
A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION TO
PROHIBIT DESTRUCTIVE LIVE-FIRE MILITARY TRAINING ON PUBLIC
LANDS.

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

1 SECTION 1. The legislature finds that the lands at Makua
2 valley, Kawailoa-Poamoho, Kahuku, Pohakuloa, and Waimea are
3 currently subject to leases with the United States military that
4 are set to expire between 2028 and 2031, and include former
5 crown and government lands of the Hawaiian Kingdom that must be
6 held in trust by the State "for the benefit of native Hawaiians
7 and the general public". Under article XI, section 1, and
8 article XII, section 4, of the Constitution of the State of
9 Hawaii, the State has the highest fiduciary duty to preserve and
10 maintain public trust lands, which includes kuleana to malama
11 aina and protect natural and cultural resources for present and
12 future generations.

13 The legislature further finds that destructive live-fire
14 military training is the use of real, fully functioning weapons
15 systems, whether individual or crew-served, that fire large
16 caliber munitions using standard, incendiary, high-explosive, or



1 inert ammunition, whether portable or vehicle-mounted, and
2 includes the discharge of actual ammunition such as shells,
3 rockets, bombs, explosives, and other ordnance as opposed to
4 blanks, simulators, or "dry fire" exercises. Destructive live-
5 fire military training encompasses heavy machine guns, crew-
6 served weapons, artillery, rocket launchers, shoulder-fired
7 missiles, hand grenades, grenade launchers, mortars, and
8 demolition charges.

9 The legislature also finds that the military's use of
10 public trust lands for destructive live-fire military training
11 is inconsistent with the State's constitutional duties. The
12 continued practice of destructive live-fire military training in
13 the State has the potential to ignite wildfires, contaminate
14 soil and water, scatter unexploded ordnance and debris, destroy
15 cultural and natural resources through high-velocity cratering,
16 shred vegetation, and desecrate the aina, and is antithetical to
17 the State's responsibility to protect and steward the State's
18 public trust lands.

19 The legislature recognizes that the Hawaii supreme court
20 held in *Ching v. Case*, 145 Haw. 148 (2019), that the State had
21 breached its constitutional public trust duties over ceded lands



1 by failing to reasonably monitor and inspect the United States
2 military's use of leased lands, inspections. However,
3 inspection of the Army's lease area at Pohakuloa remains limited
4 and covers only a fraction of the twenty-three thousand acres
5 under lease, while unexploded ordnance, shell casings, and
6 degraded lands persist across the training area. Similarly,
7 state-leased lands at Makua valley, proposed for return to the
8 State in 2029, remain highly contaminated with unexploded
9 ordnance, and many areas remain inaccessible to people.
10 Additionally, Kahuku and Poamoho, proposed for partial return to
11 the State upon expiration of the current lease in 2029 under the
12 Army's proposed modified retention alternative, remain highly
13 contaminated, as do current and former military-leased lands
14 used for live-fire training from Kahoolawe and Makua, to
15 Waikane, Kanewaa, and Kaula Island.

16 The legislature acknowledges that, due to the costs of
17 clean up and technological barriers to complete remediation,
18 many of the former live-fire training sites may never again be
19 fully accessible to the public land trust beneficiaries for
20 cultural, recreational, educational, or subsistence access and
21 use; productive economic use by the State; or any future Native



1 Hawaiian governing entity that may seek to pursue the
2 unrelinquished claims of Native Hawaiians to the former crown
3 and government lands of the Hawaiian Kingdom, even after the
4 lands are returned by the United States military.

5 Accordingly, the purpose of this Act is to propose an
6 amendment to the Constitution of the State of Hawaii to prohibit
7 destructive live-fire military training on public trust lands.

8 SECTION 2. Article XI of the Constitution of the State of
9 Hawaii is amended by adding a new section to be appropriately
10 designated and to read as follows:

11 **"DESTRUCTIVE LIVE-FIRE MILITARY TRAINING**

12 **Section .** No destructive live-fire military training
13 shall be conducted on the public trust lands identified in
14 section 4 of article XII.

15 For the purposes of this section:

16 "Destructive live-fire military training" means the
17 discharge of large caliber munitions employing standard,
18 incendiary, high-explosive, or inert rounds, whether portable,
19 crew-served, or vehicle-mounted."

20 SECTION 3. The question to be printed on the ballot shall
21 be as follows:



1 "Shall the Hawaii State Constitution be amended to
2 prohibit destructive live-fire military training--defined
3 as the discharge of large caliber munitions employing
4 standard, incendiary, high-explosive, inert rounds, whether
5 portable, crew-served, or vehicle-mounted--on the State's
6 public trust lands?"

7 SECTION 4. New constitutional material is underscored.

8 SECTION 5. This amendment shall take effect upon
9 compliance with article XVII, section 3, of the Constitution of
10 the State of Hawaii.

11

INTRODUCED BY:



By Request

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H.B. NO. 2100

Report Title:

Office of Hawaiian Affairs Package; Constitutional Amendment; Public Trust Lands; Destructive Live-Fire Military Training; Prohibition

Description:

Proposes a constitutional amendment to prohibit destructive live-fire military training on State public trust lands.

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