
A BILL FOR AN ACT

RELATING TO BIRDS.

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

1 SECTION 1. The legislature finds that, for more than a
2 decade, residents of certain areas of the State have suffered
3 the effects of excessive feeding of feral birds. These
4 residents have reported bird fecal matter covering cars, roofs,
5 walkways, and solar panels. After a light rain and direct sun,
6 the odor is unbearable. After the bird fecal matter dries, it
7 blows in the wind, exacerbates breathing problems, and triggers
8 allergies. Residents who have suffered chronic runny noses,
9 watery eyes, sneezing, and fungal and bacterial infections have
10 seen these symptoms disappear after moving away. Voluminous
11 bird droppings have also decreased property values by corroding
12 home surfaces and making affected communities unpleasant places
13 in which to live.

14 The legislature further finds that feeding feral birds
15 dramatically increases non-native bird populations, which in
16 turn interferes with native wildlife. Feral birds serve as
17 reservoirs of infection for avian diseases such as avian pox and



1 avian malaria, as well as numerous species of parasites such as
2 lice and mites.

3 In 2013, Act 269, Session Laws of Hawaii 2013, was enacted
4 to provide a remedy for individuals harmed by the excessive
5 feeding of feral birds by declaring the odors and filth
6 resulting from feeding feral birds to be a nuisance. However,
7 the department of health has declined to take action pursuant to
8 section 322-1(2), Hawaii Revised Statutes, against individuals
9 who feed feral birds because, in the department's opinion, the
10 odor and filth resulting from the excessive feeding of feral
11 birds does not rise to the applicable statutory level of being
12 dangerous or injurious to health.

13 The legislature further finds that the State's failure to
14 act to resolve this issue has caused many residents to consider
15 exterminating feral birds on their property as a remedy.

16 The purpose of this Act is to prohibit the feeding of an
17 excessive number of feral birds without requiring the department
18 of health to determine that bird waste is dangerous or injurious
19 to health.



1 SECTION 2. Chapter 322, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§322- Excessive feeding of feral birds; prohibited.

5 (a) No person shall feed or shall permit or allow the placement
6 or discarding of food or food by-products in a manner that a
7 reasonable person would expect to result in the lingering,
8 roosting, or congregating of twenty-five or more feral birds
9 within a twenty-foot radius.

10 (b) This section shall not apply to the feeding of:

11 (1) Any carrier pigeon, racing pigeon, or show pigeon in
12 the possession of a person who has been issued a valid
13 pigeon ownership permit pursuant to section 142-102;

14 (2) Any migratory bird in compliance with a migratory bird
15 permit issued pursuant to 50 Code of Federal
16 Regulations part 21, as amended;

17 (3) Any bird that is primarily kept in a cage or other
18 enclosed container or structure and is thereby
19 prevented from flying away;

20 (4) Any food or bait products used by a pest control
21 operator licensed by chapter 460J;



1 (5) Poultry at a farming operation in a manner consistent
2 with generally accepted agricultural and management
3 practices; and

4 (6) Any bird used by any federal, state, or county
5 employee, their agent, cooperator, or permittee,
6 engaged or aiding in the discharge of an official
7 duty.

8 (c) Prima facie evidence of a violation of subsection (a)
9 or of a cease and desist order issued under section 322-2 or
10 322-3 shall include:

11 (1) A certificate, sworn to or affirmed by an individual
12 authorized to enforce this section, based upon
13 inspection of the premises and witnessing a violation;
14 or

15 (2) A photograph or video recording gathered or received
16 by an individual authorized to enforce this section
17 evidencing a violation.

18 (d) For purposes of this section:
19 "Carrier pigeon" shall have the same meaning as in section
20 142-101.



1 "Feral bird" means any bird having escaped or been released
2 from domestication and reverted to a wild state over several
3 generations.

4 "Poultry" shall have the same meaning as in section 161-3.

5 "Racing pigeon" shall have the same meaning as in section
6 142-101.

7 "Show pigeon" shall have the same meaning as in section
8 142-101."

