



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. 842

July 11, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith SB2006 SD3 HD2 CD2, without my approval, and with the statement of objections relating to the measure.

SB2006 SD3 HD2 CD2

A BILL FOR AN ACT PROHIBITING SALES OF OPIHI..

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

VETO

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2006
S.D. 3
H.D. 2
C.D. 2

A BILL FOR AN ACT

PROHIBITING SALES OF OPIHI.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In recent years, the number of edible opihi
2 found in Hawaii has declined. The popularity of opihi as a
3 delicacy has led to overharvesting on the island of Oahu and has
4 made opihi difficult to find on the neighbor islands.

5 The blackfoot opihi (*Cellana exarata*), also known as
6 "makaiauli," once the most common limpet in Hawaiian waters, is
7 found in the upper wash of waves. The yellowfoot opihi (*Cellana*
8 *sandwicensis*), also known as "alinalina," is the preferred
9 species for eating. It is found in the wash of waves, roughly
10 between the habitats of the blackfoot opihi and koele, the third
11 type of edible opihi in Hawaii. Koele is also known as the
12 "kneecap" opihi (*Cellana talcosa*). There is also a fourth type
13 of opihi (*Cellana melanostoma*) observed in Kaua`i that probably
14 also could be found in Niihau.

15 Although opihi can be collected year-round, opihi shells
16 must be at least one and a quarter inches wide, or the meat must
17 be at least a half-inch wide, to be legally harvested in Hawaii.



1 The purpose of this Act is to prohibit the sale of all
2 Hawaiian species of edible opihi, subject to an exemption for
3 certain opihi shells used to make jewelry.

4 SECTION 2. Section 188-42.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 " ~~[+]§188-42.5[+]~~ Hihiwai, hapawai, opihi, and opae
7 kala`ole selling prohibited. It shall be unlawful for any
8 person at any time to sell or offer for sale any hihiwai,
9 hapawai, opihi, ~~[and]~~ or opae kala`ole taken from any of the
10 waters within the jurisdiction of the State. It shall be
11 presumed that the taking of more than one-half gallon per person
12 per day of opihi, as measured with its shell on, from any of the
13 waters within the jurisdiction of the State, is for the purpose
14 of selling or offering to sell opihi.

15 As used in this section, "opihi" means all known Hawaiian
16 opihi species, including Cellana exarata (blackfoot), Cellana
17 sandwicencis (yellowfoot), Cellana talcosa (koele), and Cellana
18 melanostoma.

19 The prohibition to sell or offer for sale any opihi as
20 provided by this section shall not apply to opihi shells at
21 least one and one-fourth inches in diameter, sold or offered for
22 sale as a curio or jewelry, or as part of a curio or jewelry;



1 provided that the taking of the opihi for these purposes is in
2 compliance with this section."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

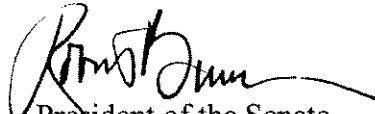
5 SECTION 4. This Act shall take effect upon its approval.




THE SENATE OF THE STATE OF HAWAII

Date: May 4, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.

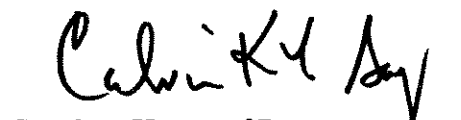

President of the Senate



Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: May 4, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


Speaker, House of Representatives


Clerk, House of Representatives

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2006, entitled "A Bill for an Act Prohibiting Sales of Opihi," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2006 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2006 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 26th day
of June, 2006.



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2006

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2006, entitled "A Bill for an Act Prohibiting Sales of Opihi."

The purpose of this bill is to prohibit the sale of all Hawaii species of edible opihi, subject to an exemption for certain opihi shells used to make jewelry.

Currently opihi can be collected year round throughout the Hawaiian Islands. The shells must be at least one and one-fourth inches wide or the meat, without the shell, must be at least one-half inch wide to be legally harvested. Under current Hawaii Administrative Rules, there is no limitation on the amount of opihi that may be legally harvested. However, this bill will create a presumption that the taking of more than one-half gallon per person per day of opihi, as measured with its shell on, from the waters within the jurisdiction of the State, is for the purpose of selling or offering to sell the opihi. The Department of Land and Natural Resources has taken the position that it will be difficult, if not impossible, to enforce this bill, because its officers will not be able to determine if the opihi someone possessed was legally harvested within the personal limits established in this bill.

Residents of Niihau requested an exemption to a statewide prohibition, indicating that the sale of opihi makes up a portion of their local economy, but their request was rejected by the Legislature. Furthermore, those familiar with the industry believe that this bill will create a black market for opihi that will likely promote illegal harvesting and hurt legal

collectors and, thus, will disproportionately impact those who gather nature's products as has been traditionally practiced for centuries in our islands.

I intend to call upon the Department of Land and Natural Resources to conduct a scientific, fact-based study of opihi to determine whether harvesting limits should be imposed. If the Department of Land and Natural Resources' study determines that harvesting limits are needed to protect the species, then my Administration will take the necessary steps to address this matter.

For the foregoing reasons, I am returning Senate Bill No. 2006 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii