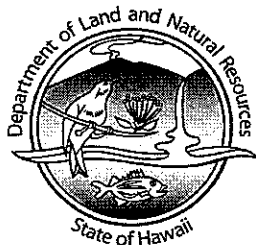
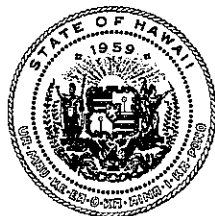


LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TESTIMONY OF THE CHAIRPERSON OF THE
BOARD OF LAND AND NATURAL RESOURCES

On House Bill 2687, House Draft 1, Senate Draft 1 – RELATING TO AQUATIC RESOURCES

BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS

March 27, 2008

House Bill 2687, House Draft 1, Senate Draft 1 would require the Department of Land and Natural Resources (Department) to collaborate with a multi-stakeholder working group to review effectiveness of rules pertaining to aquatic resource or fishing rights and regulations (pursuant to Chapters 187A and 188, Hawaii Revised Statutes, respectively) adopted after January 1, 2008. The expenses for this working group would be reimbursed via a general fund allocation. The Department opposes this measure because it is overly broad, and because the expenditures to carry out its tasks would require appropriations that would adversely affect the Executive Supplemental Budget request.

Testimony of The Nature Conservancy of Hawai'i
Opposing H.B. 2687, HD1, SD1 Relating to Aquatic Resources
Senate Committee on Ways and Means
Thursday, March 27, 2008, 9:45 AM, Room 211

The Nature Conservancy of Hawai'i opposes H.B. 2687, HD1, SD 1. We had previously supported this bill with suggested amendments, but cannot continue to offer supportive testimony if the bill continues in this form.

Healthy reefs and fisheries have many economic, environmental and cultural benefits. We all have a stake in their future. Furthermore, fishing is integral to our cultural heritage and our island way of life. However, as anyone who has spent time in Hawaiian waters knows, many of our reefs and fisheries are at serious risk from a variety of threats and a precipitous decline in near shore populations of fishes. In fact, scientists estimate that our near shore fisheries are merely one-quarter of what they were a century ago—that is a decline of 75% over 100 years.

Given this situation, this bill points out the importance of reviewing and assessing whether aquatic resource management and fishing rules are, in fact, working to protect and enhance our natural resources for the present and the future. However, we are concerned that the Department of Land & Natural Resources may not have the resources and capacity to meet the overly broad review and reporting requirements in the bill. Also, we think that while the working group added to the bill is well-intended and of a manageable size, the qualifications are unattainable. For example, the scientist or educator must also be a commercial fisher and a native Hawaiian practitioner.

We suggest a more defined set of requirements that will still provide the Legislature and the public an instructive analysis of whether and how aquatic resource management rules are working.

The Nature Conservancy recommends that the bill be amended to:

- 1. Specifically identify only the DLNR's recent lay gill net and bottom fish rules for present monitoring, analysis, and reporting to the Legislature;**
- 2. Direct the DLNR to consult with relevant stakeholders including fisherman, native Hawaiian practitioners, marine scientists, and conservation groups; and**
- 3. Direct the DLNR to incorporate a monitoring and evaluation component into any new regulations of fish stocks or fishing gear.**

Detailed proposed amendments are attached.

We are united by our mutual interest in ensuring that Hawaii's reefs and near shore waters are healthy and continue to provide us with fish—to catch, to eat, to watch, and to thrive now and into the future. This can be achieved through reasonable scientific assessment, adequate enforcement, collaboration in marine management, and—most of all—stewardship and responsible use on the part of all of us.

Attachment

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HB 2687 Proposed SD2

Report Title:

Fishing Rights and Regulations

Description:

Requires the department of land and natural resources and a working group to: in consultation with stakeholders, review its each rules adopted after 01/1/08, concerning lay gill nets and bottomfish the protection and propagation of certain aquatic life or the conservation and allocation of the natural supply of aquatic life; determine whether the rules has are achievinged its their intended purpose; and submit a report; and include monitoring and evaluation components in future rules regarding fish stock and fishing gear. Sunsets on 12/31/20. (SD2)

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE,
2008
STATE OF HAWAII

H.B. NO.

