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BEFORE THE HOUSE SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND OCEANS
COMMITTEE ON NATURAL RESOURCES
JUNE 26, 2008
10:00 A.M.

H.R. 6311
THE NON-NATIVE WILDLIFE INVASION PREVENTION ACT

Chairperson Bordallo and Members of the Subcommittee:

Thank you for the opportunity to provide testimony on H.R. 6311.

The purpose of this bill is to prevent the introduction and establishment of non-native wildlife species that negatively impact the economy, environment, or human or animal species' health. The Hawaii Department of Agriculture strongly supports this bill.

The impact of the high rate of non-native introductions has already been felt in the State of Hawaii. Of all the birds and plants known to have gone extinct in the United States, over 72% are from Hawaii. Yet, there is much more to be lost. The native plants and animals of Hawaii are among the most endangered in the world. Hawaii has 282 listed threatened and endangered species including 150 species with fewer than 50 living. And of these, 11 species have fewer than 5 left on earth.

Stopping the influx of new detrimental non-native species and containing their spread is essential to Hawaii's and the Nation's future well-being. The present problem is severe and the future is uncertain. Only legislation, such as this measure, will begin to address the continued loss of our Nation's natural resources.

State laws and regulations governing the entry of new plant and animal species are intended to protect agriculture, environment, including native biota, and public health. As the "first line of defense," approximately \$5-6 million in state money is spent on prevention efforts. For over fifty years, our Department has had in place a risk-based system, such as the one envisioned in this bill, to allow safe introductions to continue and to prevent detrimental introductions from entering the State.

Chapter 150A, Hawaii Revised Statutes (HRS), short titled as the “Hawaii Plant Quarantine Law” provides the authorities for the Hawaii Department of Agriculture to regulate the importation of plants, non-domestic animals and microorganisms that are allowed entry into the State of Hawaii. For the purposes of the Non-Native Wildlife Invasion Prevention Act (H.R. 6311), this discussion will cover only the authorities that govern non-domestic animals. The term, “animal” as used under section 150A-2, HRS, is defined as follows:

“Animal” means any invertebrate and vertebrate species of the animal kingdom including but not limited to mammal, bird, fish, reptile, mollusk, crustacean, insect, mite, and nematode, other than common domestic animal such as dog and cat.

As provided for under section 150A-6.2, HRS, the Board of Agriculture (Board) pursuant to rules maintains one of the following three lists of animals:

- A list of conditionally approved animals that require a permit for import into the State;
- A list of restricted animals that require a permit for both import into the State and possession; and
- A list of prohibited animals that are prohibited entry into the State.

Any animal that is not on any of these lists is considered prohibited until the Board reviews and determines the future placement of the unlisted animal on any of these lists maintained by the Board. However, there are provisions that allow the importation and possession of unlisted species for the following:

- A special permit on a case-by-case basis for unlisted animals may be allowed for importation and possession for the purposes of remediating medical emergencies or agricultural or ecological disasters, or conducting medical or scientific research in a manner that the animal will not be detrimental to agriculture, the environment, or humans; and
- A short-term special permit on a case-by-case basis not to exceed 90 days may be allowed for the importation and possession of an unlisted animal for the purpose of filming, performance, or exhibition.

The above-mentioned special permits are contingent upon the importer being able to meet certain permit and/or bonding requirements as determined by the Board.

Section 150A-6.5, HRS, provides for exceptions in regards to prohibited animals in that no person shall possess, propagate, sell, transfer, or harbor any animal included on the list of prohibited animals that is maintained by the Board, except for as follows:

- The animal was initially permitted entry and later prohibited entry into the State; or
- The animal was continually prohibited but unlawfully introduced and is currently established in the State; and

- The animal is not significantly harmful to agriculture, horticulture, or animal or public health, and the environment.

However, the Board may permit possession of an individual animal under the circumstances described with the registration of the animal with the department while still prohibiting the species from importation, propagation, transfer, and sale.

