

MAR 14 2012

SENATE RESOLUTION

URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ADOPT RULES TO REGULATE AND CONTROL OPIHI HARVESTING TO ALLOW OPIHI STOCKS TO NATURALLY REPLENISH THEMSELVES AND SUPPORT SUSTAINABLE HARVESTING AND TO ANNUALLY REPORT ON ITS EFFORTS TO REPLENISH OPIHI STOCKS, THE EFFECTIVENESS OF THESE EFFORTS, AND RECOMMENDATIONS AND PROPOSED LEGISLATION FOR IMPROVEMENT.

1 WHEREAS, opihi comprises four species of saltwater Hawaiian
2 limpets that are found nowhere else on earth; and
3

4 WHEREAS, these four species of opihi include:
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6 (1) The blackfoot opihi (*Cellana exarata*), also known as
7 "*opihimakaiauli*," found on the upper portion of wave
8 washed intertidal shores from Puhahonu (Gardner
9 Pinnacles) to the island of Hawaii;

10
11 (2) The yellowfoot opihi (*Cellana sandwicensis*), also
12 known as "*opihialinalina*," found on the middle-low
13 portion of wave washed intertidal shores from
14 Mokupapapa (French Frigate Shoals) to the island of
15 Hawaii;

16
17 (3) Opihi koele (*Cellana talcosa*), also known as the
18 "kneecap" opihi, found from the shallow subtidal to
19 the middle intertidal zone on shores from Niihau and
20 Kauai to Hawaii; and
21

22 (4) The greenfoot opihi (*Cellana melanostoma*), commonly
23 observed through the intertidal zone from Puhahonu to
24 Nihoa, and less commonly observed in the main Hawaiian
25 Islands; and
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27 WHEREAS, opihi picking is a dangerous activity, as
28 recognized by the native Hawaiian saying, "*he i'a make ka*
29 '*opihimakaiauli*," meaning "opihimakaiauli is the fish of death"; and
30



1 WHEREAS, between April 1999 and September 2001, there have
2 been fifteen reported deaths resulting from the pursuit of
3 finding and picking opihi from Hawaii's hazardous and
4 unpredictable coastal areas; and
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6 WHEREAS; on April 30, 1999, Anthony Jeremy Ancheta, age
7 twenty-seven, of Paauhau, died picking opihi and was survived by
8 son Reyn Maria, father Tony, mother Frances, brother Troy L.,
9 sisters Jodell K. and Jolene K., and grandfather Candido; and
10

11 WHEREAS, on December 30, 2000, Arthur Z. Anderson, age
12 forty-two, of Kurtistown, died when he hit his head on rocks and
13 drowned while picking opihi on the shoreline at Kawa Bay in Ka'u;
14 and
15

16 WHEREAS, on January 20, 2001, Jerry Toshio Nakaya, age
17 forty-nine, of Honolulu, died after a large wave swept him into
18 the ocean off Waiahukini Beach and was survived by mother Tsukie
19 and brother Elmer; and
20

21 WHEREAS, also in January 2001, Kevin Higa, age thirty-six,
22 of Hilo, a Kea'au Middle School computer resource teacher, died
23 picking opihi and was survived by parents Thomas and Doris,
24 brother Kurt, and grandmother Yoshiko Miyashiro; and
25

26 WHEREAS, on February 20, 2002, Wilmar Cablay, age thirty-
27 two, of Maui, died picking opihi and was survived by brother
28 Arlito and ten year-old son Isaiah; and
29

30 WHEREAS, a pile of opihi and Wilmar Cablay's bag were found
31 on the cliffs above the place his body was recovered; and
32

33 WHEREAS, on May 29, 2002, William Ishizu, age thirty-five,
34 of Hilo, died picking opihi; and
35

36 WHEREAS, a family member found the body of William Ishizu
37 at the bottom of a twenty-foot cliff; and
38

39 WHEREAS, on March 31, 2003, Dino "Di" Maipoinaoeiau Kaawa,
40 age eighteen, of Na'alehu, died when he was swept away by a wave
41 when picking opihi with family members and was survived by
42 mother Evon; sister Melinda; brother Shawn; grandfathers David
43 Jr., Nelson Kaupu and McKinley Davis; grandmothers Eleanor



1 Makida and Marjorie Kaawa; hanai sisters Tanya Silva and Hiilani
2 Lipe; and hanai brothers Halley, Michael Jordan, Pomai Olson,
3 Nathaniel Davis, Dason Udac, and David IV; and

4
5 WHEREAS, on April 15, 2003, Leo Kozlowski Jr., age thirty-
6 five, of Hilo, a self-employed carpenter, died while picking
7 opihi and was survived by wife Fran; son Leo A. III; daughter
8 Kortnee A.; father Leo A. Sr.; mother Renee Neal; brothers
9 Walter J. Kozlowski and James Mercado; and sisters Karolotta-Ann
10 Algoño, Jamie Pedigo, and Chilli-Rae Soon; and

