

JAN 21 2022

A BILL FOR AN ACT

RELATING TO GAME MANAGEMENT.

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

1 SECTION 1. The legislature finds that large populations of
2 axis deer have contributed to significant damages and created
3 urgent and imminent health and safety concerns in Maui county,
4 prompting the governor to declare a state of emergency pursuant
5 to chapter 127A, Hawaii Revised Statutes, as evidenced by the
6 series of emergency proclamations issued in January 2021,
7 November 2021, and January 2022. Managing game and feral
8 ungulate populations, including axis deer in Maui county, is
9 critical for the State's ecosystem and the health of the
10 community, particularly in light of the current drought
11 conditions throughout Maui county and the southwestern portions
12 of Molokai and Kahoolawe and the lower, leeward slopes of Maui
13 island. Recently, axis deer have been encroaching on the
14 Kahului airport and have caused problems on roadways, including
15 hundreds of accidents. In addition to damaging local landscapes
16 and creating dangerous safety hazards, axis deer can contract



1 tuberculosis, a contagious and communicable disease that can be
2 spread to other animals and infect humans.

3 The legislature further finds that having accurate herd
4 counts is necessary for deer and game population management
5 efforts. The State cannot solely depend on non-profits to
6 determine and annually update the feral ungulate populations and
7 other related data; it is the State's responsibility to take
8 immediate action to appreciably reduce and control problematic
9 game populations, especially the axis deer population in Maui
10 county.

11 The Maui branch of the department of land and natural
12 resources division of forestry and wildlife requires additional
13 staff and certain equipment to accurately count and track herd
14 size of all game species; however, the cost of renting this
15 equipment a few times would cost more than purchasing the
16 equipment. Accordingly, it is economically efficient for the
17 department of land and natural resources to purchase this type
18 of equipment to be proactive and better prepared with regard to
19 game management.

20 Therefore, the purpose of this Act is to:



(1) Grant certain emergency powers to the department of land and natural resources when certain conditions are met to facilitate quicker response and management efforts for controlling feral ungulate populations; and

(2) Make an appropriation to the department of land and natural resources Maui branch of the division of forestry and wildlife to fund necessary positions and purchase equipment required to address urgent herd and game management efforts.

SECTION 2. Chapter 183D, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

"§183D- Management of feral game mammals; emergency proclamation; conditions; powers. (a) The department may, in consultation with the department of agriculture, declare a state of emergency if any two of the following conditions are met contemporaneously within a single county:

(1) A severe drought designation is made by the National Weather Service for the state or specific county;



1 (2) More than twenty game mammal carcasses are found
2 alongside state or county roads within a thirty-day
3 period;

4 (3) More than fifty game mammals are reported dead on
5 residential or agricultural lands within a thirty-day
6 period; or

7 (4) More than five vehicular accidents involving game
8 mammals have been reported within a thirty-day period.

9 (b) If the conditions specified in subsection (a) are met
10 and the department, in consultation with the department of
11 agriculture, has declared a state of emergency, the department
12 may exercise the following powers pertaining to game mammal
13 management in the respective county:

14 (1) Establish boundaries and erect, reinforce, or repair
15 fence lines to keep the game mammals away from
16 roadways, airports, and runways;

17 (2) Take action to cull the game mammals and reduce herds
18 to sustainable numbers to provide protection and
19 relief from damages, losses, and suffering caused by
20 the emergency; and



1 (3) Authorize and invoke the emergency provisions provided
2 in subsection (c), as may be necessary.

3 (c) During any state of emergency declared by the
4 department pursuant to this section, the following specific
5 provisions of law shall be suspended to the extent that the law
6 impedes or tends to impede, or is detrimental to the expeditious
7 and efficient execution of emergency functions necessary to
8 implement the department's game management strategies:

9 (1) Chapter 6E (historic preservation), to the extent that
10 compliance requires additional time detrimental to the
11 expeditious and efficient execution of emergency
12 repairs or work;

13 (2) Section 37-41 (appropriations to revert to state
14 treasury; exceptions), to the extent that
15 appropriations lapse at the end of the fiscal year
16 prior to completion of the emergency repairs or work;

17 (3) Section 37-74(d) (program execution), except for sub-
18 sections 37-74(d)(2) and 37-74(d)(3), and any such
19 transfers or changes considered to be authorized
20 transfers or changes for purposes of section
21 34-74(d)(1) for legislative reporting requirements, to



1 the extent that legislative authorization would likely
2 delay appropriation transfers or changes between
3 programs to provide necessary funding to complete the
4 emergency repairs or work;

5 (4) Section 40-66 (lapsing of appropriations), to the
6 extent that the timing of the procurement of the
7 construction of the emergency permanent repairs may
8 occur the fiscal year following the original emergency
9 proclamation;

10 (5) Chapter 46 (county organization and administration),
11 as any county ordinance, rule, regulation, law, or
12 provision in any form applies to any county
13 permitting, licensing, zoning, variance, processes,
14 procedures, fees, or any other requirements that
15 hinder, delay, or impede efforts to implement
16 emergency game management strategies;

17 (6) Chapter 89, (collective bargaining in public
18 employment), to the extent that compliance with this
19 chapter requires additional time detrimental to the
20 expeditious and efficient execution of emergency work;



1 (7) Chapter 89C (public officers and employees excluded
2 from collective bargaining), to the extent that
3 compliance with this chapter requires additional time
4 detrimental to the expeditious and efficient execution
5 of emergency work;

6 (8) Section 103-2 (general fund), to the extent that
7 compliance results in any additional delays;

8 (9) Section 103-53 (contracts with the State or counties;
9 tax clearances, assignments), only to the extent
10 necessary to waive the Internal Revenue Service tax
11 clearance requirement;

12 (10) Section 103-55 (wages, hours, and working conditions
13 of employees of contractors performing services), to
14 the extent that compliance results in any additional
15 delays;

16 (11) Chapter 103D (Hawaii public procurement code), to the
17 extent that compliance results in any additional
18 delays involved in meeting procurement requirements
19 for selecting contractors in a timely manner to
20 respond to emergency situations or perform emergency
21 work;



- 1 (12) Chapter 104 (wages and hours of employees on public
2 works), to the extent that compliance with this
3 chapter requires additional time detrimental to the
4 expeditious and efficient execution of emergency work;
- 5 (13) Sections 105-1 to 105-10 (use of government vehicles,
6 limitations), to the extent that compliance with this
7 chapter requires additional time detrimental to the
8 expeditious and efficient execution of emergency work;
- 9 (14) Section 127A-30 (rental or sale of essential
10 commodities during a state of emergency; prohibition
11 against price increases), for the reason that the
12 automatic invocation of this provision during an
13 emergency is not needed for this emergency;
- 14 (15) Chapter 183D (wildlife and administrative rules
15 concerning indigenous wildlife, endangered and
16 threatened wildlife and introduced wild birds), to the
17 extent that compliance results in any delays involved
18 in implementation of game management activities or
19 requires additional time detrimental to the
20 expeditious and efficient execution of emergency work;



1 (16) Chapter 205A, Part II (coastal zone management), to
2 the extent that compliance results in any additional
3 delays involved with securing approvals for work
4 within the special management area; and
5 (17) Chapter 343 (environmental impact statements), and
6 applicable administrative rules, to the extent that
7 compliance results in any additional delays involved
8 with the environmental review process."

9 SECTION 3. Section 127A-11, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Except as otherwise expressly provided~~[7]~~ or
12 authorized pursuant to section 183D- , all of the powers
13 conferred by this chapter are conferred on the governor or
14 mayor, as applicable. The governor or mayor may delegate any of
15 these powers to governmental, private-sector, and nonprofit
16 agencies and organizations, officials, officers, employees, and
17 other individuals created, appointed, or employed under, or
18 engaged in carrying out this chapter; provided that the
19 following powers shall be retained by the governor or mayor, as
20 applicable:



1 (1) Proclaiming a state of emergency or local state of
2 emergency, proclaiming a state of emergency or local
3 state of emergency terminated, or making any other
4 proclamation provided for by this chapter;

5 (2) Prescribing rules having the force and effect of law;
6 and

7 (3) Making allotments of funds appropriated or available
8 for the purposes of this chapter.

9 Unless otherwise directed by the governor or mayor, all of the
10 powers pertaining to emergency management authorized to be
11 delegated by the governor or mayor shall be deemed to have been
12 delegated by the governor to the director of Hawaii emergency
13 management and by the mayor to the administrator or director of
14 the county emergency management agency, as applicable, and the
15 administrator or director of the county emergency management
16 agency, respectively, shall have the authority to further
17 delegate any of these powers to any agency or person to whom the
18 governor or mayor could have directly delegated such powers."

19 SECTION 4. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$500,000 or so much
21 thereof as may be necessary for fiscal year 2022-2023 to fund:



- 1 (1) The purchase of an Infrared Unit B2-FO for the purpose
2 of game management and collecting and tracking
3 accurate herd counts;
- 4 (2) Three full-time equivalent (3.0 FTE) technician
5 positions within the Maui branch of the division of
6 forestry and wildlife (one for Maui, one for Lanai,
7 and one for Molokai) to assist in managing new and
8 existing hunting areas, assist with injured deer,
9 distribute traps to control nuisance deer, and work
10 with ranchers to establish hunting programs or control
11 work on ranchlands;
- 12 (3) The purchase of three vehicles, three deer traps,
13 three trailers, ten satellite deer collars for
14 tracking, and other equipment and helicopter rental
15 fees required by the technicians to carry out their
16 duties; and
- 17 (4) Five full-time equivalent (5.0 FTE) game management
18 specialists, or more as may be necessary, for
19 immediate and on-call herd control efforts at priority
20 areas determined by state and county agencies,
21 including the Kahului airport.



1 The sum appropriated shall be expended by the department of
2 land and natural resources for the purposes of this Act.

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 2022.

6

INTRODUCED BY: Lynn DeCote



Report Title:

Department of Land and Natural Resources; Division of Forestry and Wildlife; Maui; Game Management; Emergency Powers; Appropriation

Description:

Grants certain emergency powers to the Department of Land and Natural Resources when certain conditions are met to facilitate quicker response and management efforts for controlling feral ungulate populations. Makes an appropriation to the Department of Land and Natural Resources for the Maui branch of the Division of Forestry and Wildlife to fund positions and purchase equipment necessary to address axis deer population management and control.

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