

JAN 19 2018

A BILL FOR AN ACT

RELATING TO NUISANCES.

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

1 SECTION 1. The legislature finds that the continual
2 feeding of feral birds and pigeons leads to excessive filth and
3 odors from their droppings that often result in a health and
4 sanitation concern. Feral bird droppings may transmit fungal
5 and bacterial infections, such as histoplasmosis,
6 cryptococcosis, and psittacosis, especially to persons with
7 lowered immune systems. The filth from feral birds and pigeons
8 interferes with the use and enjoyment of private and public
9 outdoor facilities, creates undesirable conditions, damages and
10 depreciates property, makes walkways unsafe and unsanitary, and
11 potentially represents a public health hazard due to parasites
12 or disease that may be associated with the accumulation of feral
13 bird and pigeon filth, which should necessitate immediate
14 redress by the department of health to rectify such conditions.

15 The purpose of this Act is to require the department of
16 health to examine all feral bird and pigeon nuisance complaints,
17 and to provide the department of health with the authority to



1 order a property owner to remove any accumulation of excrement,
2 nesting materials, carcasses, and other odiferous and nuisance
3 detritus caused by excessive numbers of pigeons.

4 SECTION 2. Section 322-1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§322-1 Removal, prevention. The department of health and
7 its agents shall examine into all nuisances, foul or noxious
8 odors, gases or vapors, water in which mosquito larvae exist,
9 sources of filth, and all causes of sickness or disease, on
10 shore, and in any vessel, which may be known to them or brought
11 to their attention, which in their opinion are dangerous or
12 injurious to health, and into any and all conditions created or
13 existing which cause or tend to cause sickness or disease or to
14 be dangerous or injurious to health, and all feral bird or
15 pigeon nuisance complaints, and shall cause the same to be
16 abated, destroyed, removed, or prevented.

17 For purposes of this part, a nuisance shall include[+
18 (-1) ~~Toxic~~] toxic materials that are used in or by-products
19 of the manufacture or conversion of methamphetamine,
20 and clandestine drug labs that manufacture
21 methamphetamine [~~+~~and



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

3 For purposes of this part, "feral bird or pigeon nuisance"
4 means the accumulation of feral bird or pigeon droppings or
5 other related odors and filth, including the accumulation of
6 excrement, nesting materials, feral bird or pigeon carcasses,
7 and other related detritus."

8 SECTION 3. Section 322-2, Hawaii Revised Statutes, is
9 amended to read as follows:

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



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

14 The department may recover by appropriate proceedings the
15 expenses incurred by it in the abatement, removal, destruction,
16 [~~or~~] prevention, or cleaning, from any person who has caused or
17 allowed the nuisances, source of foul or noxious odors, gases or
18 vapors, water in which mosquito larvae breed, source of filth,
19 feral bird or pigeon nuisance, or cause of sickness or disease,
20 or other thing detrimental to the public health, and from any
21 owner, tenant, or occupant of the premises, who, after notice,



1 has failed to abate, remove, destroy, [~~or~~] prevent, or clean the
2 nuisance, source of foul or noxious odors, gases or vapors,
3 water in which mosquito larvae exist, source of filth, feral
4 bird or pigeon nuisance, or cause of sickness or disease, or
5 other thing detrimental to the public health within the time
6 specified in the notice. In no case shall the department or any
7 officer or agent thereof be liable for costs in any action or
8 proceeding that may be commenced in pursuance of this part."

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

11 "**§322-3 Nuisance on public property.** Whenever any
12 nuisance, foul or noxious odors, gases or vapors, water in which
13 mosquito larvae exist, source of filth, feral bird or pigeon
14 nuisance, or cause of sickness or disease is found on public
15 property or on a public highway, street, lane, alley, or other
16 public place, notice shall be given by the department of health,
17 or its agent, to the person officially in charge thereof, and
18 the person shall be notified to abate, destroy, remove, [~~or~~]
19 prevent, or clean the same. In case of failure to comply with
20 the notice, the mode of procedure shall be the same as



1 [hereinbefore] provided [~~in case of private persons~~] in section
2 322-2."

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

5 "§322-4 **Entering lands, buildings, etc.** Whenever any
6 member of the department of health deems it necessary for the
7 preservation of the lives or health of the public to enter any
8 land, building, vessel, or aircraft for the purpose of examining
9 into, abating, destroying, removing, [~~or~~] preventing, or
10 cleaning any nuisance, source of foul or noxious odors, gases or
11 vapors, water in which mosquito larvae exist, source of filth,
12 feral bird or pigeon nuisance, or cause of sickness or disease,
13 or other thing detrimental to the public health, and is refused
14 [~~such~~] entry, the member may make complaint to the district
15 judge in whose circuit the nuisance, source, place, or cause is,
16 and the district judge may thereupon issue a warrant, directed
17 to any police officer of the circuit, commanding the police
18 officer to take sufficient aid, and, being accompanied by the
19 member of the department, between the hours of sunrise and
20 sunset, to repair to the place described in the complaint, and



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1 to abate, destroy, remove, [øx] prevent, or clean, under the
2 directions of the member, the nuisance, source or cause."

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 2338

Report Title:

Feral Bird or Pigeon Nuisance; Filth; Cleaning of Nuisance;
Department of Health

Description:

Requires the department of health to examine into all feral bird and pigeon nuisance complaints and requires the department to order the owner to abate, destroy, remove, or prevent the nuisance and clean the filth resulting from a feral bird or pigeon nuisance. Defines "feral bird or pigeon nuisance".

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