

HB2589

RELATING TO VESSELS.

Clarifies responsibility for disposing of vessels and amends the description of an abandoned vessel. (HB2589 HD2)

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committees on
WATER, LAND, AND HOUSING
and
JUDICIARY AND LABOR**

**Tuesday, March 20, 2012
12:30 P.M.
State Capitol, Conference Room 016**

**In consideration of
HOUSE BILL 2589, HOUSE DRAFT 2
RELATING TO VESSELS**

House Bill 2589, House Draft 2 proposes to clarify responsibility for disposing of abandoned vessels within the State and amend the description of an abandoned vessel. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

Generally, current statutes place the burden of disposal of all abandoned vessels on the Department, regardless of whether the vessels lie abandoned on public lands under another agency's jurisdiction or on private lands. The Department has the ability to take boats off reefs, but has no equipment or expertise to remove abandoned boats on public streets or other fast lands. The disposition is both costly and time-consuming for the Department. This bill clarifies that the Department shall only be responsible for the disposition of vessels abandoned on lands and waters under its jurisdiction and release the Department from having to pay for the disposing of abandoned vessels on lands and waters not under its jurisdiction.

Section 200-51, Hawaii Revised Statutes (HRS), specifically provides that when any person abandons a vessel upon the premises of a vessel repair business, a private marina, or a yacht club, the owner of the business or private marina, or the owner's representative, or the designated representative of the yacht club, may sell or dispose of the vessel in accordance with PART IV of Chapter 200, HRS. This bill proposes to expand the authority to sell or dispose of a vessel abandoned on other private property to the owners of the other private property.

Thank you for the opportunity to comment.

DEPARTMENT OF CUSTOMER SERVICES
CITY & COUNTY OF HONOLULU
DIVISION OF MOTOR VEHICLE, LICENSING AND PERMITS
ADMINISTRATION
P.O. BOX 30300
HONOLULU, HAWAII 96820-0300

PETER B. CARLISLE
MAYOR



GAIL Y. HARAGUCHI
DIRECTOR

DENNIS A. KAMIMURA
LICENSING ADMINISTRATOR

March 15, 2012

The Honorable Donovan M. Dela Cruz, Chair
And Committee Members
Committee on Water, Land and Housing
The Honorable Clayton Hee, Chair
and Committee Members
Committee on Judiciary and Labor
The Senate
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Chair Delz Cruz, Chair Hee and Committee Members:

Subject: H.B. No. 2589 HD2, Relating to Vessels

The City and County of Honolulu is in strong opposition to H.B. No. 2589 HD2 which will remove the Department of Land and Natural Resources' responsibility of towing abandoned vessels from public streets.

Since this is a new mandate that was previously the responsibility of the State, we recommend the bill be amended with the addition of an unspecified amount for the counties to administer this new program and a source of revenue for the funding of continuing future abandoned vessel removal operations.

If the removal of abandoned vessels will be accomplished by county employees, we recommend that Section 6 of the bill be amended by providing that the excess of the proceeds from the sale of the vessel over the expenses incurred be deposited in the county general fund.

Lastly, we recommend that the effective date of the bill be amended to July 1, 2013, so that the counties will have sufficient time to negotiate abandoned and derelict vessel tow contracts, establish online connectivity, and for training of county inspectors.

Sincerely,

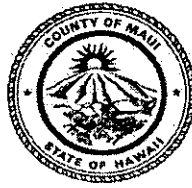
A handwritten signature in black ink, appearing to read "Dennis A. Kamimura".

Dennis A. Kamimura
Licensing Administrator

ALAN M. ARAKAWA
Mayor

KYLE K. GINOZA, P.E.
Director

MICHAEL M. MIYAMOTO
Deputy Director



TRACY TAKAMINE, P.E.
Solid Waste Division

ERIC NAKAGAWA
Wastewater Reclamation Division

COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
2200 MAIN STREET, SUITE 100
WAILUKU, MAUI, HAWAII 96793

March 19, 2012

The Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Water, Land and Housing
The Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, HI 96813

Dear Chair Dela Cruz, Chair Hee, and Committee Members

**SUBJECT: TESTIMONY IN REGARDING HB 2589, HD 2 RELATING TO VESSELS
PUBLIC HEARING ON MARCH 20, 2012 AT 12:30 PM IN CONFERENCE
ROOM 016**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to clarify the responsibility for disposing of abandoned vessels and to amend the definition of an abandoned vessel.