11
12 WHEREAS, on January 2, 2007, Leslie DeloSantos, age fifty-
13 seven, of Onomea, died while picking opihi; and

14
15 WHEREAS, Leslie DeloSantos' family members last saw him in
16 late December of 2006, when he left to pick opihi, and his body
17 was never found; and

18
19 WHEREAS, on May 10, 2008, David M. Davis, age thirty-seven,
20 of Kailua-Kona, died when he fell off a three hundred-foot cliff
21 at the end of Old Cane Haul Road between Ookala and Paauilo
22 while picking opihi; and

23
24 WHEREAS, on June 28, 2008, Nathan Libarios, age fifty-
25 eight, of Kainaliu, an iron worker in the construction industry,
26 died while picking opihi and was survived by sons Nathan
27 Libarios and Tevin and Tyron Libarios-Moses; daughters Jermaine
28 Larsen and Keliko Libarios-Moses; brother Jr.; sisters Patsy
29 Keawe, Dottie Ariel, and Cheryl Dacalio; and two grandchildren;
30 and

31
32 WHEREAS, fire Department rescue divers recovered shorts, an
33 opihi bag, and human remains with what appeared to be shark bite
34 marks that were suspected to be those of Nathan Libarios; and

35
36 WHEREAS, on September 13, 2008, Len Tokuo Nakano, age
37 fifty-four, of Hilo, a Department of Water Supply electrical-
38 mechanical supervisor, died when he was swept into a blowhole
39 while picking opihi and was survived by parents Tokuichi and
40 Fusae; sister Yvonne Heckman; and daughter Sybil Ahmed; and

41
42 WHEREAS, on September 12, 2009, David Kawika Magallanes,
43 age forty-four, of Kailua-Kona, disappeared while picking opihi
44 at Keahole Point; and



1
2 WHEREAS, on June 22, 2010, Joseph Pacheco, Jr., age forty-
3 one, of King's Landing, left his home to pick opihi along the
4 King's Landing coast, and never returned; and

5
6 WHEREAS, Joseph Pacheco's backpack and dog were found about
7 a mile south of Shipman Beach and three days later, his remains
8 were recovered from the ocean about a mile north of Papai Bay;
9 and

10
11 WHEREAS, Joseph Pacheco, Jr. was survived by sons Joseph
12 Pacheco of Berlin and John Pacheco of Clementon; six
13 grandchildren; mother Dolores Pacheco of West Berlin; brothers
14 and sisters Marie Schaeffer, Sandy Clark, Janet Pacheco, John
15 Pacheco, Patty Koerner, and Rob Pacheco; and many loving nieces,
16 nephews, cousins, and friends; and

17
18 WHEREAS, on September 14, 2011, Brystan Alidon, age twenty,
19 of Hilo, a yard service worker, died while picking opihi and was
20 survived by companion Shontae Agustin; daughter Kiari A. Subia;
21 parents Frank and Dayle Santos, and Michael and Melissa Alidon;
22 brothers Frank "Olo" Santos, Bronson Atkins, and Ronson and
23 Joseph Alidon; sisters Nichole "Kolie" Kekahuna and Justice
24 Santos; grandparents Iris Oda and Pedro "Papa" Milar, Stanley T.
25 Oda, and Richard and Harriet Lei Alidon; and great-grandparent
26 Loretta; and

27
28 WHEREAS, despite the dangers of this activity, opihi is a
29 delicacy that holds great cultural importance; and

30
31 WHEREAS, as such, opihi populations are dwindling due to
32 popularity and overharvesting; and

33
34 WHEREAS, the most notable impact is on Oahu where *Cellana*
35 *exarata* and *Cellana sandwicensis* are rare and *Cellana talcosa* is
36 functionally absent; and

37
38 WHEREAS, the key to increasing the sustainable harvest of
39 opihi populations is protecting a portion of the populations so
40 that they may reproduce and create the next generation; and

41
42 WHEREAS, fisheries replenishment and management areas are a
43 promising management tool to protect breeding populations while
44 allowing harvest in unprotected areas; and



1
2 WHEREAS, the life history characteristics of opihi are
3 perfectly suited to this management strategy because the adults
4 will stay within the protected areas, and the opihi larvae can
5 disperse throughout an island and replenish both harvested and
6 protected areas; and

7
8 WHEREAS, the Division of Aquatic Resources of the
9 Department of Land and Natural Resources manages the State's
10 aquatic resources and ecosystems through programs in commercial
11 fisheries and resource enhancement; aquatic resources
12 protection, habitat enhancement, and education; and recreational
13 fisheries; and

