

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY AND LABOR**

**Thursday, March 31, 2016
9:30 AM
State Capitol, Conference Room 016**

**In consideration of
HOUSE BILL 799, HOUSE DRAFT 2, SENATE DRAFT 1
RELATING TO THE UNIFORM AERONAUTICS ACT**

House Bill 799, House Draft 2, Senate Draft 1 proposes to clarify the authority of the State, its employees, or its independent contractors, to remove animals by aerial means in furtherance of official State duties. **The Department of Land and Natural Resources (Department) supports this measure.**

This bill seeks to clarify the State's authority to conduct routine aerial shooting missions. This bill clarifies the State's understanding of the existing law, which was enacted in 1923, that while the public may not conduct aerial shooting missions, the State may carry out such missions to accomplish its public trust purposes. The Department notes that the 1923 legislation was enacted as a safety measure in alignment with standard nationwide legislation when airplanes first became available to the public.

Aerial shooting is a core tool to control invasive non-native ungulates that destroy native forest and associated watershed. The Department requires this tool to carry out its work pursuant to statutory, judicial and constitutional public trust mandates, to protect our forests, control erosion and protect endangered species. In many places aerial shooting is the only method to control hooved animals due to remote, steep, and dangerous terrain. Additionally, in many cases aerial control is the only effective method when thick vegetation and vast distances prohibit staff and the public from spotting and pursuing animals on the ground.

The State employs aerial shooting as part of a suite of tools to control destructive invasive animals. The Department's policy is to first allow and facilitate public hunting for hooved animal removal when safe, feasible and effective to reduce numbers as much as possible before

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

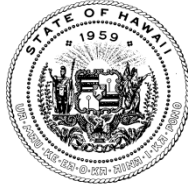
JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

progressing to the use of other methods such as staff hunting, trapping and aerial shooting. When aerial shooting occurs, the State notifies the public and hunters, and where feasible retrieves many of the animals shot and gives the meat to the public.

This clarifying legislation is particularly important following action by the County of Hawaii, which in 2012 passed an ordinance making aerial control of animals unlawful. The State proposes that the Legislature clarify in this statutory amendment that the state public trust responsibility preempts county laws that would otherwise limit the State's ability to carry out this public trust work.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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Testimony by:
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IN REPLY REFER TO:

March 31, 2016
9:30 a.m.
State Capitol, Room 016

H.B. 799, H.D. 2, S.D. 1
RELATING TO THE UNIFORM AERONAUTICS ACT

Senate Committee on Judiciary and Labor

The Department of Transportation **supports** H.B. 799, S.D. 1, which clarifies the authority of the State, its employees, or its independent contractors, to remove birds or animals by aerial means in furtherance of official State duties

This bill is effective upon approval and will enable the State to use additional measures, if necessary, to control harmful wildlife that may impact the safety of our airfields and flights arriving and departing from our airports.

Thank you for the opportunity to provide testimony.



**Conservation Council
for Hawai'i**

Hawai'i's voice for wildlife

Kō Hawai'i / leo no nā holoholona lōhiu



Testimony Submitted to the Senate Committee on Judiciary and Labor
Hearing: Thursday, March 31, 2016 9:30 am
Conference Room 016

Support for HB 799 HD 2 SD 1 Relating to the Uniform Aeronautics Act

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee,

Aloha. Conservation Council for Hawai'i supports HB 799 HD 2 SD 1, which clarifies the authority of the State, its employees and its independent contractors to kill or attempt to kill wildlife by aerial means in furtherance of official State duties.

Aerial hunting is an important tool to protect our forests, watersheds, and other public trust resources for future generations. It is needed in certain situations where public hunting and other means are not able to reduce the number of destructive browsing and grazing ungulates in sensitive watersheds and habitats.

Introduced feral and game mammals pose one of the most significant threats to our watersheds and water quality, and contribute to the loss and decline of unique plants and animals found nowhere else in the world. Axis deer on Maui and goat herds on the highways in Kona and Kohala threaten human health and safety. Feral pigs – found just about everywhere they are not contained (including private property) – help spread diseases to humans and Hawaiian forest birds.

We are not opposed to public hunting *per se*, but these animals are out of control and need to be contained in appropriate game management areas and removed from all other locations. They damage other public lands not meant for sustained yield hunting and private property.

Please help the State protect our public trust resources for future generations by supporting HB 799 HD 2 SD 1. Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler



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Directors: Rick Barboza | Ryan Belcher | Maka'ala Ka'aumoana | Koalani Kaulukukui

Executive Director: Marjorie Ziegler | Administrator: Jonnetta Peters



**Testimony of O'ahu Invasive Species Committee
Supporting H.B. 799 H.D. 2 S.D. 1
Relating to the Uniform Aeronautics Act
Senate Committee on Judiciary and Labor
Thursday March 31, 2016, 9:30 AM, Room 016**

The O'ahu Invasive Species Committee supports H.B. 799 which would clarify the State's authority to survey and remove feral ungulates using a helicopter. In OISC's experience, surveying using a helicopter is substantially less expensive per acre than carrying out operations on foot, even with the expense of renting a helicopter. We assume the same is true for aerial shooting. Affirming DLNR's authority to carry out aerial shooting is the most efficient use of taxpayer dollars in protecting our watersheds and natural resources.

Control of animals from helicopters is a proven safe and humane management tool; with DLNR following training, safety protocols and certifications that follow rigorous federal standards. We believe that game mammals in Hawai'i can be managed so that hunting in the state may continue while still eliminating animals from the upper elevation watersheds. Passing HB 799 will be a step towards that goal. Mahalo for the opportunity to submit testimony.



**THE HUMANE SOCIETY
OF THE UNITED STATES**

March 31, 2016

To: Honorable Chair Keith-Agaran, Vice-Chair Shimabukuro & Judiciary Committee Members

From: Inga Gibson, Hawaii State Director, The Humane Society of the United States-Humane Society International, PO Box 89131, Honolulu, HI 96830, igibson@humanesociety.org

RE: Proposed Amendments to HB 799; Relating to the Uniform Aeronautics Act

Thank you for your consideration of this testimony. The Humane Society of the United States believes that in the vast majority of situations aerial hunting is inefficient, ineffective and inhumane. Animals, especially herd animals exhibiting collective flight response behaviors, who are shot from aircraft are often non-mortally wounded and thus subjected to unnecessary and prolonged suffering. Furthermore, if death is not verified (most often performed during carcass retrieval) it is impossible to know how many animals may have simply been injured or wounded, only to ultimately die of infection, starvation, shock, blood loss or dehydration, days or even weeks after being initially shot.

We acknowledge that there are limited occasions when aerial hunting, performed *only* by trained professionals for demonstrated public health or safety reasons, or for limited conservation purposes to protect threatened and endangered species in imminent harm, is arguable as a condition of last resort. There are many places throughout the islands where the terrain is inaccessible, the impacts to threatened and endangered plants and animals too severe, and the resources too limited for our conservation agencies to be able to use any other strategy to help conserve our treasured natural resources. Most importantly, we realize that in some circumstances other control methods employed, such as unattended snares or poisoning, would result in a far less humane death for the targeted animals.

We also know that hunting alone does not solve the larger feral animal over-population problem. Therefore, should the Committee decide to move this measure forward we appreciate your consideration of the below amendments. These amendments reference language currently in the federal Airborne Hunting Act, below, and attempt to address our greatest concerns regarding the possibility of unnecessary animal suffering due to non-mortal wounding which may occur during aerial control related activities.

I have also included 2 photos of cattle who were shot during a 2009 aerial control hunt in Hualalai, which created much concern within the Hawaii Island community. Given that humans were able to access this area other methods of removal should have been considered.

SECTION 1. Section 263-10, Hawaii Revised Statutes, is amended to read as follows:

"§263-10 Hunting from aircraft; penalty. (a) Any aeronaut or passenger who, while in flight in, across, or above the State, intentionally kills or attempts to kill any birds or animals shall be

guilty of a misdemeanor and punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both.

(b) Notwithstanding any other law to the contrary, state employees and independent contractors retained by the State may, while in flight in, across, or above the State, intentionally kill ~~or attempt to kill~~ any wildlife in furtherance of official state duties provided that actions taken under this section;

(1) shall be limited to

(a) remote and inaccessible areas, where non-aerial access to wildlife may pose hazard to human life and;

(b) the protection of public health or safety or the protection of threatened or endangered species in imminent harm

(2) Shall only occur when all other methods of removal have been documented and proven ineffective

(3) wherever possible, carcasses shall be removed and death verified to ensure wildlife has not escaped non-mortally wounded

(4) live wildlife cannot be captured and released to another location for subsequent removal

(5) the public shall be notified in advance of any aerial control activities proposed by the department

(6) the department shall file reports for any permits issued to or by the state for aerial control activities with the Secretary of the Interior and shall make such records available to the public upon request. The reports shall include but not be limited to;

(A) the name and address of each state employee or independent contractor retained by the state to whom a permit was issued;

(B) a description of the animals authorized to be taken thereunder, the number of animals authorized to be taken, and a description of the area from which the animals are authorized to be taken;

(C) the number and type of animals taken by each state employee or independent contractor retained by the state to whom a permit was issued; and

(D) the reason for issuing the permit.

