

ACT 144

S.B. NO. 3001

A Bill for an Act Relating to Wildlife.

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

SECTION 1. The purpose of this Act is to prohibit the interisland transportation of wild or feral deer.

SECTION 2. Chapter 183D, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

“§183D- Interisland transportation and possession of wild or feral deer prohibited. No person shall intentionally, knowingly, or recklessly possess, transfer, transport, or release after transport through interisland movement any live wild or feral deer unless permitted by the department or other department of the State.”

SECTION 3. Section 183D-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:
““Feral deer” means a deer that has escaped or been released from domestication and is living in a wild and unconfined state.

“Possess” means to place under direct physical control, restraint, or confinement.

“Release” means to free an animal from effective confinement or restraint.”

SECTION 4. Section 183D-5, Hawaii Revised Statutes, is amended to read as follows:

“§183D-5 Penalties. (a) Any person violating section 183D-21, 183D-25, 183D-33, or 183D-63 or any rule adopted under this chapter shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$100, or imprisonment of not more than thirty days, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of ~~[such]~~ the violations shall be considered contraband to be forfeited to and disposed of by the State; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of ~~[such]~~ the violations shall be considered contraband to be forfeited to and disposed of by the State.

(b) Any person violating section 183D-25.5, 183D-26, 183D-27, 183D-32, 183D-62, or 183D-64 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction by a mandatory fine of not less than \$200, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than one year, or both, and all firearms used in the commission of ~~[such]~~ the violations shall be considered contraband to be forfeited to and disposed of by the State; and

- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$2,000, or by imprisonment of not more than one year, or both, and all firearms used in the commission of ~~[such]~~ the violations shall be considered contraband to be forfeited to and disposed of by the State.

(c) Any person who violates section 183D- shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$10,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$15,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$25,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both.

~~(e)~~ (d) Any person who violates section 183D-35, 183D-36, 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be fined not less than \$100 or imprisoned not more than thirty days, or both.

~~(d)~~ (e) In addition to any other penalty imposed under this section, a mandatory fine of \$100 shall be levied for each bird illegally taken under this chapter and a mandatory fine of \$500 shall be levied for each mammal illegally taken under this chapter.

~~(e)~~ (f) Any person who is convicted of violating any of the game laws of the State shall immediately have ~~[their]~~ the person's hunting license forfeited and any person convicted for a second offense shall not be granted a license to hunt for a period of three years after the date of the second conviction.

~~(f)~~ (g) The court, in lieu of the actual cash payment of any mandatory fine, may allow the defendant to perform ~~[such]~~ the community service as directed by the department of land and natural resources at the rate of one hour of service for every \$10 of mandatory fine imposed.

~~(g)~~ (h) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 21, 2012.)

Note

1. Edited pursuant to HRS §23G-16.5.