

UNIVERSITY OF HAWAII AT MANOA
Environmental Center

A UNIT OF THE WATER RESOURCES RESEARCH CENTER

RL: 2174

HB 3176 HD1
RELATING TO ADMINISTRATIVE PENALTIES FOR DAMAGE TO STONY CORAL
AND LIVE ROCK.

House Committee on Finance

Public Hearing – February 22, 2008
2:15 p.m., State Capitol, Conference Room 308

By

Paul Jokiel, Hawaii Institute of Marine Biology
John Stimson, Zoology
Peter Rappa, Environmental Center

HB 3176 HD1 allows the Board of Land and Natural Resources (BLNR) to impose administrative penalties for damage to stony coral and live rock on a per square meter basis. Our statement on this measure does not represent an institutional position of the University of Hawaii.

We agree with the intent of this bill. The Department of Land and Natural Resources needs the authority to impose a fine for large scale reef damage. The fine of up to \$5000 per square meter is consistent with laws in other states and with the value of a reef. As it stands, it is very difficult to protect reefs because of the lack of such a law. If passed, this law would go a long way in helping to prevent considerable damage to Hawaii's reefs as it would cause developers, ship owners and polluters to be cautious of their actions. This law would also help set the penalty for violations such as those that occurred at Pilaa reef on Kauai. Although the damage to the Pilaa reef was well documented and the violator identified, it was difficult to determine a reasonable penalty because of the way the present law is written.

We believe that this act needs to take effect upon passage as it was proposed in the original version of the bill. We don't see any benefit of extending the date the law will take effect to 2112. Significant damage to Hawaii's stony coral reefs could be avoided if this law were to go into effect immediately. The new fine can act as a deterrent only after it is implemented.

In addition to this law, we would like to see the Division of Aquatic Resources (DAR) deploy more mooring buoys near more reef areas. This would help to prevent damage to corals and live rock and will increase public awareness that DAR cares about these matters. Publication of the policy about anchoring and fines assessed for damaging coral would be a

good adjunct to this bill and we encourage DAR to advertise the policy widely. Furthermore, we have noted that there are many grooves in reefs and corresponding broken coral caused by boat collisions/groundings within Kaneohe Bay. We therefore recommend that DAR mark some of the reefs behind the popular sandbar in Kaneohe Bay as off limits for anchoring to reduce the amount of damage that occurs frequently in this area.

Thank you for the opportunity to comment on this bill.



Legislative Testimony
**HB 3176, HD 1, RELATING TO ADMINISTRATIVE PENALTIES FOR
DAMAGE
TO STONY CORAL AND LIVE ROCK**

House Committee on Finances

February 22, 2008

2:15 p.m.

Room: 308

The Office of Hawaiian Affairs SUPPORTS, with amendments, HB 3176, HD 1, which would add needed layers of protection for our coral reefs.

A 2006 National Survey of Fishing, Hunting and Wildlife-Associated Recreation by the U.S. Fish and Wildlife Service shows that wildlife watching is increasing in this State, and so too is the revenue we generate from it. In 2006, Hawai'i's wildlife was given an estimated value of \$402.3 million, and wildlife watching spending has almost increased 50 percent from 2001. Our coral reefs play a large and valuable part in this; for example, Hanauma Bay saw 1 million visitors in 2006.

However, the coral reefs in this State are under enormous strain from a variety of sources both locally and from abroad. Locally, the increase in wildlife-watching has put pressure on these sensitive areas as has poorly planned coastal development and the associated runoff from compromised watersheds. The recent sinking of a tour vessel in Molokini that damaged hundreds of meters of coral is a perfect example of what can happen in an overly-used and poorly managed Marine Life Conservation District.

Abroad, there is increasingly clear knowledge and recognition that climate change places our coral reefs amongst those environments most threatened by this phenomenon. An increase in sea surface temperatures, rising sea levels, and more frequent and severe storms are some of the effects of climate change that can negatively impact coral reefs. These negative impacts lead to declines in biodiversity, coastal protection and income from reef fisheries and tourism. The resulting economic loss can total billions of dollars for our State.

OHA sees that our State is reliant upon our threatened coral reefs for income and food; therefore, the protection of coral reefs should be a top priority for our policy makers. This bill takes us closer towards ensuring protection for a heavily used and stressed asset that we all need and enjoy.

One of the amendments added in this proposed HD 1, however, appears to be far too burdensome for the Department of Land and Natural Resources. They should not have to calculate the relative economic value of the damaged area to determine the fine to be assessed. The fact that the precious, public trust resources were damaged should be enough.

OHA urges the Committee to SUPPORT HB 3176, HD 1, with the above considerations. Thank you for the opportunity to testify.

Testimony of The Nature Conservancy of Hawai'i
Supporting With Amendments H.B. 3176 HD 1 Relating to Administrative Penalties for
Damage to Stony Coral and Live Rock
House Committee on Finance
Friday, February 22, 2008, 2:15PM, Room 308

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii'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 Hawaii supports H.B. 3176 Relating to Administrative Penalties for Damage to Stony Coral and Live Rock.