Airborne Hunting Act (See: <https://www.fws.gov/laws/lawsdigest/AIRBORN.HTML>)

This Act, Public Law 92-159, approved November 18, 1971 (85 Stat. 480) and subsequently amended by P.L. 92-502, approved October 28, 1972 (86 Stat. 905) added to the Fish and Wildlife Act of 1956 a new section 13 ([16 U.S.C. 742j-1](#)), which is commonly referred to as the Airborne Hunting Act or Shooting from Aircraft Act, prohibits shooting or attempting to shoot or harrassing any bird, fish, or other animal from aircraft except for certain specified reasons, including protection of wildlife, livestock, and human life as authorized by a Federal or State issued license or permit. States authorized to issue permits are required to file reports with the Secretary of the Interior containing information on any permits issued.

Thank you for your consideration of these amendments

Testimony of The Nature Conservancy of Hawai'i
Supporting With Amendments H.B. 799 HD2 SD1 Relating to the Uniform Aeronautics Act
Senate Committee on Judiciary and Labor
Thursday, March 31, 2016, 9:30 AM, Room 016

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 40,000 acres in 14 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 across the islands.

The Nature Conservancy supports H.B. 799 HD2 SD1.

HRS §263-10, which prohibits aerial hunting, was passed by the Territorial Legislature in 1923 as part of a larger Uniform Aeronautics Act being adopted in mainland states at a time when the military was urging states to standardize basic civilian flying regulations. There is no evidence that the Territorial Legislature passed H.R.S. § 263-10 with the intention of limiting State action or even with the expectation that controlling animals in this way would be an important tool for meeting the State's public trust responsibilities a century into the future.

We agree that introduced wildlife resources need to be wisely managed both for their benefits and, in some cases, for the risks they pose. Hawai'i has an important history of hunting game mammals for food and recreation that should be perpetuated and even enhanced, but it is a modern history. With the exception of the Hawaiian bat, Hawai'i has no native land mammals. Wild pigs were introduced from Europe and Asia after 1778. The smaller Polynesian pig brought by the first Hawaiians is gone (except on Ni'ihau), crowded out by these later introductions.

While an important resource, wild pigs, goats, sheep, deer, and cattle are also a major threat to the health of some of our most important native forests and watersheds. Centuries before the introduction of game mammals, Hawai'i's native plants and animals evolved in geographic isolation to form the unique ecosystems that make up these islands. In the absence of predators, native species did not develop defenses such as thorns or other mechanism to deter browsing or rooting animals. As a result, our native forests have no natural defenses against wild mammals. Left unmanaged, feral ungulates can strip large areas of forest bare, contributing to erosion, sedimentation harmful to coastlines and coral reefs, and impairing the natural absorptive function of watersheds. The areas disturbed by these animals also create open soil for weed invasions, further enhancing the decline of native ecosystems and watershed values.

Through years of research, experimentation, and experience, it has been shown that the most effective management strategy for these animals is a multi-faceted approach including fencing, public hunting, staff hunting, live trapping, snares, and aerial shooting under strict safety protocols. In some accessible locations, hunting and live trapping are sufficient for ungulate control. However, many areas of important native forest and watersheds are remote, mountainous, or so vast as to make standard animal control techniques dangerous, impractical and, in some cases, impossible. Control of animals from helicopters is a proven safe and humane management tool in these types of instances; with DLNR following training, safety protocols and certifications that follow rigorous federal standards.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB799 on Mar 31, 2016 09:30AM
Date: Wednesday, March 30, 2016 4:15:00 PM

HB799

Submitted on: 3/30/2016

Testimony for JDL on Mar 31, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Taylor Au	Individual	Oppose	No

Comments: Hunting is a resource that should not be eradicated. This bill encourages the loss of hunting. Please save hunting, not destroy it.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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