

**ACT 165**

**S.B. NO. 2441**

**A Bill for an Act Relating to Endangered Species.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The number of species of plants, animals, and microorganisms; the enormous diversity of genes in these species; and the different ecosystems on the planet, such as deserts, rainforests, and coral reefs, are all part of

a biologically diverse Earth. Biodiversity ensures natural sustainability for all life forms and healthy ecosystems that can better withstand and recover from a variety of disasters. Human activity is causing a tremendous number of species extinctions, from animal species, forests, and the ecosystems that forests support, to marine life.

The federal Endangered Species Act of 1973, as amended, establishes a process of identifying species that are in danger of becoming extinct. The green sea turtle, the nene, and the Hawaiian monk seal are all endangered species. Despite the protections provided by the federal Endangered Species Act, these animals continue to be at risk. Two recent incidents of intentionally killed Hawaiian monk seals on Kauai and one on Molokai have brought attention to the human threat to Hawaii's endangered species. In September, 2009, an individual pleaded guilty to shooting a Hawaiian monk seal on Kauai in violation of the federal Endangered Species Act. The individual received a ninety-day prison term, one year supervised release, and a \$25 fine. The legislature finds that this sentence is not sufficient to deter future harassment of Hawaii's endangered species, specifically Hawaiian monk seals. To protect Hawaiian monk seals from future harassment and death, stiffer penalties need to be imposed.

The purpose of this Act is to establish the crime of intentionally or knowingly taking (as defined in section 195D-2, Hawaii Revised Statutes) a Hawaiian monk seal as a class C felony.

SECTION 2. Chapter 195D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§195D- Taking a monk seal prohibited.** (a) A person commits the offense of taking a monk seal if the person intentionally or knowingly takes a Hawaiian monk seal (*Monachus schauinslandi*).

(b) Any person convicted of taking a monk seal shall be guilty of a class C felony; provided that in addition to any other sentence, the court may impose a fine up to \$50,000.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 8, 2010.)

#### Note

1. Edited pursuant to HRS §23G-16.5.