Section 150A-10, HRS, provides for the establishment of an advisory committee on plants and animals that is comprised of representatives from the following:

- Department of Agriculture
- Department of Land and Natural Resources
- Office of Environmental Control
- Department of Health
- Five other members with expertise in plants, animals or microorganisms who are versed with modern ecological principles and the protection of natural resources

The committee's purpose is to assist and advise the Board in developing or revising laws and regulations to carry out the purposes of this chapter and to advise in problems relating to the introduction, confinement, or release of animals. In addition, this particular section authorizes the Chairperson of the Board to create ad hoc or permanent advisory subcommittees, as needed.

Pursuant to the rulemaking requirements under State law, Chapter 4-71, Hawaii Administrative Rules (HAR) aptly named "Non-Domestic Animals Import Rules", provides for implementing the requirements of Chapter 150A, HRS, by restricting or prohibiting the import of certain non-domestic animals that are detrimental to the agricultural, horticultural, and aquacultural industries, natural resources and environment of the State of Hawaii. Animal species that are found on the List of Prohibited Animals under section 4-71-6, HAR, are not permitted entry into the State. As such, no person shall introduce into Hawaii any animal from the prohibited animal list.

As provided for under section 4-71-6.5, HAR, the importation into Hawaii of allowable species shall be by permit for those animals that are found on the List of Conditionally Approved Animals or the List of Restricted Animals. Animals found on the conditionally approved list are allowed for individual possession, businesses, or institutions, and may be re-sold, propagated, or transported in the State; however, liberation is strictly prohibited.

Animals on the restricted lists are further divided into a Part A and Part B section. The List of Restricted Animals (Part A) are for species that are allowed for both import into the State and possession for research by universities or government agencies, exhibition in municipal zoos or government-affiliated aquariums, for other institutions for medical or scientific purposes as determined by the Board. Animals on the List of Restricted Animals (Part B) are for species that are allowed for both import into the

State and possession for private and commercial use, including research, zoological parks, or aquaculture production. There are also added provisions that animals in the order Primates shall not be allowed for import or possession for private or commercial use other than for purposes described in Part A or for primate sanctuaries, as determined by the Board.

Since the various lists found under chapter 4-71, HAR, do not include all species that are known to exist, unlisted species are considered prohibited until the Board's review and future placement on one of the allowable lists. To list an animal, a permit application must be submitted to the Board and must include the following:

- Name and address of shipper and importer
- Approximate number and kind (common and scientific name) of animal
- Purpose or object of importation
- Safeguard facilities location and description
- Method of disposition
- Abstract of the animal, including biology and ecology requirements

The application will go through a three-tiered review process. An advisory subcommittee of technical consultants will review the information that is provided by the applicant and provide a recommendation and comments on the request. The information will be compiled by the department and then reviewed by the Advisory Committee on Plants and Animals, who will meet at a noticed public meeting where public comment and testimony are welcomed. The Advisory Committee will then make a recommendation for approval or disapproval on the request and the matter would be forwarded to the Board for review and determination. The Board's action to preliminarily review the species for future placement on a list has no legal effect and this procedure is solely for administrative ease in preparation for amendments to the various lists. At some future date, the proposed amendments will be brought to the Board for preliminary approval to go to public hearings. A species is listed in the rules only after following chapter 91, HRS, rulemaking procedures, which entail the public hearing process, board adoption, and governor's approval. Once a species is listed, the Board will then establish conditions for entry into the State upon application for an import permit.

The State of Hawaii's importation process provides a manageable risk-based system for the import of non-domestic animals into the State, which is science-based with the various advisory committees' review and recommendations to the Board as well as the public hearing process that informs the general public of the import process that protects Hawaii from invasive species.

Much has been written about the tragic loss of Hawaiian biota, which is unequaled in any other region of the United States. While nothing can be done about the 70% of the endemic land birds and land snail species that have already gone extinct, measures such as H.R. 6311 can bolster hope that we can protect those remaining. Hawaii is home to one-third of the Nation's federally listed endangered

species. As such, prevention of new non-native wildlife introductions and management of existing invasions require immediate attention.

The establishment of a manageable risk-based system for the import of non-native wildlife and improved integration of Federal and State policies and programs would provide long-term protection of our natural resources that would benefit both the Nation and the States.

Thank you for the opportunity to testify on this important measure.