2687
H.D. 1
S.D. 1
S.D. 2

A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCES.

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

SECTION 1. The legislature finds that ~~over the past ten years,~~ the department of land and natural resources is responsible for has adoptinged rules concerning the protection, and propagation, ~~of introduced and transplanted aquatic life,~~ and the conservation, and allocation of the natural supply of aquatic life ~~that have greatly diminished the public's ability to utilize Hawaii's aquatic resources. In sSome instances,~~ members of the public have criticized the department of land and natural resources for setting bottom fish area closures, shoreline access boundaries, and other fishing restrictions in an arbitrary manner without scientific evidence to support the department of land and natural resource's position. Other members of the public have requested the department provide greater protections for and limitations on the take of aquatic resources.

HB 2687 Proposed SD2

The legislature further finds that it is the primary responsibility of the department of land and natural resources to protecting our limited natural resources. Carrying out this responsibility must should be balanced with the equally important responsibility of ensuring the public's reasonable use of these resources if such use or activity can be carried out without undue harm to the resources.

The purpose of this Act is to better understand the impacts of aquatic resource and fishing rules in Hawaii by requiring the department of land and natural resources, in conjunction with stakeholders including a working group consisting of members of the fishing, native Hawaiian, marine science, and conservation communities, to review the effects of its ~~rules, including its~~ lay gill net and bottomfish management rules, and to determine whether the rules are achieving their intended purposes, the anticipated timeframe for achieving the intended purposes, the effect on the resource, general public, and resource users. The DLNR is also directed to include a monitoring and evaluation component in all future rules regulating fish stocks and fishing gear types.

SECTION 2. (a) The department of land and natural resources shall:

~~(1) Form a working group consisting of a member from each of the following categories:~~

~~————— (A) A representative of commercial fishing;~~

~~————— (B) A representative of recreational fishing; and~~

~~————— (C) A representative of the scientific or educational community who has a background related to fishing.~~

~~————— The working group shall serve without compensation but each shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.~~

~~————— (2) Together with the working group:~~

~~————— (A) Review each rule adopted after January 1, 2008, pursuant to chapters 187A and 188, Hawaii Revised Statutes, concerning the protection and propagation of introduced and transplanted aquatic life or the conservation and allocation of the natural supply of aquatic life in any area, including rules that establish size limits, bag limits, open and closed fishing~~

HB 2687 Proposed SD2

~~seasons, specifications and numbers of fishing or taking gear that may be possessed, or that restrict public access to the natural supply of aquatic life, including the effects of its bottomfish management rules and its lay gill net rules;~~

~~(2) (B) Determine whether each rule is achieving its intended purpose;~~

~~(3) (C) Estimate the timeframe necessary for each rule to achieve its intended purpose;~~

~~(4) (D) Determine the effects of each rule on the health of the resource; and~~

~~(5) (E) Determine the effects of each rule on the general public and user groups.~~

Provided that such review by the department shall include consultation with members of the fishing, native Hawaiian, marine science, and conservation communities.

~~(b) The department of land and natural resources and the working group shall submit a report, including an analysis of whether the bottomfish management and lay gill net rules are achieving their intended purposes, when they might achieve their intended purposes, and the impact of the rules on the resource, public, and user groups, and an accounting of the community consultation as described in subsection (a) to the legislature no later than twenty days prior to the convening of the 2009 regular session, and every five years thereafter. The department of land and natural resources may include the report as part of its annual report to the legislature.~~

~~(c) In addition to subsections (a) and (b), for any rule that regulates a fish stock or fishing gear type adopted after January 1, 2008 pursuant to Chapters 187A and 188, the department of land and natural resources shall incorporate monitoring and evaluation components, including consultation with members of the fishing, native Hawaiian, marine science, and conservation communities. For purpose of this Act, the following terms shall be defined as follows:~~

~~———"Commercial fisherman" shall mean a person who:~~

~~(1) Has an annual income of which eighty per cent is derived from fishing;~~

HB 2687 Proposed SD2

~~—— (2) Has possessed a valid Hawaii commercial fishing license for at least thirty years;~~

~~—— (3) Is knowledgeable of deep sea and shoreline fishing methods;~~

~~—— (4) Files Hawaii state income taxes as a full-time resident of Hawaii;~~

~~—— (5) Is knowledgeable of and a practitioner of native Hawaiian cultural fishing practices; and~~

~~—— (6) Has actual knowledge of current Hawaii state or federal fishing laws and rules governing the waters in and around the State.~~

~~—— "Recreational fisherman" shall mean a person who:~~

~~—— (1) Possesses membership in a fishing organization organized in Hawaii;~~

~~—— (2) Possesses membership in an organization organized in Hawaii that is committed to the preservation or education of Hawaii ocean resources;~~

~~—— (3) Is knowledgeable of deep sea and shoreline fishing methods;~~

~~—— (4) Files Hawaii state income taxes as a full-time resident of Hawaii;~~

~~—— (5) Is knowledgeable of and a practitioner of native Hawaiian cultural fishing practices; and~~

~~—— (6) Has actual knowledge of current Hawaii state or federal fishing laws and rules governing the waters in and around the State.~~

~~—— "Representative of the scientific or educational community" shall mean a person who:~~

~~—— (1) Possesses an advanced academic degree and experience marine biology or ecology resource management in marine ecosystems, fisheries, or a related field;~~

~~—— (2) Is knowledgeable of deep sea and shoreline fishing methods;~~

HB 2687 Proposed SD2

~~—— (3) Files Hawaii state income taxes as a full-time resident of Hawaii;~~

~~—— (4) Is knowledgeable of and a practitioner of native Hawaiian cultural fishing practices;~~

~~—— (5) Meets the requirements of being a "commercial fisherman" under this Act; and~~

~~—— (6) Has actual knowledge of current Hawaii state or federal fishing laws and rules governing the waters in and around the State.~~

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2008-2009 for the purposes of this Act.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval ~~and shall be repealed on December 31, 2020;~~ provided that section 3 shall take effect on July 1, 2008.

testimony

From: Ron Tubbs [rtmb@hawaiiintel.net]
Sent: Tuesday, March 25, 2008 2:15 AM
To: testimony
Cc: Sen. Roz Baker
Subject: Testimony HB 2687 9:45 AM Room 211 3-27-08

**Testimony in Support of HB 2687
 9:45 AM room 211 3-27-08**

Hawaii Tropical Fish Association
 R. T. Distributors Inc.
 Ron Tubbs
 Waimanalo, Hawaii 96795
 Ph./FX (808) 259-9997
 Email rtmb@hawaiiintel.net

HB 2687 is greatly needed to correct a process which allowed legislators to be lied to. HB 2687 will allow science and DNLN to direct legislation better. One bill (SB3225) was based on highly biased, unscientific information and lies. In the name of ecology, the one tourist snorkeling company led a campaign to shut down Hawaii's tropical aquarium fish industry with several forms of a hastily drawn bill.

We hope HB 2687 will allow scientific facts to be the basis for regulating Hawaii's Oceans.

The lies associated with the user conflicts:

- It was reported that 9 million Aquarium fish are taken from Hawaii's waters annually. The truth is approximately 250,000 fish are taken annually. Hawaii Tropical Fish Association-(HTFA) numbers. DNLN estimates are higher due to statistically adjust for none reporting but are close to HTFA numbers. No where near 9 million!
- Ecology groups have run daily TV commercials claiming 75% of all fish are gone from Hawaii's waters. The true scientific statement was that 75% of the world's oceans have been impacted by man's activities. Many believe these lies as they do not know any better. Fish catch reports show increases as well does fish counts. See for you take a submarine dive!
- Maui groups say most of the fish are gone and tropical fish divers took them. The truth: The great American Fish Count 2000 to 2001 sponsored by and done with some of the same groups who oppose tropical fish showed an increase in numbers of identified species on all Islands. Even though the counts were done by amateurs and thus not scientific they are still useful. DNLN Bill Walsh's fish count analysis study, revealed inexperienced people cannot count the fish correctly, that their counts are too low because they cannot identify fish correctly. Thus the counts should actually be higher.
- Coral reefs take tens of thousands of years to grow. The truth some places in Kaneohe Bay has seen 6 feet of coral growth in 14 years. Coral grows 3 to 5

inches a year in the shallows! Harbors must be red edged regularly as we must now do on Maui due to coral growth.

