 1998, c 288, §1]

" **§183D-25 Licenses; display thereof.** No person to whom a hunting license has been issued shall permit any other person to carry, display, or use the license in any way. Every person to whom a hunting license has been issued shall physically possess the license when hunting and shall show the license upon the demand of any officer authorized to enforce the game laws of the State. No person, upon the request of an officer, shall refuse to show the license or withhold permission to inspect the person's game bag, container, hunting coat or jacket, or carrier, or vehicle of any kind where game might be concealed. [L 1985, c 174, pt of §4]

" **[§183D-25.5] Hunting guides; licensing and reporting requirements.** (a) No person shall engage in the business of soliciting and guiding clients for the purpose of taking any game bird or mammal without first procuring a hunting guide license.

(b) A hunting guide license shall be issued to any person who possesses a valid state hunting license and registers with the department; provided that hunting guides shall provide service only to clients with a current state hunting license, unless the client is otherwise exempted by the department.

(c) Hunting guides shall provide an annual report to the department of their guide activities that shall include the number of clients served and the clients' residency status. The reports shall be submitted within thirty days after the expiration of the hunting guide license issued pursuant to this section. The failure to submit an annual report within the time specified shall be grounds for the revocation and nonrenewal of the hunting guide license. [L 1996, c 50, §1]

" **§183D-26 Hunting on private lands prohibited.** (a) No person shall enter upon any land or premises belonging to, held, or occupied by another, for the purpose of hunting or to take any kind of wildlife including game without first having obtained permission from the owner or a duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

(b) No prosecution shall be brought under this section, except upon the sworn complaint of the owner, occupier, or holder of the land or premises, or a duly appointed agent, or if the owner, occupier, or holder is either a corporation or a partnership, then the complaint shall be sworn to by an officer of the corporation or by one of the members of the partnership. [L 1985, c 174, pt of §4]

" **§183D-27 Night hunting on private lands; prohibition.** Notwithstanding section 183D-26, no person shall take or pursue any game bird, game mammal, wild bird, or wild mammal at night on privately owned lands, except as authorized by the department pursuant to section 183D-61. For the purpose of this section, "night" means the period between one-half hour after sunset and one-half hour before sunrise. [L 1985, c 174, pt of §4; am L 1987, c 156, §1]

" **[\$183D-27.5] Harassment of hunters; prohibition.** (a) No person shall intentionally prevent or attempt to prevent the lawful taking of game by a person licensed pursuant to section 183D-21 by:

- (1) Placing the person's self in a location in which human presence may affect the behavior of game to be taken or the feasibility of taking such game;
- (2) Creating a visual, aural, olfactory, or physical stimulus to affect the behavior of game to be taken;
- (3) Affecting the condition or placement of personal property intended for use in the taking; or
- (4) Obstructing the person's access to areas in which the person intends to lawfully take game.

(b) No person shall enter or remain upon public lands or waters, or upon private lands or waters, without permission of the owner or the owner's agent, with intent to violate this section.

(c) The maximum penalty for violation of subsection (a) or (b) is a fine of \$500, thirty days imprisonment, or both. [L 1995, c 186, §1]

" **§183D-28 Hunter education program.** (a) The department shall establish a hunter education program to provide instruction in hunter safety, principles of conservation, and sportsmanship. Upon successful completion of the program, the department shall issue to the graduate a hunter education certificate which shall be valid for the life of the person. This certification shall be rescinded by judicial action upon the conviction of a wildlife and/or firearms violation. No person shall be eligible for a hunting license unless the person possesses a valid hunter education certificate or meets the requirements for exemption provided in subsection (b)(2), and is either:

- (1) Born after December 31, 1971; or
- (2) Born before January 1, 1972, and has never been issued a hunting license in the State.

