

A Bill for an Act Relating to Birds and Mammals.

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

**SECTION 1. Findings and declaration of necessity.** In the past 150 years, twenty-three out of sixty-eight bird species that occur naturally only in Hawaii have become extinct and twenty-nine of those that remain are considered threatened with extinction, primarily because of increased human use of the land and disturbances to native ecosystems.

These indigenous species of birds and mammals are an integral part of Hawaii's native ecosystems and are part of the living heritage of old Hawaii for they represent a natural resource of scientific, cultural, educational, environmental and economic value to future generations of Hawaii's people.

To insure the continued perpetuation of indigenous birds and mammals and their habitats for human enjoyment, for scientific purposes, and as members of ecosystems, it is necessary that the State take positive actions to enhance their prospects for survival.

**SECTION 2.** Chapter 191, Hawaii Revised Statutes, is hereby amended by adding a new part to be appropriately numbered and to read as follows:

**“PART BIRD AND MAMMAL CONSERVATION PROGRAM**

**Sec. 191-1 Definitions.** As used in this Act:

‘Department’ means the department of land and natural resources.

‘Endangered species’ includes any bird or mammal species whose population levels are being depleted or is subject to extinction because of increased human use of the land or disturbance to native ecosystems or as otherwise provided in sec. 191- 3.

‘Indigenous’ refers to all bird and mammal life growing or living naturally in Hawaii without having been brought here by man.

‘Management’ refers to the development, regulation, enforcement, con-

trol and other practices used to maintain or enhance indigenous bird or mammal populations.

**Sec. 191- 2 Protection and list of indigenous birds and mammals.** The department shall formulate programs for the conservation, management, and protection of indigenous birds and mammals. It shall, through the division of fish and game, conduct investigations of such species and their associated ecosystems in order to develop information relating to estimates of population, habitat, range and other biological data necessary to determine the status of indigenous birds and mammals. On the basis of such data, the department shall compile a list of all indigenous birds and mammals, giving their common, Hawaiian, and scientific names, range and distribution. The compilation shall be kept current based on all available scientific data. It shall be unlawful to take, possess, transport, export, process, sell, or offer for sale any bird or mammal on the list of indigenous species except as provided by rules and regulations promulgated by the department.

**Sec.191- 3 Endangered species.** An indigenous bird or mammal species shall be regarded as endangered whenever the department, pursuant to chapter 91, determines that such bird or mammal is threatened with extinction, or will likely within the foreseeable future be threatened with extinction, throughout the State or on any island or islands within the State, based on the results of investigations by the division of fish and game and other scientific data, and after consultation with other competent authorities, appropriate federal agencies, and other interested persons and organizations. Any indigenous bird or mammal shall be considered as endangered upon findings by the department that the following conditions exist:

- (1) the destruction, modification, or curtailment of its habitat or native ecosystem;
- (2) its overutilization or overexploitation;
- (3) the effect on it of disease or predation;
- (4) the inadequacy of existing regulatory mechanisms;
- (5) other natural or man-made factors affecting its continued existence and its survival requires assistance.

**Sec. 191- 4 List of endangered birds and mammals.** The department shall compile and keep current, a list of those species of indigenous birds and mammals that are determined to be endangered species. The compilation shall include their common, Hawaiian, and scientific names; distribution by area, island or islands where the species is endangered; and altitude of range, if appropriate. The bird and mammal species indigenous to Hawaii that are contained in the United States' List of Endangered Native Fish and Wildlife as it appears on the effective date of this Act (Part 17 of Title 50 of the Code of Federal Regulations, Appendix D) shall be adopted and incorporated by reference into the list of endangered species of birds and mammals indigenous to Hawaii.

**Sec. 191- 5 Amendment of endangered list.** The department shall, pursuant to chapter 91, upon its own recommendation or upon the petition of three interested persons, conduct a departmental review of any bird or mammal

species proposed to be added or removed from the endangered list. The department shall conduct a review of the endangered list from time to time for the purpose of submitting a biennial report to the governor on the endangered list of birds and mammals and any amendments which have been made to the list during the interim period.

**Sec. 191- 6 Programs for indigenous birds and mammals and endangered species.** (a) The department shall conduct research on indigenous birds and mammals and on endangered species and their associated ecosystems, and shall utilize the land acquisition and other authority vested in the department to carry out programs for the conservation, management, and protection of such species and their associated ecosystems. In addition, the department is hereby authorized to acquire by purchase, donation or otherwise, lands or interests therein needed to carry out the programs relating to the intent and purpose of this Act.

(b) The office of the governor shall review other programs administered by the department and, to the extent practicable, utilize such programs in furtherance of the purposes of this section. The governor or his authorized representative shall also encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section by carrying out programs for the protection of endangered species and by taking such action as may be necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of endangered species.

(c) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies and with the counties for administration and management of any area established under this section or utilized for conserving, managing, enhancing, or protecting indigenous birds and mammals and endangered species.

(d) In carrying out programs authorized by this section, priority shall be given to the conservation and protection of those endangered bird and mammal species and their associated ecosystems whose extinction within the State would imperil or terminate, respectively, their existence in the world.

(e) The department shall coordinate with the natural area reserves commission and the animal species advisory commission all research, investigations, lists of indigenous and endangered birds and mammals, and programs for the conservation, management, enhancement and protection of such species that are authorized by this Act.

(f) The department may permit, under such terms and conditions as are adopted by regulation, the taking, possession, transportation or exportation of any indigenous bird or mammal on the endangered list for zoological, educational, or scientific purposes and for propagation of such species in captivity for preservation purposes.

**Sec. 191- 7 Regulations.** The department shall adopt rules and regulations, pursuant to chapter 91, necessary for the purposes of this Act.

**Sec. 191- 8 Enforcement and penalties.** Any person who violates the provisions of this Act, or any regulations issued pursuant thereto or whoever violates the terms of any permit issued thereunder, shall be imprisoned not more than six months or fined not more than \$500, or both.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1972.)