14
15 WHEREAS, the Division's major program areas include
16 projects to manage or enhance fisheries for long-term
17 sustainability of the resources, protect and restore the aquatic
18 environment, protect native and resident aquatic species and
19 their habitat, and provide facilities and opportunities for
20 recreational fishing; and

21
22 WHEREAS, the Department of Land and Natural Resources,
23 through its rulemaking authority, is the appropriate agency to
24 oversee the rehabilitation of the natural populations of all
25 Hawaiian opihi species and establish a new direction for the
26 management of the fishery; now, therefore,

27
28 BE IT RESOLVED by the Senate of the Twenty-sixth
29 Legislature of the State of Hawaii, Regular Session of 2012,
30 that the Department of Land and Natural Resources is urged to
31 adopt rules in accordance to chapter 91, Hawaii Revised
32 Statutes, to regulate and control opihi harvesting, so that the
33 opihi stocks may naturally replenish themselves and support
34 sustainable harvesting; and

35
36 BE IT FURTHER RESOLVED that the rules adopted by the
37 Department of Land and Natural Resources apply to all known
38 Hawaiian opihi, including *Cellana exarata* (blackfoot), *Cellana*
39 *sandwicensis* (yellowfoot), *Cellana talcosa* (koele), and *Cellana*
40 *melanostoma* (greenfoot); and

41
42 BE IT FURTHER RESOLVED that the rules adopted also
43 accomplish the following:
44



- 1 (1) Restrict at any time the taking, harvesting, or
2 possessing of opihi from off-shore islets in the
3 State, including those islands listed in the Atlas of
4 Hawaii, Third Edition (1998), man-made jetties and
5 breakwaters, fishery management areas, fisheries
6 replenishment areas, natural area reserves, refuges,
7 and marine life conservation districts established by
8 the Division of Aquatic Resources of the Department of
9 Land and Natural Resources;
- 10
11 (2) Restrict at any time the taking, harvesting, or
12 possessing of opihi from below the waterline of any
13 coastal area or nearshore waters of the islands of the
14 State;
- 15
16 (3) Restrict during closed seasons the taking, harvesting,
17 or possessing of opihi from above the waterline of the
18 coastal areas or nearshore waters of the islands;
19 provided that the closed seasons be determined jointly
20 by the Division of Aquatic Resources of the Department
21 of Land and Natural Resources and the Hawaii Institute
22 of Marine Biology of the University of Hawaii;
- 23
24 (4) Allow the Kahoolawe Island Reserve Commission to
25 govern the taking, harvesting, and possessing of opihi
26 in the Kahoolawe Island Reserve, including the islands
27 of Puukoa and Aleale;
- 28
29 (5) Recognize individuals who are exercising Native
30 Hawaiian gathering rights and traditional practices as
31 authorized by law, or as permitted by the Department
32 of Land and Natural Resources pursuant to article XII,
33 section 7, of the Hawaii State Constitution, by
34 allowing these individuals to take, harvest, and
35 possess opihi only for those purposes; and
- 36
37 (6) Establish a five-year moratorium on the taking or
38 harvesting of opihi from the coastal areas or
39 nearshore areas of the island of Oahu; and
- 40

41 BE IT FURTHER RESOLVED that the Department of Land and
42 Natural Resources is requested to submit to the Legislature no
43 later than twenty days prior to the convening of the Regular



1 Session of 2013 and every regular session thereafter, an annual
2 report that includes the following:

- 3
- 4 (1) Updates on the development, adoption, and
5 implementation of rules pursuant to chapter 91, Hawaii
6 Revised Statutes;
- 7
- 8 (2) The effectiveness and enforcement of the rules adopted
9 to replenish the opihi stocks;
- 10
- 11 (3) Ongoing discussions and work with the Hawaii Institute
12 of Marine Biology of the University of Hawaii
13 regarding establishing open and closed seasons for the
14 taking and harvesting of opihi from above the
15 waterline of the coastal areas or nearshore waters of
16 the islands, gathering and compiling baseline and
17 subsequent annual data on opihi stocks, and efforts in
18 replenishing the opihi stocks;
- 19
- 20 (4) Annual data on opihi stocks, including baseline data
21 to be submitted in the annual report to the
22 Legislature prior to the Regular Session of 2013, and
23 the efforts and any issues encountered in gathering
24 and compiling such data; and
- 25
- 26 (5) Recommendations and any proposed legislation; and
- 27

28 BE IT FURTHER RESOLVED that certified copies of this
29 Resolution be transmitted to the Chairperson of the Board of
30 Land and Natural Resources, Administrator of the Division of
31 Aquatic Resources, Chairperson of the Kahoolawe Island Reserve
32 Commission; Chancellor of the University of Hawaii at Manoa, and
33 Dean of the School of Ocean and Earth Science and Technology at
34 the University of Hawaii at Manoa.

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37 OFFERED BY:



