

H.B. NO. 1134

A BILL FOR AN ACT

RELATING TO RIGHTS OF INSPECTION FOR AQUATIC LIFE.

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

1 SECTION 1. Chapter 189, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§189- Rights of inspection. (a) As a part of any
5 valid commercial marine license issued in accordance with this
6 chapter, an officer of the department charged with enforcing the
7 laws relating to aquatic life, shall have the authority to
8 conduct examinations and inspections of:

9 (1) The contents of any bag or container of any kind
10 capable of holding aquatic life; or

11 (2) Any vehicle, boat, or other conveyance used to
12 transport aquatic life;

13 for evidence of a violation of the condition of any license,
14 permit, or registration issued under subtitle 5 of title 12 or
15 any rule adopted thereunder. Written consent to inspection
16 shall be a condition of any license, permit, or registration
17 issued under subtitle 5 of title 12 by the department. No
18 person shall refuse any enforcement officer of the department an

1 examination and inspection for purposes of determining
2 compliance with the terms of any license, permit, or
3 registration relating to aquatic life.

4 (b) The owner of a commercial marine license, permit, or
5 registration shall not permit any other person to carry,
6 display, or use the license, permit, or registration in any
7 manner. Every individual to whom a license, permit, or
8 registration has been issued shall physically possess the
9 license, permit, or registration at all times when engaged in
10 commercial fishing activities and shall show the license,
11 permit, or registration upon the demand of any enforcement
12 officer of the department. Upon the request of any enforcement
13 officer of the department, an individual shall not refuse to
14 show the license, permit, or registration, or withhold
15 permission to inspect the individual's vessel, container,
16 cooler, carrier, or boat or vehicle of any kind where marine
17 resources may be concealed.

18 (c) The department may refuse to issue or renew a license,
19 permit, or registration for any person who refuses to display
20 the person's license, permit, or registration, or refuses to
21 allow the examination or inspection of any container or vehicle
22 used to carry or transport aquatic life."

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1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. Boy

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BY REQUEST

JAN 26 2009

Report Title:

Rights of Inspection; Aquatic life

Description:

Authorizes inspection of coolers and containers capable of holding aquatic life, or boats, vehicles or conveyances to transport aquatic life, for the purposes of compliance with the State's fishing laws.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO RIGHTS OF INSPECTION FOR AQUATIC LIFE.

PURPOSE: To authorize inspection of coolers and containers capable of holding aquatic life, or boats, vehicles or conveyances to transport aquatic life for the purposes of compliance with the State's fishing laws.

MEANS: Add a new section to chapter 189, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Currently, section 187A-15, HRS, requires that unless a fisherman, permittee or licensee gives voluntary consent, any conservation and resources enforcement officer of the Department can only examine contents of bags, containers, vehicles, or conveyances used to carry aquatic life, where there is probable cause that a violation has been committed. This voluntary inspection frustrates the efforts by the Department to inspect for compliance with the fishing laws of the State.

Section 183D-25, HRS, on the other hand, already provides in the context of hunting licenses issued by the Department that no individual, upon the request of a enforcement officer, shall refuse to show the license nor withhold permission to inspect the individual's game bag, container, hunting coat or jacket, or carrier, or vehicle of any kind where the game might be hidden. No probable cause is warranted because the consent to an inspection is made part of the hunting license terms and conditions upon issuance.

The Department believes that the two approaches for enforcement of hunting and aquatic resources should be standardized

with regard to inspections of take. For this reason, this bill has been prepared to bring the aquatic life inspection statute in line with the inspection law governing the taking of wildlife.

Impact on the public: Would benefit the fishing public by the demonstration of greater enforcement and compliance with existing fishing laws, thus resulting in the greater conservation of aquatic life.

Impact on the department and other agencies: Will strengthen the Department's efforts to enforce fishing violations.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 401.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.