(b) A person who meets the minimum age requirements adopted pursuant to subsection (c) shall be exempt from the requirements of subsection (a) if the person:

- (1) Was born before January 1, 1972, and at one time possessed a hunting license issued by the State; provided that the person shows satisfactory proof to the department that the person had possessed the hunting license;
- (2) Has successfully completed a course or program of hunter education and safety that is approved by the International Hunter Education Association and meets the requirements of Chapter 12 of the United States Fish and Wildlife Service Federal Aid Manual, as revised; provided that the person shows satisfactory proof in the form of a certificate, wallet card, or other document issued by a state, province, or country evidencing successful completion of the course or program; or
- (3) Obtains a three-day or a seven-day hunting license pursuant to section 183D-22(b)(3) to hunt on a private and commercial shooting preserve, accompanied by a hunting guide licensed pursuant to section 183D-25.5; provided that:
  - (A) All hunting shall be conducted on a licensed private and commercial shooting preserve and under the direction of a hunting guide who has successfully completed a Hawaii hunter education certification course and meets the requirements of section 183D-25.5;
  - (B) Prior to licensing, a hunter safety class and field training session shall be provided to the

- licensee that includes hunter safety and hunting equipment use and safe discharge;
- (C) While hunting under these provisions, a hunting guide shall guide not more than two unaccompanied clients at any time while hunting;
  - (D) All hunting guides and clients shall wear a hunter safety blaze-orange outer garment while hunting;
  - (E) The private and commercial shooting preserve operator, hunting guides, and clients agree to be subject to inspection while engaged in hunting activities by department representatives or authorized law enforcement officers; and
  - (F) The private and commercial shooting preserve owner and operator assume responsibility and liability for public and hunter safety while operating under these provisions and agree to report any injuries to the department.

Upon application and satisfaction of the requirements of paragraph (1), the department shall issue a written exemption that shall be valid for the life of the person. The department shall develop and maintain a list of approved hunter education courses described in paragraph (2) for reference by the public and license agents.

(c) The department, by rules adopted pursuant to chapter 91, shall establish minimum age requirements for issuance of the hunter education certificate, or the exemption therefrom, required to obtain a hunting license pursuant to section 183D-22(a)(3).

(d) The department may establish a hunter education officer position to administer the program, outline all phases of instruction, conduct general supervision of individual programs, and distribute information on the program, or may contract the program to a qualified organization.

(e) The department may construct, operate, and maintain public outdoor and indoor target ranges for the program.

(f) The department shall prepare reports as may be necessary to seek approval under Public Law 91-503 for federal assistance in this program of hunter safety, conservation, and sportsmanship. [L 1985, c 174, pt of §4; am L 1989, c 96, §2; am L 1991, c 176, §1; am L 1992, c 127, §2; am L 1999, c 224, §2; am L 2007, c 129, §3]

" **§183D-29 Agents to collect application fees and sell licenses.** (a) The department may designate agents to collect hunting application fees and sell hunting licenses in accordance with this section. Agents shall report all collections of

application fees and sales of licenses to the department monthly and not later than the fifteenth day of the month following the month covered by the report. Wilful failure to make a report shall be cause for cancellation of the agency and upon the cancellation a full accounting and settlement for all applications and licenses shall be made forthwith. All fees collected including application fees shall be remitted to the department at the same time as the report of license sales is made. If the agents prepay for the licenses, then the fees collected shall be retained by the agents, rather than remitted to the department.

(b) Agents shall receive ten per cent of the value of application fees collected and licenses sold. All reports on application fee collections and license sales shall be made on forms supplied by the department. The duly authorized agents of the department may administer oaths as required in license applications. Chapter 40 shall not apply to the agents. [L 1985, c 174, pt of §4; am L 1987, c 160, §1; am L 1988, c 12, §3]

### "PART III. GAME BIRDS

**§183D-31 Game birds, declaration by department.** (a) The department may declare, by rule adopted pursuant to chapter 91, any bird which has been or may be introduced into the State to be propagated for hunting purposes, to be a game bird within the meaning of this chapter.

(b) Nothing in this section shall be construed as permitting the taking, stalking, pursuing, or killing of any game bird under domestication or in the legal possession or control of any person, or where otherwise prohibited by law or rule of the department. [L 1985, c 174, pt of §4]

" **§183D-32 Open and closed seasons and bag limits on game birds.** (a) No person shall intentionally, knowingly, or recklessly take, kill, pursue, or have in possession any bird declared as a game bird by law or by rule of the department at any time, except during an open season duly established and designated by the department for taking, killing, or possessing the same, or except as provided in sections 183D-21, 183D-33, 183D-34, 183D-35, 183D-36, 183D-37, 183D-38, 183D-39, 183D-40, 183D-41, or 183D-42.

(b) Nothing in this section shall be construed as making it unlawful for any person to possess under refrigeration, a number of game birds, legally killed, greater than that fixed as a bag limit by any rule of the department, but not in excess of the daily bag limit for five days. [L 1985, c 174, pt of §4]

" **§183D-33 Shooting certain pigeons prohibited.** No person, other than the owner thereof, shall shoot, maim, kill, or detain any Antwerp, messenger, or homing pigeon. [L 1985, c 174, pt of §4]

" **§183D-34 Private and commercial shooting preserve and farmer's license.** (a) For the purpose of encouraging private and commercial shooting preserves, game bird farming, and the domestication and propagation of game birds, a license authorizing the licensee to engage in the business of conducting a private and commercial shooting game preserve, or breeding and selling game birds, as limited in this section, shall be issued by the department pursuant to rules as may be adopted by the department, to any responsible resident person duly applying therefor. The licenses shall expire on June 30 of each year.

(b) The fee for private and commercial shooting preserves and farmer's licenses shall be set by the department; provided that the department may authorize any governmental agency to breed and sell game birds, and may authorize any person to possess lawfully obtained game birds. The fees collected under this subsection shall be deposited into the wildlife revolving fund under section 183D-10.5. [L 1985, c 174, pt of §4; am L 1995, c 135, §§1, 3; am L 1996, c 50, §3; am L 1999, c 224, §3; am L 2007, c 129, §4]

" **§183D-35 Importation; sale of game birds.** (a) Any responsible resident of good character who is a holder of the license defined in section 183D-34 may bring within the State and have the custody of, for the purpose of conducting a private and commercial shooting preserve, domestication, propagation, or selling, as provided in this chapter, any game bird, except those prohibited by section 150A-6.

(b) Any game bird brought within the State or reared in captivity within the State may be sold or transported for propagation, for food, or for other purposes, if tagged as provided in section 183D-36. [L 1985, c 174, pt of §4]

" **§183D-36 Carcass to be tagged.** Any licensee may possess, transport, or sell any game bird brought into the State or raised in captivity within the State as set forth in this section. The carcasses of the game birds may be possessed, transported, or sold at any time, if tagged as directed by the department with an indestructible tag or seal to be supplied by the department to the licensee upon payment of the actual cost. [L 1985, c 174, pt of §4]

" **§183D-37 Retail dealer's license.** The keeper of a hotel, restaurant, boardinghouse, or club, or any retail dealer in meats, may sell carcasses or parts thereof purchased or received from a licensed game bird farm, tagged and sealed, to any patron or consumer for actual consumption, after securing a license for those purposes from the county director of finance. The license shall cost \$5 a year, and shall expire on June 30 of each year. [L 1985, c 174, pt of §4]

" **§183D-38 Transportation.** Any common carrier, at any time, may transport game birds, if the carcasses or parts thereof are tagged or sealed, but to every coop or package containing tagged or sealed game birds, there shall be affixed an additional tag or label upon which shall be plainly printed or written the name of the licensee, the name of the consignee, the name of the person by whom the same was tagged or sealed, and the number of game birds, the carcasses, or parts thereof contained therein. [L 1985, c 174, pt of §4]

" **§183D-39 Report by licensed private and commercial shooting preserve operator; farmer.** The licensee shall make quarterly reports on the first of July, October, January, and April to the department on forms to be furnished by the department. The report shall give a correct statement of:

- (1) The total number of game birds owned, killed, transported, or sold during the period under this chapter;
- (2) The names of the persons to whom the same were transported or sold;
- (3) The names of the persons by whom the same were tagged and sealed;
- (4) The increase of all classes of game birds; and
- (5) Such other data as the department deems necessary for the proper protection of the public and observance of the game laws.

Each report shall be verified by the affidavit of the licensee. [L 1985, c 174, pt of §4]

" **§183D-40 Permit; authority under.** After first having obtained a permit from the department, a licensee may obtain any number of game birds from any state game farm or from city park boards from another county, state, or foreign jurisdiction, or, with the consent of the department, transfer to another licensee any game bird taken or secured under this chapter. A licensee, after obtaining a permit may sell, give away, or dispose of the eggs of any game bird, lawfully in the licensee's possession, for propagation purposes only. [L 1985, c 174, pt of §4]

" **§183D-41 Game birds when exclusive property.** Game birds maintained upon enclosed land, upon which notice has been posted that the same is a game farm or upon any land or property upon which notice has been posted that the same is a private and commercial shooting preserve, shall be the exclusive property of the licensed holder. [L 1985, c 174, pt of §4]

" **§183D-42 Inspection of private and commercial shooting preserve and game farm.** Any member of the board or an authorized representative may enter, at any time, upon any private and commercial shooting preserve or game farm of a licensee for the purpose of inspection thereof, or for the purpose of enforcing this chapter or any game law. [L 1985, c 174, pt of §4]

#### "PART IV. GAME MAMMALS

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

(b) Nothing in this section shall permit the taking, catching, pursuing, or killing of any mammal in the legal possession or control of any person, or where otherwise prohibited by law or by rule of the department. [L 1985, c 174, pt of §4]

" **[§183D-52] Interisland transportation and possession of wild or feral deer prohibited.** No person shall intentionally, knowingly, or recklessly possess, transfer, transport, or release after transport through interisland movement any live wild or feral deer unless permitted by the department or other department of the State. [L 2012, c 144, §2]

#### "PART V. WILD BIRDS AND OTHER WILDLIFE

**§183D-61 Permits to take wild birds, game birds, and game mammals.** (a) Notwithstanding the provisions contained in this chapter, the department may adopt rules pursuant to chapter 91:

- (1) Authorizing the taking and collecting of wild birds, game birds, and game mammals for scientific and educational purposes, or for the purpose of distributing wild birds to different localities in the State pursuant to this title;
- (2) Authorizing the keeping of wild birds in captivity for the protection, treatment for injury or disease, propagation, and other similar purposes consistent with the preservation, protection, and conservation of wild birds;
- (3) Authorizing the taking and destruction of those wild birds, game birds, and game mammals the department may have found after investigation to be destructive to crops or to other game birds and game mammals or otherwise harmful to agriculture or aquaculture, or to constitute a nuisance or a health hazard; or
- (4) Authorizing without requiring permits or reports, the destruction within a district of wild birds, game birds, and game mammals which are generally destructive to crops or otherwise harmful to agriculture or aquaculture, or constitute a nuisance or a health hazard within the district.

(b) Except as provided in subsection (a)(4), the rules shall require the person or persons seeking authority to apply for and obtain a written permit from the department. The permits may prescribe terms and conditions the department deems necessary to prevent abuse of the authority granted thereby, and may be canceled by the department, after notice and hearing, for the violation of any term or condition. [L 1985, c 174, pt of §4; am L 1986, c 272, §2; am L 1987, c 156, §2]

" **§183D-62 Taking, injuring, or destroying wild birds prohibited.** Except as provided in section 183D-61, no person shall intentionally, knowingly, or recklessly take, catch, injure, kill, or destroy, or attempt to take, catch, injure, kill, or destroy, any wild bird, or to keep or have possession of any wild bird, dead or alive, or to damage or destroy a nest of any wild bird. [L 1985, c 174, pt of §4]

" **§183D-63 Keeping wild birds in captivity prohibited.** Except as provided in section 183D-61, no person shall keep in captivity any wild bird unless the bird was lawfully imported into the State or was bred in captivity from birds lawfully imported. [L 1985, c 174, pt of §4]

" **§183D-64 Transportation of wild birds from the State prohibited.** No person shall transport or cause to be

transported by any means any wild bird from any part of the State; provided that specimens of wild birds required for scientific or educational purposes may be exported from the State only when authorized under permits issued by the department. [L 1985, c 174, pt of §4]

" **§183D-65 Posting; destruction of predators.** (a) On any game management area, public hunting area, or forest reserve or other lands under the jurisdiction of the department, predators deemed harmful to wildlife by the department may be destroyed by any means deemed necessary by the department.

(b) Where the predators are dogs and the methods of destruction may endanger pets or hunting dogs, all major points of entrance into the area where the predators are to be destroyed shall be posted with signs indicating that a program of predator destruction in the area is in progress. Any predator may be destroyed in a posted area without claim or penalty whether or not the predator is the property of some person. [L 1985, c 174, pt of §4]

" **[§183D-66] Wildlife trafficking; prohibited.** (a) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following animal family, genus, or species: elephant (Elephantidae), rhinoceros (Rhinocerotidae), tiger (Panthera tigris), great ape (Hominoidea), hippopotamus (Hippopotamus amphibius), lion (Panthera leo), pangolin (Manis), cheetah (Acinonyx jubatus), jaguar (Panthera onca), or leopard (Panthera pardus).

(b) Unless otherwise authorized by federal law including the Marine Mammal Protection Act, 16 United States Code, chapter 31, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following marine family, genus, or species: sea turtle (Chelonioidea), monk seal (Neomonachus), narwhal (Monodon monoceros), whale (Cetacea), or walrus (Odobenus rosmarus) insofar as the species, subspecies, or distinct population segment is listed:

- (1) On appendix I or II of the Convention on International Trade in Endangered Species; or
- (2) As endangered or threatened under the Endangered Species Act.

(c) Unless otherwise authorized by federal law including the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. section 1851 et seq.) as amended, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or

barter for any part or product from rays and sharks  
(Elasmobranchii) insofar as the species is listed:

- (1) On appendix I of the Convention on International Trade in Endangered Species; or
- (2) As endangered or threatened under the Endangered Species Act.

(d) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from mammoth (*Mammuthus*), although the species is extinct.

(e) To the extent permitted under federal law, none of the prohibitions set forth in this section shall apply if:

- (1) The covered animal species part or product is part of a bona fide antique; provided that:

- (A) The antique status of such a part or product is established by the owner or seller thereof with historical documentation showing the antique to be not less than one hundred years old;

- (B) The covered animal species part or product is less than twenty per cent by volume of such an antique; and

- (C) The covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

- (2) The distribution of the covered animal species part or product is:

- (A) For a bona fide educational or scientific purpose; or

- (B) To or from a museum;

- (3) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance;

- (4) The covered animal species part or product is less than twenty per cent by volume of a gun, knife, or musical instrument, including without limitation string instruments and bows, wind and percussion instruments, and pianos, if the owner or seller provides historical documentation showing the item was manufactured no later than 1975 and the covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

- (5) The sale, offer for sale, purchase, trade, [possession] with intent to sell or barter of the covered animal species part or product is expressly authorized by federal law or permit; or

(6) The activity is authorized under section 183D-6.

(f) There is established a rebuttable presumption of possession with intent to sell a covered animal species part or product when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling similar items. This rebuttable presumption shall not preclude a finding of intent to sell based on any other evidence that may serve to independently establish such intent.

(g) None of the prohibitions set forth in this section shall apply to traditional cultural practices expressly protected under article XII, section 7, of the state constitution.

(h) For the purposes of this section, "covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(i) The department of land and natural resources may adopt rules pursuant to chapter 91, as needed, to further implement or enforce this section. [L 2016, c 125, §2]

#### **Note**

No enforcement actions pursuant to L 2016, c 125, prior to June 30, 2017. L 2016, c 125, §7.