

STAND. COM. REP. NO.

2608

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2441
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 2441, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ENDANGERED SPECIES,"

begs leave to report as follows:

The purpose of this measure is to establish the intentional or knowing taking of an endangered species as a class C felony and provide a private right of action to enforce conservation of aquatic life, wildlife, and land plant laws.

This measure is in response to two recent intentional killings of Hawaiian monk seals on Kauai and one on Molokai. In September 2009, a Kauai man pleaded guilty to shooting a monk seal in violation of the federal Endangered Species Act. The man received a ninety-day jail term, one year supervised release, and a \$25 fine.

Your Committee finds that with the increasing number of monk seals in Hawaiian Islands, the interaction between seals and humans will become more prevalent. It is critical for the survival of the endangered seals that aggression towards the seals be minimized to avoid their demise. Your Committee also finds that increasing the penalties for intentional or knowing destruction of these animals will protect them from future harassment and death. However, your Committee believes that the measure, as received, is too broadly written and would apply the Class C felony penalty to endangered plants and wildlife as well. Your Committee believes that the Class C felony penalty should




apply exclusively to the intentional or knowing taking of Hawaiian monk seals. Your Committee additionally finds that suits filed by individual citizens could possibly become problematic to the judicial system.

Accordingly, your Committee amended the measure by:

- (1) Eliminating references to any endangered species except for Hawaiian monk seals;
- (2) Eliminating the section allowing for citizen suits; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2441, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2441, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,




BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2441, SDI	ENE/WTL, JGO	2/24/10		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)				✓
BUNDA, Robert	✓			
GABBARD, Mike	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	5	—	—	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes