



**HB1921 HD1**  
**RELATING TO HUNTING**  
Ke Kōmike Hale o ka Ho‘okolokolo

Pepeluali 24, 2020

2:00 p.m.

Lumi 325

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The Office of Hawaiian Affairs (OHA) **OPPOSES** HB1921 HD1, insofar as it would require individual hunters on private lands to first obtain written permission to hunt from the landowner, occupier, or holder of such lands.

Many Native Hawaiians currently engage in hunting for subsistence and other purposes as a traditional and customary practice. The Hawai‘i Constitution, Supreme Court, and this Legislature consistently protect the perpetuation of these practices as a living component of the Hawaiian culture. However, while Native Hawaiians may reasonably engage in such practices on less-than-fully-developed lands notwithstanding certain trespassing and other laws, the written permission requirement of this bill may unduly burden practitioners who wish to do so, while also complying with statutory provisions.

**Hunting remains an important cultural and subsistence practice for Native Hawaiians, many of whom may rely more heavily than others on wild-caught game.** This reliance may be particularly pronounced in rural areas, as illustrated in the report issued by the Governor’s Moloka‘i Subsistence Task Force. This report found that **Hawaiian families on Moloka‘i rely heavily upon subsistence practices to supplement meager incomes, deriving up to 38% of their food from these activities.** Such practices rely primarily upon wildlife game that is abundant on privately owned land, because game on public lands is too scarce to be reliably hunted. The report further found that subsistence activities, including hunting, were critical to the persistence of the Hawaiian cultural customs and values for which Moloka‘i and other rural, kīpuka communities are reknowned for. Updated data from 2014 found that Native Hawaiians on Moloka‘i continue to **share the sentiment that subsistence is “very important” for their families’ livelihood. Notably, Moloka‘i would be particularly impacted by this measure, given the substantial amount of land on the island that is currently owned by a foreign, landowning corporation, from whom written permission could be very difficult to procure.**

OHA appreciates this bill’s desire to protect the property rights of private landowners. However, **the written permission requirement of this bill may create substantial burdens for practitioners who wish to both engage in cultural hunting practices, while also avoiding the risk of arrest.** For example, as much as 90% of

Hawai'i's private lands are owned by 10-12 large landowners (Proceedings of the Constitutional Convention of Hawai'i of 1978), whose explicit, written permission may be much more difficult to obtain than an implicit or verbal agreement. Large landowners who may otherwise wish to permit or even promote hunting on their lands may also be discouraged from doing so, by the inconvenience or liability inherent in a written permission requirement. Thus, while the Constitution broadly protects traditional and customary hunting activities, practitioners who are not able to obtain the written permission of landowners or occupiers could experience a chilling effect, as they would bear the burden of proving their rights to enforcement agents and prosecutors who may not understand the complex legal authority protecting their practices.

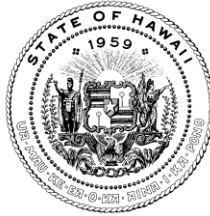
**Finally, OHA notes that this measure may exacerbate the disparate impact of the criminal justice system on Native Hawaiians, by increasing the risk of arrest for Native Hawaiian subsistence practitioners, including those who may not even intend to enter onto private lands.** As described in OHA's criminal justice 2010 report, Native Hawaiians are overrepresented in every stage of the criminal justice process, being more likely than any other racial or ethnic group to be arrested, convicted, receive longer probation terms, receive more and longer prison sentences, and be sent to an out-of-state facility.<sup>1</sup> Given the open and often undemarcated boundaries between private and public lands, even hunters who unintentionally enter private land may find themselves liable to arrest and potential prosecution, due to their lack of explicit, written permission. The higher likelihood of Native Hawaiians to be engaged in subsistence hunting practices suggests that Native Hawaiians may be disproportionately subject to such liability.

In light of these concerns, OHA urges the Committee to **HOLD** HB1921 HD1. Mahalo for the opportunity to testify on this measure.

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<sup>1</sup> THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), [http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09\\_exs\\_disparatetreatmentofnativehawaiians\\_rd-ac.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09_exs_disparatetreatmentofnativehawaiians_rd-ac.pdf).

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
JUDICIARY**

**February 24, 2020  
2:00 PM  
State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 1921, HOUSE DRAFT 1  
RELATING TO HUNTING**

House Bill 1921, House Draft 1 proposes to require any hunting guide or hunter to obtain and submit to the Department of Land and Natural Resources (the Department) written permission from any private landowner upon which the hunting guide or hunter is engaged in guiding or hunting activities. It also requires the Division of Forestry and Wildlife to create and make available to the public a written permission form to be completed and filed by any hunting guide or hunter. **The Department supports the intent of this measure and offers comments and amendments.**

Section 183D-26(a), Hawaii Revised Statutes, states that no person shall enter upon any land or premises belonging to, held, or occupied by another, for the purpose of hunting or to take any kind of wildlife including game without first having obtained permission from the owner or a duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

As such, the department suggests the removal of the requirements that the Department verify the land owner listed on any written permission form and mail a copy of the permission form and comprehensive listing to each landowner listed on the form, as this requirement would be unduly burdensome on the Department.

Specifically:

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

SECTION 1. Section 183D-25.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[\S183D-25.5]~~ **Hunting guides; licensing and reporting requirements.** (a) No person shall engage in the business of soliciting and guiding clients for the purpose of taking any game bird or mammal without first procuring a hunting guide license.

(b) A hunting guide license shall be issued to any person who possesses a valid state hunting license and registers with the department; provided that hunting guides shall provide service only to clients with a current state hunting license, unless the client is otherwise exempted by the department.

