



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony COMMENTING on HB 1909
RELATING TO NUISANCES**

REPRESENTATIVE JOHN M. MIZUNO, CHAIR
HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES

Hearing Date: January 30, 2018
Time: 9:30 AM

Room Number: 329

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health is concerned about the filth generated from
3 the feeding of feral birds and pigeons, which creates undesirable conditions. Sections 322-1,
4 322-2, 322-3 and 322-4, Hawaii Revised Statutes (HRS), require the Department of Health to
5 respond to complaints, abate, remove, and prevent nuisances resulting from odors and filth
6 caused by feeding feral birds, which in the opinion of the Department are dangerous or injurious
7 to health. The amendments to these sections proposed by House Bill 1909, which would apply a
8 new definition of “feral bird or pigeon nuisance” and specify that the Department has the
9 authority to order, and seek reimbursement from, owners to “clean” the filth cause by such
10 nuisances, does not provide the Department with any additional enforcement authority over and
11 above that which the existing sections already provide. Even without the proposed amendments,
12 the Department already has the authority to investigate into any “source of filth” (which may
13 include feral bird droppings) and order an owner to “remove and abate the same at the owner’s
14 own expense” (which may include cleaning).

15 In previous years, the difficulty the Department has had abating the nuisances associated with the
16 filth from feeding feral birds was not a lack of enforcement authority, but rather funding
17 deficiencies and nuisance bird feeders refusing to change their behavior. More recently, with the
18 hiring of additional Vector Control staff to fill positions created by the Legislature in 2017, the
19 Department has been more responsive to nuisance complaints. What the inspectors frequently

1 observe, however, is that the filth associated with feral bird-related nuisances is not only limited
2 to the property of the person feeding the birds, but is also on innocent neighbors' property where
3 birds will roost and create unsightly conditions. The nuisance feeders are also usually
4 uninterested in the Department's recommendations and continue feeding feral birds despite being
5 asked not to do so.

6 The Department appreciates the Legislature's commitment to strengthening the existing nuisance
7 law; however, the additional resources provided during last year's regular session are only now
8 being fully implemented. Given the recent hiring of additional Vector Control staff, the
9 Department respectfully recommends that it be given additional time to effectuate results without
10 amendments to part 1, chapter 322, HRS. If the Legislature wishes to add additional statutory
11 measures to address nuisance feral bird feeding activities, based upon the experiences of various
12 Department inspectors and their interactions with communities impacted by feral bird feeding
13 nuisances, the Department would respectfully recommend the creation of a new section in part V
14 of chapter 712, HRS, making the feeding of feral birds a violation for a first offense and a petty
15 misdemeanor for subsequent offenses. With four (4) inspectors hired only in the last 9 -11
16 months, and with many of them only now becoming acclimated to their new assignments, the
17 Department is confident that its ability to address feral bird nuisance complaints will greatly
18 improve even without amendments to chapter 322.

19 Thank you for the opportunity to testify.

Testimony on H.B. No. 1909
Hearing Date: January 30, 2018
Mary Wood

Although I have complained multiple times to my state senator and representative and my city council representative, I do not think this bill will be particularly helpful to anyone.

I strongly agree that pigeons are a nuisance and a health hazard, but this bill does not provide a solution. It merely amends §322-1 to (officially) add the task of investigation of pigeon nuisance to the state health department (which, in fact, it is already – unofficially - doing, and, in fact, it is already ill-equipped to handle).

I oppose this bill for the following reasons:

1. The standard it provides for action to require removal of pigeons is the “preservation of the lives or health of the public”. What does that mean? That is a very big order. Not only is it an objective judgment, but it certainly is not a good idea to allow things to get even close to the point that they threaten the lives or health of the public before the government can intervene. Our laws have failed us if they allow circumstances to get to that point.

Furthermore (and I say this understanding that the very nature of birds make it particularly difficult to control them or to connect them to any particular person or location. They flock when they hear the signal from their “human friend” that it is time to eat, arriving on the wires and waiting, circling and swooping down to their meal, and then flying away only to return for the next meal), it does not (and I have no solution as to how to make it) address other types of damage that can be caused by flocking pigeons, such as damage to roofs, solar panels and window frames. Pigeons will peck at composite roof shingles and wooden window frames. Their (seemingly endless) droppings also damage the paint on cars and run off roofs in the rain (to the point that you can’t walk on your own property without shoes or before cleaning it off). They nest in every nook and cranny they find near to their food source.

A clear subjective standard must be set to effectively mitigate this problem.

2. It provides for the removal of the pigeon filth, but it does not make it illegal to feed feral pigeons, or to harbor pigeons. Other than removal of the filth, there is no penalty for creating the nuisance. There is no penalty for repeat offences. A pigeon lover can clean up their area, and when things cool down, begin the same behavior. It does not discourage repeat offences, and leaves affected citizens with recurring problems without punishing those who create those problems.

We need a law that will:

A. Make it illegal to feed feral pigeons. Plain and simple!

B. Limit the number of feral pigeons allowed to be housed. §142-101 through 103 identifies certain types of domestic pigeons and requires permits and limitations as to the numbers of those types of pigeons that are allowed. Why can’t that be extended to feral pigeons? Chapter 7, Section 7-2.5 of the Honolulu Ordinances limits the numbers of dogs, chickens and peafowl that can be kept, so this is not a novel or impossible idea.

If somebody loves pigeons and wants to take care of a limited number, that should be their right, but they should be required to obtain a permit and be subject to strict limitations as to the numbers allowed. Furthermore, the ability to purchase pigeon feed and the amount allowed to be purchased should be linked to such permitting. §142-93 makes it illegal to harbor mongoose, and a mongoose is no more a nuisance than a pigeon.

3. Provide for fines for violations of the pigeon laws. §142-12 provides for penalties for those who violate the other provisions of §142. Negative reinforcement works.

This bill has no teeth. This bill will have no real effect. Please write a bill that will solve the problem rather than just tasking an already inefficient agency with yet another job, and without providing the tools and standards necessary to effect any solution.

You can and should do better.

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Submitted on: 1/30/2018 5:57:50 AM

Testimony for HHS on 1/30/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons		Comments	No

Comments:

While I am in general support of this measure, I have concerns regarding the definition of "feral bird". I agree, the overpopulation of pigeons in Oahu is creating a mess. Pigeons transmit diseases. I contracted a significant respiratory illness after cleaning my roof when one of my neighbors began feeding pigeons. It took 6 months to recover.

There are other birds, including chickens, peacocks, and almost any other flying creatures people call feral. I am concerned this will create an environment where neighbors will seek to eradicate all birds.

I ask the bill be amended to clearly define "feral bird" as pigeons.