- Fishermen are taking all the fish. The truth one breeding pair of yellows can repopulate a whole reef in a few months. One yellow tang spawning produces one million larvae with around 60% surviving to the reef where spawned. The yellow reproduces twice a year. Many other fish can produce as many as 5 million larvae.
- Tropical fish divers can take all the fish they want without regulations. The truth is most boats can only support at most a 75 fish in good enough condition to allow them to be sold as pets. Some big island boats which are bigger have been specially modified with pumps to allow bigger catches. Diving is very physical and most only dive 2 to 3 days a week. Weather causes many days of non diving. Most of the summer sales are slow and divers are told not to go out. Most fish aquarium systems will only support a few hundred fish! Fish health and quality is everything so they are not crowded.
- Tropical fish suffer and keeping them as pets is not humane. The truth is very few die. Life in a controlled environment with highly nutritional foods and medications has lead to very long and healthy lives for the fish. Predators, starvation and short life spans are the norm for wild ocean fish. If I was a fish give me a good human aquarium home!

Why would ecology groups testify against scientific based legislation? Many do not care about the science! Some do not care about the truth.

There were so many lies from groups and individuals trying to protect fish at all cost, even to the point of perpetuating lies in numerous media adds, We must slow down, assess the issues and logically and scientifically address the future of our oceans. If we don't make the right decisions jobs and incredible benefits will be lost for no reason.

Selfish uncaring individuals do not care about those who may loose their Jobs and the ability to feed their families. Their only concern is their own interests or they would not lie.

Ecology is greatly needed to ensure the future of all Hawaii's fish, plants and animals. Allot of good has come from ecological concerns. Fishermen love to hear that people want to be protecting our Oceans but many have gone too far. Excessive protectionism will only cost us all.

HB 2687 will provide for a rational decision-making process coordinated by DLNR that will address the user conflicts, and fishing sustainability. We need ecologically sound; least-biased, factual context aimed at perpetuating not lies, but the sustainability of Hawaii's ocean resources upon which all parties depend.

testimony

From: Ron Tubbs [rtmb@hawaiiantel.net]
Sent: Wednesday, March 26, 2008 11:39 AM
To: testimony
Cc: Sen. Roz Baker
Subject: Testimony for HB 2687 if changed.

Respectfully Submitted by Adam Snodgrass, Hawaiian Diver/Fisherman

**AS A HAWAIIAN FOR HB 2687 if changed as below;
 To the WAM Committee,**

I agree with the intent of HB 2687 HD1 SD1, however I believe that the terminology describing what the definition of "a representative of commercial fishing", "a representative of recreational fishing" and "a representative of the scientific or educational community" are too specific....and would be too difficult to find members representing these groups.

Finding a commercial fisherman who has had a valid commercial fishing for 30 years and is a "practitioner of native Hawaiian cultural fishing practices" would be hard to find.

Finding a recreational fisherman who is in "an organization in Hawaii that is committed to the preservation or education of Hawaii ocean resources" and is a "practitioner of native Hawaiian cultural fishing practices" would be hard to find.

Finding a Representative of the scientific / educational community that is a "commercial fisherman" and "knowledgeable of and a practitioner of Hawaiian fishing practices" would be hard to find.

If these requirements (or definitions) were modified, I could support the bill. Otherwise, I cannot support this bill

As a diver and fisherman for ten years I have seen an increase if the fish population on the Waianae coast and now on the Kailua Kona coast . Every year I see an abundance of species blooming. In 2006 Potters bloomed on the west coast of Oahu. They are still very abundant more than I have seen in ten years.