(c) Prior to guiding any client for the purpose of hunting or taking any game bird or mammal on any land or premises belonging to, held, or occupied by another, a hunting guide shall obtain written permission from each landowner upon which the hunting guide engages in guide activities. Hunting guides shall:

- (1) Submit to the department's division of forestry and wildlife the written permission form obtained from the landowner based upon which the hunting guide engages in guide activities;
- (2) Provide the department's division of forestry and wildlife with a comprehensive listing of all lands or premises belonging to, held, or occupied by another, upon which the hunting guide engages in guide activities; provided that this listing shall include the street address or tax map key number of each parcel of land; and
- (3) Carry a copy of the written permission obtained and filed pursuant to this section at all times when engaging in guide activities as a condition of their permit.

~~[(d) The department shall:~~

- ~~(1) Verify the land owner listed on any written permission form or comprehensive listing submitted pursuant to this section; and~~
- ~~(2) Mail a copy of the written permission form and comprehensive listing to each landowner listed on any written permission form or comprehensive listing submitted pursuant to this section that includes the landowner's parcel of land.~~

~~(e)] (d) Hunting guides shall provide an annual report to the department of their guide activities that shall include the number of clients served and the clients' residency status. The reports shall be submitted within thirty days after the expiration of the hunting guide license issued pursuant to this section. The failure to submit an annual report within the time specified shall be grounds for the revocation and nonrenewal of the hunting guide license."~~

SECTION 2. Section 183D-26, Hawaii Revised Statutes, is amended to read as follows:

"**\S183D-26 Hunting on private lands prohibited.** (a) No person shall enter upon any land or premises belonging to, held, or occupied by another, for the purpose of hunting or to take any kind of wildlife including game without first having obtained written permission from the

owner or a duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the written permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

(b) Written permission obtained pursuant to subsection (a) shall be filed with the department's division of forestry and wildlife as part of the hunting guide permitting process. Each person, while hunting or taking any kind of game including wildlife on any land or premises belonging to, held, or occupied by another, shall carry a copy of the written permission obtained and filed pursuant to this section. [The department shall:

- (1) Verify the landowner listed on any written permission form submitted pursuant to this section; and
- (2) Mail a copy of the written permission form to each landowner listed on any written permission form submitted pursuant to this section that includes the landowner's parcel of land.

~~(b)~~ (c) No prosecution shall be brought under this section, except upon the sworn complaint of the owner, occupier, or holder of the land or premises, or a duly appointed agent, or if the owner, occupier, or holder is either a corporation or a partnership, then the complaint shall be sworn to by an officer of the corporation or by one of the members of the partnership."

SECTION 3. The division of forestry and wildlife of the department of land and natural resources shall create and make available to the public a written permission form that may be completed and filed in accordance with this Act by any person engaged in hunting on private lands as an individual hunter or serving as a hunting guide.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 6. This Act shall take effect on July 1, 2050.

Thank you for the opportunity to comment on this measure.



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February 24, 2020

HEARING BEFORE THE  
HOUSE COMMITTEE ON JUDICIARY

**TESTIMONY ON HB 1921, HD1**  
RELATING TO HUNTING

Room 325  
2:00 PM

Aloha Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

**The Hawaii Farm Bureau supports HB 1921, HD1**, which requires any hunting guide or hunter to obtain and submit to the Department of Land and Natural Resources written permission from any private landowner upon which the hunting guide or hunter is engaged in guide or hunting activities. It also requires the Division of Forestry and Wildlife of the Department of Land and Natural Resources to create and make available to the public a written permission form to be completed and filed by any hunting guide or hunter engaged in guide activities or hunting on private lands.

This bill does NOT in any way prohibit hunting on private lands. What it does do is separate the legitimate hunter from the criminal trespasser.

This bill is necessary because the current situation is extremely dangerous for both the landowner and the hunter. Over the last several years, incidents of livestock slaughtering, theft, vandalism, crop destruction, and poaching have become commonplace on farms and ranches on every island. These illegal activities must be stopped; however, the current laws relating to hunting are confusing and not easily enforced. Criminals have learned that there is no practical enforcement of the laws to prevent armed thieves and vandals from trespassing, stealing, and destroying other's livelihoods. If caught, these miscreants claim to be hunters and state that they had verbal permission to be on the property.

The burden should never be on the rancher or farmer to prove that he *did not* give permission to a gun-wielding trespasser to access his property.

Without knowing the intent of an armed trespasser on his property, a farmer or rancher may reasonably believe that the trespasser is there to steal his equipment, his livestock, or his crops. He may even think that his home and family are threatened and this could lead him to take steps to protect them. This scenario is just too dangerous for both a legitimate hunter and the farmer, and it can be avoided by the simple act of obtaining prior permission, in writing, so there is no confusion or misunderstanding.

A legitimate, law-abiding hunter would have no justification to object to this measure since he is already required by law to have permission from the landowner.

For many years, the Hawaii Farm Bureau has worked with police, prosecutors, and the Department of Land and Natural Resources to find a solution to trespass, theft, and vandalism problems. We respectfully request that this committee pass HB 1921, HD1 to clarify and help enforcement of the current laws that ALREADY prohibit trespass and prohibit hunting without permission. Please don't let another year go by without addressing the concerns of our farmers and ranchers. We sincerely believe that this can be done without penalizing legitimate hunters.

Thank you very much for your support of Hawaii's farmers and ranchers.

**HB-1921-HD-1**

Submitted on: 2/23/2020 10:27:31 AM

Testimony for JUD on 2/24/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nicole K Galase	Hawaii Cattlemen's Council	Support	No

Comments:



**LATE**

**HB-1921-HD-1**

Submitted on: 2/23/2020 6:51:33 PM  
Testimony for JUD on 2/24/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB1921. Requiring permission for hunting is not only safer for untargeted animals but people as well.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei, Maui