

STAND. COM. REP. NO. **265**

Honolulu, Hawaii

FEB 14 2007

RE: S.B. No. 663
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 663 entitled:

"A BILL FOR AN ACT RELATING TO OCEAN RESOURCES,"

begs leave to report as follows:

The purpose of this measure is to protect near shore and reef fisheries by authorizing the Department of Land and Natural Resources to conduct administrative inspections of bags and containers used to transport aquatic life.

Specifically, this measure amends section 187A-15, Hawaii Revised Statutes, by:

- (1) Authorizing Division of Conservation and Resources Enforcement officers to conduct administrative inspections of bags or containers that could be used to transport aquatic life;
- (2) Repealing the probable cause requirement to conduct examinations or searches of bags or containers that could be used to transport aquatic life; and
- (3) Directing the Department of Land and Natural Resources to create an administrative inspection scheme to enforce its aquatic rules.

Testimony in support of this measure was submitted by the Department of Land and Natural Resources; the Nature Conservancy;

2007-1409 SSCR SMA-1.doc



the Ocean Law and Policy Institute of the Pacific Forum CSIS; the Sierra Club, Hawaii Chapter; the Hawaii Audubon Society; and three private individuals.

Hawaiian commercial and recreational marine life stocks are depleted, over-utilized, and in danger of irretrievable exhaustion. Although management tools have been enacted, fishery assessment depends on the voluntary cooperation of those who harvest these resources. While most fishers are willingly cooperative, increasing stock scarcity has led to conspicuous instances of obstruction of the efforts by Division of Conservation and Resources Enforcement officers to inspect catch.

Your Committee finds that the current probable cause provision under section 187A-15, Hawaii Revised Statutes, does provide a degree of constitutional protection while at the same instance, may unduly hinder enforcement officers by preventing them from inspecting containers that may be used to transport fish and other aquatic life. Thus, this greatly weakens the effect of fisheries management measures, such as bag and size limits. While your Committee recognizes the seriousness of repealing the probable cause requirement from section 187A-15, Hawaii Revised Statutes, establishing an administrative inspection scheme will enable Division of Conservation and Resources Enforcement officers to better inspect and enforce the State's fishing laws.

Your Committee has amended this measure by:

- (1) Adopting language suggested by the Department of Land and Natural Resources and the Ocean Law and Policy Institute of the Pacific Forum CSIS by:
 - (A) Adding fishing registrations along with fishing licenses and permits to conform better with the new federal fisheries regulations that mandate the registration of recreational saltwater anglers;
 - (B) Adding that section 187A-13, Hawaii Revised Statutes, relating to petty misdemeanor penalties will not apply to violations of section 187A-15;
 - (C) Adding provisions that require owners of fishing licenses, permits, or registrations to physically possess their paperwork when engaged in fishing activities, show their paperwork and allow for an



inspection when asked by a Division of Conservation and Resources Enforcement officer, and agree to comply with all terms, conditions, laws, rules, and regulations applicable to the fishing license, permit, or registration;

- (2) Making technical, nonsubstantive amendments for the purposes of style and consistency.

Your Committee recognizes that repealing the probable cause requirement under section 187A-15, Hawaii Revised Statutes, may pose a constitutional issue. Your Committee believes that this issue merits further discussion by the Committee on Judiciary and Labor.

Your Committee believes that this measure, as amended, will provide a valuable tool for Division of Conservation and Resources Enforcement officers who are charged with enforcing the State's natural resource laws, and fulfills the intent of this measure, which is to protect near shore and reef fisheries.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 663, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 663, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,



RUSSELL S. KOKUBUN, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WAH

Bill / Resolution No.:* <i>SB 663</i>	Committee Referral: <i>WAH, JDL</i>	Date: <i>FEB. 05, 2007</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	X			
TOKUDA, Jill N. (VC)	X			
FUKUNAGA, Carol	X			
HEE, Clayton				X
SLOM, Sam	X			
TOTAL	<i>4</i>			<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Jimm</i>				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	

*Only one measure per Record of Votes