I also see tourism using more of the ocean resources, like with the Dolphin Excursions, and dive charters, etc... Waianae has (4) 100ft. ships that go out daily full of tourists between Waianae and Koalina! You don't hear any complaints from them about not seeing any fish, do you? No, what you hear is complaints about how much rubbish is in the ocean, from all the runoff from the canals and developments. In believe a major driving force behind this bill is the tourist industry, which has hired ecologists to propose this bill. The need for this bill, is unfounded.

I do not understand what this bill is going to accomplish other than hurting everybody.

My livelihood depends the natural resources from the ocean, as did my father's. If this bill does go into affect it will hurt me and my childrens' children. I am strongly against this bill because my life is based on the ocean, and I know nothing else, being born and raised Hawaiian, and currently residing in Kailua, Kona but originally from the Waianae Coast, where jobs are scarce.

I am diversified by aquarium fish diving and commercial (eating) fishing, but this bill would hurt

both of these occupations, leaving me with no choice but to collect assistance from the state, an option which I have worked hard to avoid.

In the Big Island, 80% of the island was not left for open usage, with only 20% of one area left in preserve. Instead, they tricked the people, and took 20% of the coastline on each side of each harbor, leaving fisherman to have to travel generally 20 miles on the water before they can fish. What was once a day trip, now has to generally be an overnight trip, motoring or diving to an available area. This is such a hardship. If this bill goes through, I can't see myself being able to survive – what with paying for the gas, expenses, and being away from my family for so long. Please pass legislation which provides reasonable scientific processes before legislation is passed. Please use the same process to review and remove non effective or outdated legislation.

**Adam Snodgrass
Tropical Fish Diver
HTFA Member**

testimony

From: David Ramos [hawn-reefdwellers@hawaii.rr.com]
Sent: Wednesday, March 26, 2008 10:39 AM
To: testimony
Subject: Fishing

Aloha,

My name is Dave Ramos and I am in favor of bill # HB2687 HD1 SD1. I am a comercial fisherman and I believe we need this bill.

I have many associates that agree with this bill.

Thank you.

Dave Ramos

testimony

From: Randy Fernley [CoralFish@hawaiiantel.net]
Sent: Wednesday, March 26, 2008 11:07 AM
To: testimony
Subject: HB 2687 HD1 SD1

Hello Committee Members,

I agree with the intent of HB 2687 HD1 SD1, however I believe that the terminology describing what the definition of "a representative of commercial fishing", "a representative of recreational fishing" and "a representative of the scientific or educational community" are too specific....and would be too difficult to find members representing these groups.

Finding a commercial fisherman who has had a valid commercial fishing for 30 years and is a "practitioner of native Hawaiian cultural fishing practices" would be hard to find.

Finding a recreational fisherman who is in "an organization in Hawaii that is committed to the preservation or education of Hawaii ocean resources" and is a "practitioner of native hawaiian cultural fishing practices" would be hard to find.

Finding a Representative of the scientific / educational community that is a "commercial fisherman" and "knowledgeable of and a practitioner of hawaiian fishing practices" would be hard to find.

If these requirements (or definitions) were modified, I could support the bill. Otherwise, I cannot support this bill

Respectfully,

Randy Fernley / Coral Fish Hawaii

testimony

From: David Dart [alpineairhawaii@yahoo.com]
Sent: Wednesday, March 26, 2008 2:24 PM
To: testimony
Subject: HB 2687 HD1 SD1

Hello Committee Members,

I agree with the intent of HB 2687 HD1 SD1, however I believe that the terminology describing what the definition of "a representative of commercial fishing", "a representative of recreational fishing" and "a representative of the scientific or educational community" are too specific....and would be too difficult to find members representing these groups.

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Finding a Representative of the scientific / educational community that is a "commercial fisherman" and "knowledgeable of and a practitioner of hawaiian fishing practices" would be hard to find.

If these requirements (or definitions) were modified, I could support the bill. Otherwise, I cannot support this bill

Respectfully,

David Dart /Tropical Express Diving
Neil Dart/ Hawaii Glacier Big Island

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