

**UNOFFICIAL COPY**

An official copy can be  
obtained from the DLNR  
808-587-0166

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5

FORESTRY AND WILDLIFE

PART 2

WILDLIFE

CHAPTER 124

INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED  
WILDLIFE, INJURIOUS WILDLIFE, INTRODUCED WILD BIRDS,  
AND INTRODUCED WILDLIFE

Subchapter 1 General Provisions

§13-124-1	Purpose
§13-124-2	Definitions
§13-124-2.1	Revocation of permits
§13-124-2.2	Compliance with laws
§13-124-2.3	Exemption
§13-124-2.4	Severability

Subchapter 2 Indigenous, Injurious, Introduced  
Wild Birds, and Introduced Wildlife

§13-124-3	Prohibited activities
§13-124-4	Scientific, propagation, and educational permits
§13-124-5	Repealed
§13-124-6	Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals

- §13-124-7 Crop damage, nuisance, and threat to  
human health and safety permits  
§13-124-8 Penalty

Subchapter 3 Endangered and Threatened  
Wildlife

- §13-124-11 Prohibited activities  
§13-124-12 Scientific, propagation, and  
educational permits  
§13-124-13 Penalty

Historical Note: Chapter 13-124, Hawaii  
Administrative Rules, is based substantially upon  
Regulation 18 of the Division of Fish and Game,  
Department of Land and Natural Resources. [Eff 8/10/53;  
am 10/10/55; am 3/28/58 and ren Regulation 6; am  
9/8/73; R 3/22/82]

SUBCHAPTER 1

GENERAL PROVISIONS

§13-124-1 Purpose. The purpose of this  
chapter is to conserve, manage, protect, and enhance  
indigenous wildlife; and manage introduced wild  
birds. [Eff 3/22/82; am and comp 8/28/86; am and comp  
3/2/98; comp **FEB272015** ] (Auth: HRSS§ 183D-2, 183D-  
3, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRSS§ 183D-  
2, 183D-3, 195D-3, 195D-4, 195D-6)

§13-124-2 Definitions. As used in this chapter  
unless the context requires otherwise:

"Agriculture" means the production of crops which  
are planted, cultivated, and harvested for food,  
ornamental, grazing, cultural, medicinal or forest  
purposes.

"Aquaculture" means the farming or ranching of

aquatic life in a controlled salt, brackish, or fresh water environment; provided that the farm or ranch is on or directly adjacent to land.

"Board" means the board of land and natural resources.

"Crops" means a plant or animal or product thereof that can be grown and harvested for profit or subsistence.

"Cultural use" means use for traditional native Hawaiian practices.

"Department" means the department of land and natural resources.

"Domestic animal" means any of various animals which have been domesticated by humans in a condition mainly dependent on humans.

"Endangered wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as endangered and any species, subspecies, or population of indigenous wildlife listed in, but not limited to the exhibit entitled "Exhibit 2, Chapter 13-124, List of Species of Endangered Wildlife in Hawaii 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Export" means shipment to any point outside the State.

"Feral" means having escaped or been released from domestication and reverted to a wild state.

"Game birds" means those birds designated by statute or rule for hunting.

"Game mammals" means those mammals designated by statute or rule for hunting.

"Indigenous wildlife" means any species or subspecies of animal, including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Injurious wildlife" means any species or subspecies of animal which is known to be harmful to

agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard and is listed in the exhibit entitled "Exhibit 5, Chapter 13-124, List of Species of Injurious Wildlife in Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference; and as established and designated by the board as injurious wildlife.

"Introduce" means an act of releasing wildlife into a habitat to which it is not indigenous.

"Introduced wild birds" means any non-domesticated species of birds introduced or imported to Hawaii by humans and living in a wild state other than game birds, including, but not limited to, species listed in the exhibit entitled "Exhibit 4, Chapter 13-124, Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Introduced wildlife" means any wildlife introduced or imported to Hawaii by humans.

"Non-domesticated animal" means any of various animals that have not been domesticated by humans and that are in a condition mainly independent of humans.

"Plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

"Release" means to free an animal from confinement or restraint.

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect endangered or threatened species of wildlife, or to attempt to engage in any such conduct.

"Threatened wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as threatened and any species, subspecies, or population of indigenous wildlife listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, List of Species of Threatened Wildlife in Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Wildlife" means any member of any non-

domesticated species of the animal kingdom, and game mammals and game birds living in a wild and non-domesticated state, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp **FEB272015** ] (Auth: HRS §§ 183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-2.1 Revocation of permits. Any permit issued pursuant to this chapter shall be revocable for good cause and shall be nonassignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the date of revocation. [Eff and comp **FEB 272015**] (Auth: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6, 195D-8, 195D-9)

Historical note: §13-124-2.1 is based substantially upon §13-124-7.1. [Eff 3/2/98; R **FEB272015**]

§13-124-2.2 Compliance with laws. All persons applying for and receiving permits under this chapter shall comply with all federal, state, and county laws, rules, and required permits or licenses. [Eff and comp **FEB272015**] (Auth: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-8, 195D-9)

Historical note: §13-124-2.2 is based

substantially upon §13-124-7.2. [Eff\_3/2/98; R FEB272015]

§13-124-2.3 Exemption. This chapter shall not apply to any activity involving indigenous, endangered, or threatened wildlife which was held in captivity, or in a controlled environment on May 10, 1975; provided that the purposes of the holding were not contrary to the purposes of chapter 195D, HRS, and that the wildlife were not held for sale or resale. [Eff and comp FEB272015] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6)

Historical note: §13-124-2.3 is based substantially upon §13-124-9. [Eff and comp 8/28/86; am and comp 3/2/98; R FEB272015]

§13-124-2.4 Severability. These rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons or property shall not be affected. [Eff and comp FEB272015] (Auth: HRS §§183D-2, 183D-3, 195D-6, 195D-10) (Imp: HRS §§183D-2, 183D-3, 195D-6, 195D-10)

Historical note: §13-124-2.4 is based substantially upon §13-124-10. [Eff 3/2/98; R FEB272015]

## SUBCHAPTER 2

### INDIGENOUS, INJURIOUS, INTRODUCED WILD BIRDS, AND INTRODUCED WILDLIFE

§13-124-3 Prohibited activities. (a) With respect to indigenous wildlife and introduced wild birds, and except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to:

- (1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof; or
- (2) Export any such species, or any young or egg, or the dead body or skin thereof from the State.

The prohibitions against the destruction of wild birds shall not apply to those introduced wild birds listed as injurious wildlife.

(b) No person shall remove, damage, or disturb the nest of any indigenous wildlife except as provided in subsection (e) or as permitted by the department.

(c) With respect to injurious wildlife, except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to:

- (1) Release injurious wildlife into the wild;
- (2) Transport live injurious wildlife to islands or locations within the State where they are not already established and living in a wild state; or
- (3) Export any such species, or the dead body or parts thereof, from the State.

(d) With respect to introduced wildlife, except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to, release introduced wildlife.

(e) The prohibited activities in this section shall not apply to:

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its

authorized representative and as provided elsewhere in this chapter. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp **FEB272015**] (Auth: HRS §§183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-6)

§13-124-4 Scientific, propagation, and educational permits. Permits for collecting, possessing, killing, selling or offering for sale, and transporting indigenous wildlife, introduced wild birds, game birds, or game mammals may be issued by the board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp **FEB272015**] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-5 REPEALED. [R 3/2/98]

§13-124-6 Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals. Permits may be issued by the board or its authorized representative to qualified persons who apply in writing to maintain indigenous wildlife, introduced wild birds, game birds, or game mammals in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent with the preservation, protection, and conservation of the animals. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp **FEB272015**] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6)



§13-124-7 Crop damage, nuisance, and threat to human health and safety permits. (a) Provided that no such permit shall be required on private land for game mammals when otherwise in compliance with chapter 123, the board or its authorized representative may issue permits to destroy or otherwise control game birds, game mammals, introduced wildlife, or introduced wild birds causing substantial damage to agricultural or aquacultural crops, indigenous plants or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
- (2) Permits shall state the species and may specify the number to be destroyed and the method of control to be used. The permit may include other terms and conditions as may seem proper and applicable;
- (3) Permits for restricted use pesticides may be issued only after an integrated animal damage control plan has been submitted to and approved by an authorized agent of the department; or
- (4) When species of introduced wildlife are found to be generally harmful or destructive to agriculture or aquaculture, native plants or wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of the species in any area for a specified time period without requiring permits or reports.

(b) The board or its authorized representative may issue permits to destroy or otherwise control indigenous wildlife other than threatened and endangered species, causing substantial damage to agricultural or aquacultural crops, indigenous plants or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
  - (2) Permits shall state the species to be destroyed or taken; the method of control to be used; the maximum number of individuals of each species to be destroyed or taken; and the disposition of individuals destroyed or taken. The permit shall include other terms and conditions as may seem proper and applicable; and
  - (3) Permits to destroy indigenous wildlife shall be issued only after significant efforts to haze or non-lethally deter the pest animals have been attempted and proved ineffective.
- (c) Permittees shall submit monthly summary reports to the department on forms provided or facsimiles that include:
- (1) The common name of the target and non-target wildlife taken;
  - (2) The number of each wildlife species;
  - (3) The disposition of the wildlife; and
  - (4) Any other information required by the permit.
- (d) Failure to submit monthly reports is grounds for cancellation of permits by the board or its authorized representative.
- (e) No permit shall be issued or used for the destruction of any endangered or threatened species of wildlife.
- (f) Permits may only be amended or otherwise altered by the board or its authorized representative. A copy of the amendment and written approval must be attached to the permit.
- (g) No permit is required merely to scare or herd depredating wildlife other than endangered or threatened species of wildlife. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp FEB 27 2015]

(Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

(Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-8 Penalty. (a) Any person violating any part of this subchapter 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 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 violations shall be considered contraband to be forfeited to and disposed of by the State.

(b) 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.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS section 183D-10.5.

(d) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative costs of the department or payment for damages or for the cost to correct damages resulting from a violation of HRS subtitle 4 of title 12 or any

rule adopted thereunder. The administrative fines shall be as follows:

- (1) For a first violation, by a fine of not more than \$10,000;
- (2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and
- (3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife taken, killed, injured, or damaged in violation of HRS subtitle 4 of title 12 or any rule adopted thereunder.

(f) Any criminal action against a person for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder 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 HRS 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.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, business record or natural resource used or taken in violation of the provisions of this chapter may be seized and subject to forfeiture as provided by HRS section 199-7 and chapter 712A. [Eff 3/22/82; am and comp 8/28/86; comp 3/2/98; am and comp **FEB 27 2015**] (Auth: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199-7, 712A-4, 712A-6) (Imp: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199-7, 712A-4, 712A-6)

SUBCHAPTER 3

ENDANGERED AND THREATENED WILDLIFE

§13-124-11 Prohibited activities. (a)

With respect to endangered and threatened species of wildlife except as provided in subsection (c) or as permitted by the department, no person shall or attempt to:

- (1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State; or
- (2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.

(b) No person shall remove, damage, or disturb the nest of any endangered or threatened species except as provided in subsection (c) or as permitted by the department.

(c) The prohibited activities in this section shall not apply to:

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter. [Eff and comp FEB 27 2015] (Auth: HRS §§183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-12 Scientific, propagation, and educational permits. (a) Permits for collecting, possessing, killing, selling or offering for sale, and transporting threatened wildlife may be issued by the

board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species.

(b) Permits to take, possess, process, sell or offer for sale, transport, or export any endangered species of wildlife may be issued only for scientific purposes or to enhance the propagation or survival of the wildlife species, except permits to possess legally obtained endangered species may be issued for educational purposes which enhance the survival of that species. [Eff and comp FEB 27 2015] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-6, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-13 Penalty. (a) Any person who violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished as follows:

- (1) For a first offense by a fine of not less than \$250 or by imprisonment of not more than one year, or both; and
- (2) For a second or subsequent offense within five years of a previous conviction by a fine of not less than \$500 or by imprisonment of not more than one year, or both.

(b) In addition to the above penalties, except for violations under approved habitat conservation plans under section HRS 195D-21 or approved safe harbor agreements under section HRS 195D-22 as determined by the board, a fine of \$5,000 for each specimen of a threatened species and \$10,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS 183D-10.5.

(d) Except as otherwise provided by law, the board or its authorized representative by proper delegation is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative fees and costs as documented by receipts or affidavit, including attorneys' fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorneys' fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter. The administrative fines shall be as follows:

- (1) For a first violation, a fine of not more than \$2,500;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$5,000; and
- (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$10,000.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife or plant taken, killed, injured, or damaged in violation of this chapter.

(f) 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 this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, business record or natural resource used or taken in violation of the provisions of this chapter may be seized and subject to forfeiture as provided by HRS section 199-7 and chapter 712A. [Eff and comp FEB272015] (Auth: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6) (Imp: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of chapter 124, title 13, Hawaii Administrative Rules Regulating Indigenous Wildlife, Endangered and Threatened Wildlife, Injurious Wildlife, Introduced Wild Birds, and Introduced Wildlife on the Summary Page dated December 12, 2014 were adopted on December 12, 2014 following public hearings held on March 27, 28, and April 1, 2, 3, 4 and 5 after public notice was given on February 17, 2013, in the Sunday editions of The Honolulu Star-Advertiser, The Garden Island, The Maui News, West Hawaii Today, and Hawaii Tribune-Herald.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

/S/ Carty S. Chang  
CARTY S. CHANG  
Chairperson of the Board  
Land and Natural Resources

/S/ David Ige  
David Ige  
Governor  
State of Hawaii

Date: Filed with the Office  
of Lieutenant Governor,  
February 17 2015

Approved as to form

/S/ Linda Chow  
Deputy Attorney General