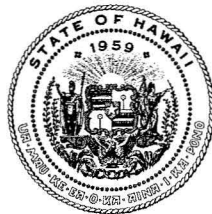
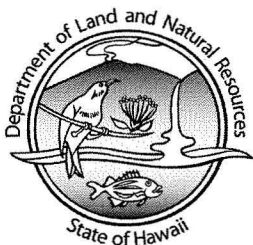


LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
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BOARD OF LAND AND NATURAL RESOURCES
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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 – RELATING TO AQUATIC RESOURCES

**Before the HOUSE COMMITTEE ON
WATER, LAND AND OCEAN RESOURCES AND HAWAIIAN AFFAIRS**

February 8, 2008

House Bill 2687 would require the Department of Land and Natural Resources (Department) to review each aquatic resource or fishing rights and regulations (pursuant to Chapters 187A and 188, Hawaii Revised Statutes (HRS), respectively) rule adopted after January 1, 2008, and to determine whether that rule achieved its intended purpose. It also asks the Department to prepare an analysis report to the Legislature for the 2009 Regular Session and every three years thereafter. While the Department appreciates the bill's intent, the Department is concerned with its provisions and requests consideration of the following recommendations and comments.

The Department recommends that the bill limit its requirement of rule evaluations to those that specifically implement actions designed to improve fish stocks. The Department further suggests that the requirement for evaluation takes into consideration a 5 year period that is currently acknowledged in fishery science as the minimum time period in which to observe effects of management changes or from natural phenomenon. The Department wishes to point out that in some cases due to slow growth and/or slow reproductive maturity of certain fish species, coupled with factors whose impacts cannot be measured immediately (such as El Nino), this time period can be lengthened considerably.

Further, certain types of regulations such as for minimum size, the biological principle for its establishment is sound (i.e. no taking of fish until they have had a chance to reproduce; this is in order for the species to sustain itself). However, establishing a new minimum size, coupled with ecosystem dynamics and man-induced influences can do much to confound expected results, and thus cannot directly be assessed under short durations. Only long-term monitoring may yield trends that may be associated with the instituted management measure. Thus, short-term analysis may yield little or no significant results.

In summary, the Department feels that any analysis should be confined to rules which regulate discrete stocks or possibly to gear types where such monitoring programs can provide discrete and meaningful data. The five year evaluation period would also be consistent with ongoing Department monitoring programs and previous Legislative mandates, such as Act 306, Session Laws of Hawaii 1998, for West Hawaii.

Testimony of The Nature Conservancy of Hawai'i
Supporting With Amendments H.B. 2687 Relating to Aquatic Resources
House Committee on Water, Land, Ocean Resources & Hawaiian Affairs
Friday, February 8, 2008, 8:30 AM, Room 312

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawai'i supports H.B. 2687 with the amendments suggested below and attached.

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 review and reporting requirements in the bill. 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:

- **Specifically identify the DLNR's recent lay gill net and bottom fish rules for monitoring, analysis, and reporting to the Legislature and the public; and**
- **Provide the DLNR with additional resources to properly conduct this review and reporting.**

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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Report Title:

Fishing Rights and Regulations

Description:

Requires the department of land and natural resources to: 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, the timeframe for achieving their purpose, and the effect on the resource and the public; and submit a report. Sunsets on 12/31/20.

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

H.B. NO.

2687

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 some 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.

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. Furthermore, commercial activities should be considered only if their impacts do not impinge on the resource or use by the general public.

The purpose of this Act is to better understand the impacts of aquatic resource and fishing rules in Hawaii by ~~to~~ requiringe the department of land and natural resources to review the effects of its lay gill net and bottomfish rules and to determine whether the rules are have achievinged their intended purposes, the anticipated timeframe for achieving the intended purposes, the effect on the resource, and the effect on the general public and resource users.

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

(1) Review the effects of its bottomfish management rules (Hawaii Administrative Rules §13-89) and its lay gill net rules (Hawaii Administrative Rules §13-75); ~~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 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; and~~

(2) Determine whether each rule is ~~has~~ achievinged its intended purpose; ~~:-~~

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

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

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

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

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii \$500,000 or so much thereof as may be necessary for fiscal year 2008-2009 to the department of land and natural resources to conduct the biological, human use, and/or creel surveys, monitoring and other activities necessary to carry out the purposes of this act.

SECTION 4. This Act shall take effect upon its approval and shall be repealed on December 31, 2020.



Conservation Council for Hawai'i

Testimony Submitted to the House Committee on Water, Land,
Ocean Resources & Hawaiian Affairs

Hearing: Friday, February 8, 2008
8:30 am Room 312

Opposition to HB 2687 Relating to Aquatic Resources

Aloha. The Conservation Council for Hawai'i opposes HB 2687, which requires the Department of Land and Natural Resources to review rules adopted after January 1, 2008, concerning aquatic life and determine whether the rule has achieved its intended purpose.

We oppose this bill because it may be unnecessary. We would hope that all agencies – federal, state, and county – review their rules periodically for effectiveness.

We also oppose this bill because it appears to single out the Division of Aquatic Resources and punish it for attempting to regulate fishing in this state. Fishing is a legitimate and worthy activity in Hawai'i. But it is not a free-for-all. Fishers must understand that fishing – like all activities in public areas using public resources – must be regulated. Fishers understand that our aquatic resources and ecosystems are in trouble, but they fail to acknowledge that regulation is necessary to protect the ocean for all of our citizens to use and enjoy. Regulating fishing does not mean that the fishers are at fault or that fishing is the only stress on our ocean resources.

Mahalo nui loa for the opportunity to testify.

Sincerely,

Marjorie Ziegler



Working Today for the Nature of Tomorrow!

Telephone/Fax 808.593.0255 • email: info@conservehi.org • web: www@conservehi.org

P.O. Box 2923 • Honolulu, HI 96802 • Office: 250 Ward Ave., Suite 212 • Honolulu, HI 96814

Hawai'i Affiliate of the National Wildlife Federation

President: *Julie Leialoha* * Vice-President: *Nelson Ho* * Secretary/Treasurer: *Kim Ramos* * Directors: *Fred Kraus, Ph.D.* * *Douglas Lamerson,*
George Robertson * *Claire Shimabukuro* * *Helene Takemoto* * *Mashuri Waite* * Executive Director: *Marjorie Ziegler*

From: Ron Tubbs [mailto:rtmb@hawaiiantel.net]
Sent: Tuesday, February 05, 2008 7:53 PM
To: WLHtestimony
Subject: Committee on Water, Land 2-8-08 , 8:30 AM, Room 312

From Ron Tubbs, RT Distributors, Hawaii Tropical Fish Association

Dear Representatives,

We oppose HB 3391 and support HB 2687

Over 3 million dollars have been spent on CRAMP studies to tell you what I can tell you for free. Many Laws need to be changed and some new laws need to be enacted but **HB 3391 is not the right one at this time. FISH COUNTS ARE VERY INACURATE DUE TO POPULATION BLOOMS AND BREEDING SEASONS. EXAMPLE IF FISH ARE COUNTED IN SEPTEMBER THE MONTH MOST FRY ARE BORN COUNTS WILL BE VERY HIGH. IF FISH ARE COUNTED IN JULY MOST FRY HAVE BEEN CONSUMED BY PREDITORS AND COUNTS WILL BE LOW. MILLIONS HAVE BEEN WAISTEDE ON COUNTS DONE WITHOUT BREEDING SEASON AND FISH BLOOMS BEING TAKEN INTO ACCOUNT!**

Many laws on the books need to be repealed-example convict tangs are very abundant an not taken by any grop of fisherman in quantity but the are protected by a size limit. **We support HB 2687**

DNLR and West Hawaii Marine Fisheries Council have been working for decades on protecting Hawaii,s Marine Resources and there next step is Species Of Significant Interest. This bill we support and it is long over due. Protecting larger breeders of each species needs to be done too. Limited entry is another bill comming up we oppose. Bag limits would only eliminate an economically viable, sustainable, renewable resource buisness.

Il would like to share some information with you regarding Bag Limits on Aquarium fish. As a college graduate I hope you will see through the inaccuracies and lies of Snorkle Bobs, his website, and other biased ecology groups supporting this bill. They are good intentioned but uneducated in this area. This bill would basically close the Aquarium fish industry. Competition from abroad and costs would prohibit the business with such a small catch limit. I am an ecologist with 8 years of college from UH. I am also an aquarium fish collector. I am biased in favor of the aquarium fish Industry. For this reason I will stick only to some **important facts** regarding this bill.

The State of Hawaii has the **strictest laws of any State** in the US. Aquarium fish taking is highly regulated and they answer to Fish and Wildlife, DNLR enforcement, Department of Agriculture and the USDA. Tropical fish require Veterinarian inspections when shipped to certain areas. Health and quality of fish is very important. Size limits, preserves, Marine Protected Areas, and nearly 100 laws regulate Tropical fish collecting.

THE BIG QUESTION IS SUSTAINABILITY? Marine fish are THE MOST RENEWABLE RESOURCE. Marine fish are the most efficient breeders on the planet. Many species can spread or lay **several hundred thousand to half a million eggs at one breeding.** Most of Hawaii's fish are broadcast breeders repopulating wide areas. Most of Hawaii's fish species are found throughout the South Pacific. Fish breed once to twice a year and most can reach breeding size in one year. Large overpopulation fish blooms occur all the time –in 2003 very large population occurred in the Aweoweo, Yellow tang, Morish idols and Potters angels. Reports of this bloom

were reported in the news and media. **Yellow Tang populations are out of control in preserve areas (MPA Marine Protected Areas of Kailua Kona) yellow tang counts are up %48 causing the decline of other species due to food supply (www.CRAMP.com) and DNLN website.**

The ocean covers most of this planet with **fish out numbering any other species on earth. Hawaii has over 4508 square miles of diveable ocean. Hawaii's corals grow 3 to 5 inches a year-** growth dependant on sunlight and depth. . Only very near shore reefs in runoff areas with little current are in decline; see (www.CRAMP.com) study of Kaneohe and Maui. Hawaii's reef fish do not eat seaweeds which grow as a result of Eutrication-runoff. There is over 6 feet deep of new coral in many of Kaneohe Bays reefs that were dredged in the 1940's. Most of the Hawaiian Islands are untouched by Tropical fish collecting. Collecting is limited to patches on the Kailua Kona coast (30% of which is protected by MPA - Marine Protected Areas) and West and South shores of Oahu. Some patches of other areas are fished occasionally. **EIGHTY FIVE PERCENT OF THE BIG ISLAND, ALMOST ALL MAUI, ALL MOLOKAI, ALL KAUAI, ALL NIHAU AND THE NORTHWEST HAWAIIAN ISLANDS ARE NOT FISHED BY TROPICAL FISH DIVERS.** 2001 and 2002 Great annual fish counts conducted on several islands (www.reef.org) showed an increase of fish in areas counted by 2% to 23% for most species showing **an overall increase in State's fish populations.** The DNLN 3 million MPA study showed an increase there as well (some species declined in counts there due to overpopulation-species crowding-ecosystems can only support a certain population). UH fish counts in Kaneohe Bay show fish increases and fish counts at all artificial reefs like the YO57 ship off Waikiki show increased fish counts. **THERE IS NO SCIENTIFIC DATA SHOWING POPULATION SCARCITY FROM TROPICAL FISH COLLECTING. NO FISH IN HAWAII HAS BECOME EXTINCT!**

One of DNLN's next steps is regulations based on data regarding species of significant interest. Tropical Fish Collectors support protecting species which have population declines or are in need of protection due to possible extinction. I am sure the DNLN will introduce legislation after their scientific studies. THIS WOULD SOLVE ANY PROBLEMS REGARDING BAG LIMITS WHICH HAVE BEEN PROPOSED. See DNLN website for more info.

There are at most 60 divers in all Hawaii who collect tropical fish. The 60 divers are split about evenly between Oahu and Kailua Kona. More are licensed but dive rarely if at all. There are far more ex tropical fish diver permits than current divers. Most of these 60 have side jobs or cannot dive full time due to weather restrictions. Collectors rotate their spots and have been in business for as long as 40 years. Tropical fish collectors make money long term diving the same rotated areas. Due to decompression limits a diver can cover at most 50 square feet per dive at 60 feet with a 2-4 dives a day limit. Divers go out just a few days a week. Fish are smart and run from the divers. Hiding spaces, coral, artificial reefs, rocks ect. prevent the capture of most fish in any area. Big breeders take up too much space in the catch bucket so abundant smaller fish are caught. Most small fish do not reach adulthood due to predators and food supply. In the long run overall populations are not impacted. It would be impossible to catch all fish from one area. Divers have an interest to leave breeders to increase populations. Rotating spots insures future money from diving. **HAWAII HAS 28 MILLION SQUARE FEET OF DIVE ABLE OCEAN.**

THE POOR LITTLE FISH. Aquarium fish hobbyists spend a lot of money to keep the fish they buy healthy and happy. Enriched foods, controlled environments, medications and lack of predators greatly increase the lifespan of fish. Breeders are successfully breeding many species caught in Hawaii and may become future main suppliers for Hawaiian indigenous fish. Local fish have been kept alive for 12 years. This same fish normally could only survive in the wild for a couple years. Tropical fish divers only get paid for live healthy fish so care and health is the only way to make money in the business.

THE INDUSTRY IS DECLINEING IN DEMAND FOR TROPICAL FISH. THE SAME FISH THAT COME FROM HAWAII ARE SOLD FROM INDONESIA AND THE PHILIPINES FOR .25 CENT TO JUST ONE DOLLAR. COMPUTERS AND ADVANCES IN MEDIA HAVE DRASTICALLY REDUCED THE MARKET FOR TROPICAL FISH. MOST OF THE YEAR DIVERS ARE TOLD NOT TO DIVE AS THERE IS NOT ENOUGH DEMAND FOR THE FISH. DNLR FISH COUNTS HAVE SHOWN INCREASED FISH COUNTS DUE TO MANDATORY FILING OF FISH CATCH REPORTS (A COUPLE OF YEARS AGO RULES ENACTED STATE: IF YOU DO NOT FILE- PERMITS ARE NOT RENEWED). **In actuality fish catches have declined and demand has declined. The industry has seen many divers and wholesalers leave the business.** Increased laws have also played a role in the decline of the industry. The second largest wholesaler has see a loss of %90 in business and is on the way out right now. He represents one forth of all our business.

THERE IS SO MUCH MISINFORMATION REGARDING TROPICAL FISH COLLECTING THAT IT WOULD TAKE PAGES MORE TO COVER IT ALL. PLEASE RESPOND TO THIS EMAIL WITH ANY QUESTIONS OR COMMENTS. FISH COUNTS AND PAPPERS CAN BE SUPPLIED TO BACK UP THE ABOVE FACTS UPON REQUEST. ***THE SYNOPSIS IS WE CAN HAVE A SUSTAINABLE TROPICAL FISH INDUSTRY WITH NO SIGNIFICANT IMPACT AND THIS POTENTIAL LAW WOULD KILL ANY FUTURE OF THIS BISNESS.***

Scientific based laws are needed to protect certian fish and Hawaii's oceans. HTFA (Hawaii Tropical Fish Association) supports species of significant interest and laws protecting Hawaii.s reefs. THIS LAW WAS INTRODUCED TO ELIMINATE ALL TROPICAL FISH COLLECTORS. THE TROPICAL FISH INDUSTRY CAN CONTINUE TO PROVIDE ECONOMIC BENIFIT TO HAWAII FOREVER WITH NO MAJOR IMPACT ON FISH POPULATIONS. WE NEED WISDOM AND YOUR SUPPORT.

**Ron Tubbs 808-259-9997
Hawaii Tropical Fish Association**

Representative Ken Ito, Chair
Representative Jon Riki Karamatsu, Vice Chair
Committee on Water, Land, Ocean Resources and Hawaiian Affairs
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair
Committee on Finance

Friday, February 8, 2008
8:30AM, Conference Room 312

In Support of HB2687, Fishing Rights and Regulations

Chairs Ito and Oshiro, Vice Chairs Karamatsu and Lee, and committee members. I am Roy Morioka, a fisherman and I thank you for this opportunity to testify in support of requiring the department of land and natural resources to determine whether or not rules adopted beginning this year, concerning the protection and propagation of certain aquatic life of the conservation and allocation of the natural supply of aquatic life have achieved their intended purpose.

As a fisherman, I have witnessed the implementation of rules that had no baseline reference, nor adequate analysis to determine whether or not the adopted rule is achieving the desired management outcome. Failure to include such standards, create a condition where we adopt rules that are not achieving the intended purpose at the expense of a resource not receiving the desired protection or desired conservation effect. Stewardship requires baseline references, monitoring and analyses and at the very least a report to the community on whether or not the adopted rule is achieving its intended purpose. More importantly, good stewardship would also cause actions to implement new rules if those implemented have not achieved the desired results or, relaxing of the rule should success provide.

Thank you again for this opportunity to testify in support of this important measure.

Sincerely Yours,
Roy Morioka

TESTIMONY IN SUPPORT OF HB 2687

Rep. Ken Ito, Committee Chair WLH
Rep. Jon Riki Karamatsu, Vice Chair

Chairman, and members of the WLH committee, I am asking your support of HB 2687. This legislation insures that only productive and successful decision making govern our marine resources. It is in the best interest of our environment and protects all user groups from pseudo science and ineffective measures. It will lead towards truly scientific decision making and create a greater understanding of our natural resource. Please support this measure.

Sincerely,
Brian Kimata