



GOV. MSG. NO. **663**

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2583 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB2583 SD2 CD1

A BILL FOR AN ACT  
RELATING TO IMPOUNDED VESSELS.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2583

Honorable Members  
Twenty-Fifth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2583, entitled "A Bill for an Act Relating to Impounded Vessels."

The original purpose of this bill was to clarify that all costs and expenses associated with the impoundment and disposal of an impounded vessel are to be borne by the vessel owner. The original bill also clarified that mooring fees incurred prior to impoundment are also the responsibility of the vessel owner, regardless of whether the vessel owner repossesses the vessel. Amendments made to the bill added a new section 1 to establish civil and administrative penalties for shark feeding, including seizure and impoundment or forfeiture of any commercial marine license, vessel, and fishing equipment, and administrative fines, fees, and costs.

This bill is objectionable because it violates Section 14 of Article III of the Hawaii Constitution, which states that "[e]ach law shall embrace but one subject, which shall be expressed in its title." The subject of this bill that is expressed in its title is "impounded vessels." The establishment of civil and administrative penalties for shark feeding appears to go beyond the scope of the subject expressed in the title of this bill.

STATEMENT OF OBJECTIONS  
HOUSE BILL NO. 2583  
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For the foregoing reasons, I am returning House Bill  
No. 2583 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a large, stylized loop at the end.

LINDA LINGLE  
Governor of Hawaii

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## A BILL FOR AN ACT

RELATING TO IMPOUNDED VESSELS.

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

1           SECTION 1. Section 188-40.6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[+]~~ §188-40.6 ~~[+]~~ Shark feeding; prohibitions; exceptions;  
4 penalties. (a) Except as provided in subsection (b), or as  
5 otherwise provided by law, it shall be unlawful for any person  
6 to conduct any activity related to the feeding of sharks in  
7 state marine waters.

8           (b) Persons may engage in the feeding of sharks for  
9 traditional Hawaiian cultural or religious practices; provided  
10 that the feeding is not part of a commercial activity.

11           (c) Persons engaged in the taking of marine life that  
12 results in captured, injured, or dead fish being incidentally  
13 eaten by sharks shall not be considered in violation of this  
14 section; provided that the purpose of the taking of marine life  
15 is not the feeding of sharks.

16           (d) The department may issue permits to engage in  
17 activities otherwise prohibited by law, in accordance with  
18 section 187A-6, or as may be otherwise authorized by law.



- 1        (e) Any person violating this section or any rule adopted  
2 by the department pursuant to this section shall be subject to:
- 3        (1) Impoundment and forfeiture of any commercial marine  
4 vessel; and
- 5        (2) An administrative fine of not less than \$5,000 and not  
6 more than \$15,000. In addition, the violator may be  
7 assessed administrative fees and costs, and attorney's  
8 fees and costs.

9 Each day of violation shall constitute a separate offense. Any  
10 action taken to impose or collect the penalty provided for in  
11 this subsection shall be considered a civil action. Any  
12 criminal prosecution or penalty imposed for violation of this  
13 section or any rule adopted by the department pursuant to this  
14 section shall not preclude impoundment and forfeiture or the  
15 imposition of any administrative fines and costs for attorney's  
16 fees and costs under this subsection.

17        [~~e~~] (f) As used in this section:

18        "Commercial activity" means to engage in any action or to  
19 attempt to engage in any action for compensation in any form.  
20 The action or actions may include, but are not limited to,  
21 providing, or attempting to provide, guide services, charters,



1 tours, and transportation to and from the location or locations  
2 for which such services are provided.

3 "Compensation" means money, barter, trade, credit, and  
4 other instruments of value, goods, and other forms of payment.

5 "Feeding" means the introduction of or an attempt to  
6 introduce any food or other substance into the water to attract  
7 marine life for any purpose other than to take the marine life."

8 SECTION 2. Section 200-16, Hawaii Revised Statutes, is  
9 amended by amending subsection (c) to read as follows:

10 "(c) An unauthorized vessel may be impounded by the  
11 department at the sole [~~cost and~~] risk of the owner of the  
12 vessel, if the vessel is not removed after the seventy-two-hour  
13 period or if during that period the vessel is removed and  
14 remoored in the harbor or mooring or anchorage area or any other  
15 state harbor or mooring or anchorage area without a use permit.  
16 The owner of the vessel shall be solely responsible for all  
17 costs of the impoundment and the disposal of the vessel. Any  
18 proceeds resulting from the impoundment of the unauthorized  
19 vessel shall be used first to pay the costs of impoundment and  
20 disposal and then to pay any mooring fees due. If the proceeds  
21 resulting from the impoundment are inadequate to pay for all



1 costs and mooring fees due, the owner of the vessel shall remain  
2 liable for the outstanding costs and mooring fees."

3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2010.