However, we recommend that the economic valuation language included by the Judiciary Committee be removed and the bill be amended back to its original draft.

There is widespread agreement amongst a variety of stakeholders that Hawaii's fragile environment is in need of improved enforcement and prosecution of violations of our State natural resource laws. Currently, the DLNR does not have an appropriate way to deal with violations that involve large areas of coral damage such as vessel groundings.

As originally drafted, this bill would provide the Department with an appropriate method to calculate areas of coral damage and apply a level of fine that will appropriately punish and deter future violations of this type.

The problem with the economic valuation language added by the Judiciary Committee is that it appears to be based on testimony that suggested that some coral reefs have more monetary value than other coral reefs based solely on how many people use or visit the site where the coral is growing. Human use of an area is just one measure of value. Other measures include ecosystem services provided by a coral reef like fisheries support and protection from storm surge, as well as the arguably intangible—some might say priceless—value of intact and healthy natural ecosystems.

Furthermore, the penalty suggested in the original bill is not for the purpose of funding restoration or mitigation of loss. The primary purpose is to punish violations and effectively deter future unlawful action and damage to uniquely fragile natural resources. The economic value language added to the bill uses an unduly limited and misplaced rationale for setting fines for coral damage.

Please restore H.B. 3176 to its original draft.

BOARD OF TRUSTEES

S. Haunani Apoliona Peter D. Baldwin Christopher J. Benjamin Zador W. Brown, Jr. Carl A. Carlson, Jr. David C. Cole Samuel A. Cooke
Peter H. Ehrman Kenton T. Eldridge Guy Fujimura J. Stephen Goodfellow Thomas Gottlieb James J.C. Haynes Ron Higgins Peter Ho
Stanley Hong J. Douglas Ing Mark L. Johnson Dr. Kenneth Kaneshiro Bert A. Kobayashi, Jr. Faye Watanabe Kurren Duncan MacNaughton
Bill D. Mills Wayne Minami Michael T. Pfeffer H. Monty Richards Jean E. Rolles Scott Rolles James Romig Eric Yeaman



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
820 Mililani Street, #810
(808) 205-1745 Phone (808) 533-2739 Fax
office@oceantourism.org

February 22, 2008

Testimony To: House Committee on Finance
Representative Marcus R. Oshiro

Presented By: James E. Coon, President
Ocean Tourism Coalition

Tim Lyons, CAE
Executive Director

Subject: H.B. 3176, HD 1 – RELATING TO ADMINISTRATIVE PENALTIES FOR
DAMAGE TO STONY CORAL AND LIVE ROCK

Chair Oshiro and Members of the Committee:

I am James E. Coon, President of the Ocean Tourism Coalition (OTC), Hawaii's statewide organization. We represent the 300 small commercial passenger vessels operating out of state harbor facilities. We speak in support of H.B. 3176 with the amendments as contained in HD 1.

We agree with the intent of this bill and protecting the reef, but we wanted a more scientific formula for determining the per meter values of various coral reefs. Not just one blanket value. Areas of coral have different values based on the amount of use an area sees by the public. For example, Hanauma Bay is the most valuable reef in Hawaii as is Molokini Crater with approximately 1000 visitors per day. It would seem appropriate to take the study by DAR which is based on Cesar et al.'s study of the economics of Hawaii's coral reefs (Cesar et. al., 2002).

The DAR report uses Hanauma Bay results as a proxy for values associated with other MLCD's and reefs. (The reported Hanauma Bay value of \$91.63 per m² per year contrasts to Cesar's estimates of \$3.51 per m² per year for Kihei coast, and \$.73 per m² per year for the Kona Coast found in the same report.)

There are some points that need to be considered. First, the very high per m² figure for Hanauma Bay is due to the very high levels of use there (up to 3000 people per day). Since almost all of the economic value estimated in Cesar et. al. is a result of human use (about 96% of the total value); the more users in a location, the higher total use value per m².

We propose to make the Hanauma Bay economic values the base line in determining the value of any specific reef damage. Economists and ecologists can then determine the number of years that an area will be out of service and apply the appropriate yearly recovery rate based on the estimated amount of use an area sees on a daily basis.

If you pass this bill, please keep the amendments to reflect a more scientific basis to establish reef value.

Thank you.

FINtestimony

From: carl [mjellings@hawaii.rr.com]
Sent: Tuesday, February 19, 2008 11:20 PM
To: FINtestimony
Subject: 2/22/2008 HB3173 Agenda #5

HB 3176, HD1

RELATING TO ADMINISTRATIVE PENALTIES FOR DAMAGE TO STONY CORAL AND LIVE ROCK.

DATE: FRIDAY, February 22, 2008
TIME: 2:15 P.M.
PLACE: Conference Room 308

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

Aloha Honorable Chair Representative Marcus Oshiro,,, Honorable Vice Chair
Representative Marilyn B Lee ,

My name is *Carl P Jellings* Resident of Nanakuli Oahu in *strong support* of this
measure mahalo for allowing me to testify