9 SECTION 3. Section 322-1, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§322-1 Removal, prevention.** The department of health and
12 its agents shall examine into all nuisances, foul or noxious
13 odors, gases or vapors, water in which mosquito larvae exist,
14 sources of filth, and all causes of sickness or disease, on
15 shore, and in any vessel, which may be known to them or brought
16 to their attention, which in their opinion are dangerous or
17 injurious to health, and into any and all conditions created or
18 existing which cause or tend to cause sickness or disease or to
19 be dangerous or injurious to health, and shall cause the same to
20 be abated, destroyed, removed, or prevented.

21 For purposes of this part, a nuisance shall include[+]



1 ~~(1) Toxic~~ toxic materials that are used in or by-products
 2 of the manufacture or conversion of methamphetamine,
 3 and clandestine drug labs that manufacture
 4 methamphetamine [~~;~~ and

5 ~~(2) Odors and filth resulting from a person feeding feral~~
 6 birds]."

7 SECTION 4. Section 322-2, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "**§322-2 Ordering owner to remove.** Whenever any [such]
 10 nuisance, foul or noxious odors, gases or vapors, water in which
 11 mosquito larvae exist, source of filth, or cause of sickness or
 12 disease is found on private property, the department of health
 13 shall cause notice to be given to the owner to remove and abate
 14 the same at the owner's own expense within such reasonable time
 15 as the department may deem proper. Whenever any violation of
 16 section 322- is found on private property, the department of
 17 health shall cause notice to be given to the owner to cease any
 18 further violation of section 322- . A duplicate of the notice
 19 so given shall be left with one or more of the tenants or
 20 occupants of the premises. If the premises are unoccupied,
 21 notice shall be mailed to the last known place of residence of

1 the owner if residing in the State. If the owner resides out of
2 the State or cannot be reached with notice speedily, notice left
3 at the house or posted on the premises shall be sufficient. If
4 the owner thus notified does not comply with the notification or
5 order of the department, or its agent, within the time
6 specified, the department or its agent may apply to the district
7 court of the circuit in which the property is situated for an
8 order authorizing the department to execute and carry out the
9 notice or for an order to abate the nuisance and remove,
10 destroy, or prevent the cause of the foul or noxious odors,
11 gases or vapors, water in which mosquito larvae exist, source of
12 filth, or cause of sickness or disease, or other thing
13 detrimental to public health[-] or to prevent the further
14 violation of section 322- .

15 The department may recover by appropriate proceedings the
16 expenses incurred by it in the abatement, removal, destruction,
17 or prevention, from any person who has caused or allowed the
18 nuisances, source of foul or noxious odors, gases or vapors,
19 water in which mosquito larvae breed, source of filth, or cause
20 of sickness or disease, or other thing detrimental to the public
21 health, or violation of section 322- , and from any owner,



1 tenant, or occupant of the premises, who, after notice, has
2 failed to abate, remove, destroy, or prevent the nuisance,
3 source of foul or noxious odors, gases or vapors, water in which
4 mosquito larvae exist, source of filth, or cause of sickness or
5 disease, or other thing detrimental to the public health within
6 the time specified in the notice[-], or has failed to cease
7 further violation of section 322- . In no case shall the
8 department or any officer or agent thereof be liable for costs
9 in any action or proceeding that may be commenced in pursuance
10 of this part."

11 SECTION 5. Section 322-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§322-3 **Nuisance on public property.** Whenever any
14 nuisance, foul or noxious odors, gases or vapors, water in which
15 mosquito larvae exist, source of filth, or cause of sickness or
16 disease or violation of section 322- is found on public
17 property or on a public highway, street, lane, alley, or other
18 public place, notice shall be given by the department of health,
19 or its agent, to the person officially in charge thereof, and
20 the person shall be notified to abate, destroy, remove, [~~or~~]
21 prevent, or cease the same. In case of failure to comply with



1 the notice, the mode of procedure shall be the same as
2 [~~hereinbefore~~] provided in case of private persons in section
3 322-2."

4 SECTION 6. Section 322-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§322-4 **Entering lands, buildings, etc.** Whenever any
7 member of the department of health deems it necessary for the
8 preservation of the lives or health of the public to enter any
9 land, building, vessel, or aircraft for the purpose of examining
10 into, abating, destroying, removing, or preventing any nuisance,
11 source of foul or noxious odors, gases or vapors, water in which
12 mosquito larvae exist, source of filth, or cause of sickness or
13 disease, or other thing detrimental to the public health, or to
14 enforce section 322- , and is refused such entry, the member
15 may make complaint to the district judge in whose circuit the
16 nuisance, source, place, or cause is, and the district judge may
17 thereupon issue a warrant, directed to any police officer of the
18 circuit, commanding the police officer to take sufficient aid,
19 and, being accompanied by the member of the department, between
20 the hours of sunrise and sunset, to repair to the place
21 described in the complaint, and to abate, destroy, remove, or



1 prevent, under the directions of the member, the nuisance,
2 source, or cause."

3 SECTION 7. Section 322-6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§322-6 Who to report nuisances[-] and violations. The
6 sheriff, all officers of police, and physicians shall report to
7 the department of health, or its nearest authorized agent, the
8 existence of any nuisance injurious to the public health[-] or
9 any violation of section 322- , of which any of them may be
10 cognizant, as soon as possible after it comes to their
11 knowledge. Any individual may report to the department of
12 health, or its nearest authorized agent, the existence of any
13 nuisance injurious to the public health or violation of section
14 322- as soon as possible after the individual learns of the
15 existence of the nuisance[-] or violation."

16 SECTION 8. Section 322-8, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Any person who violates this part or any rule adopted
19 by the department of health to implement this part shall be
20 fined not more than \$10,000 for each separate offense[-];



1 provided that the minimum fines for violation of section 322-

2 shall be as follows:

3 (1) For a second violation within five years of a previous
4 violation, a fine of not less than \$100;

5 (2) For a third violation within five years of the last
6 violation, a fine of not less than \$250;

7 (3) For a fourth violation within five years of the last
8 violation, a fine of not less than \$500;

9 (4) For a fifth violation within five years of the last
10 violation, a fine of not less than \$1,000;

11 (5) For a sixth violation within five years of the last
12 violation, a fine of not less than \$2,500; and

13 (6) For a sixth or subsequent violation within five years
14 of the last violation, a fine of not less than \$5,000.

15 Any action taken to collect the penalty provided for in this
16 subsection shall be considered a civil action."

17 SECTION 9. (a) There shall be established a feral bird
18 control task force in the department of health to consist of the
19 following members:

20 (1) A representative from the department of health;



- 1 (2) A representative from the department of land and
- 2 natural resources;
- 3 (3) A representative from the department of agriculture;
- 4 (4) A representative from the city and county of Honolulu;
- 5 (5) A representative from the county of Hawaii;
- 6 (6) A representative from the county of Kalawao;
- 7 (7) A representative from the county of Kauai; and
- 8 (8) A representative from the county of Maui.
- 9 (b) The purpose of this task force is to develop a
- 10 comprehensive and cohesive plan for the enforcement of the
- 11 provisions of this Act. This plan shall include identifying any
- 12 additional legislative actions necessary to deter the feeding of
- 13 feral birds.
- 14 (c) The task force shall serve until it has accomplished
- 15 the purpose of this section or twenty days prior to the
- 16 convening of the regular session of 2020, whichever occurs
- 17 first.
- 18 (d) The task force shall submit a report of its findings
- 19 and recommendations, including any proposed legislation, to the
- 20 legislature no later than twenty days prior to the convening of
- 21 the regular session of 2020.



1
2 SECTION 10. This Act does not affect rights and duties
3 that matured, penalties that were incurred, and proceedings that
4 were begun before its effective date.
5 SECTION 11. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.
7 SECTION 12. This Act shall take effect on July 1, 2050.



Report Title:

Feral Birds; Excessive Feeding; Prohibited; Task Force

Description:

Prohibits the feeding of excessive numbers of feral birds.
Provides exceptions. Establishes penalties. Creates temporary
feral bird control task force to develop enforcement plan.
(HB576 HD1)

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