However, the measure, as currently written, still lacks clarity for defining when a vessel meets the criteria for being abandoned and the criteria for proper method of disposal as described below. Furthermore, the County of Maui currently has neither the funding for nor the knowledge and resources needed to carry out the impounding, valuation, and disposal of vessels.

This measure appears to effectively address the needs and rights of the private property owner by providing for a proper and legal process to remove an abandoned vessel on their property, with the exception noted below regarding a time limit.

As currently drafted, this bill lacks clarification regarding essential steps required to identify a vessel as abandoned, and to remove and secure the vessel. First, this measure does not specify a time limit for a vessel to be left unattended and, thereby, identified as abandoned. In the statute HRS ch.200-41, for which this bill seeks to revise, the time limit was 30 days. However, that has been edited out for this bill and no other time frame has been added. For vehicles, for example, HRS 290-1 specifies 24 hours unattended as the criteria for abandoned. Absent a specified time limit, both the enforcement body and the vessel owner are left without clear guidance for an acceptable length of time to park the vessel on land, whether on public or private property.

Second, in Section 1, the measure required here to determine IF a vessel is abandoned appears to be dependent on registration status and notification outcome. It states in 1(a)(1,2, and 4) that the vessel registration status and the current address of the owner are key criteria for determining if a vessel is abandoned, not length of time unattended and without movement. This stipulation would require the enforcement body to, 1) access vessel registration information, 2) determine if registration is current, 3) send a notification letter to the owner, and 4) wait to see if the owner is at their address on record and accepts or denies ownership. These steps and the time it takes to carry them out would all be needed before the vessel could be confirmed as abandoned and then removed. (Note: these same steps are carried out AFTER an abandoned vehicle is impounded, as per HRS290, and is used to determine how a vehicle may be disposed of, not whether or not was abandoned.)

If you have any further questions, please contact Patience Gaia, Abandoned Vehicle Administrator at 270-8217.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Ginoza', with a long horizontal stroke extending to the right.

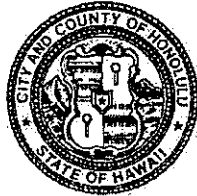
Kyle Ginoza, Director, Environmental Management

cc: Tracy Takamine, Chief, Solid Waste Division
Patience Gaia, Administrator, Abandoned Vehicles and Metals

DEPARTMENT OF PARKS & RECREATION
CITY AND COUNTY OF HONOLULU

1000 Ulukouia Street, Suite 309, Kapolei, Hawaii 96707
Phone: (808) 768-3003 • Fax: (808) 768-3053
Website: www.honolulu.gov

PETER B. CARLISLE
MAYOR



GARY B. CABATO
DIRECTOR
ALBERT TUFONO
DEPUTY DIRECTOR

March 16, 2012

The Honorable Senator Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
Hawaii State Capitol, Conference Room 16
Honolulu, Hawaii 96813

Dear Chair and Committee Members:

Subject: H.B. 2589, HD2, Relating to Vessels

The Department of Parks and Recreation vehemently opposes the unfunded mandate in H.B. 2589 HD2.

The complete responsibility of water craft is the sole responsibility of the Department of Land and Natural Resources to collect fees and registration of water vessels. The City does not have the authority to impound or to dispose of water vessels before going through property disposal state laws that is provided only to DLNR. The City would incur added costs in additional salaries and removal services. Such services, if transferred from the State, should come with funds and or staff to allow the City to perform the duties not a mechanism to perform contested case hearings.

Additional storage property must be secured to store impounded water vessels or the City will incur additional costs to pay for private storage space. It would require an additional funding source.

Should you have any questions, please contact Mr. John Reid, Planner, at 768-3017.

Sincerely,

Handwritten signature of Gary B. Cabato in black ink.

GARY B. CABATO
Director

GBC:jr

W/Vessels 4

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Eile Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 19, 2012

TO: The Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Water, Land, and Housing
The Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor

FROM: Danny A. Mateo
Council Chair

A handwritten signature in black ink, appearing to read "DM", written over the printed name "Danny A. Mateo".

SUBJECT: **HEARING OF MARCH 20, 2012; TESTIMONY IN OPPOSITION TO HB 2589,
HD2, RELATING TO VESSELS**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to clarify the responsibility for disposing of abandoned vessels, and amend the definition of an abandoned vessel.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

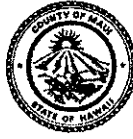
1. This measure transfers the responsibility for the removal of abandoned vessels from the State to the counties when the vessel is abandoned on county property; however, the measure fails to provide any corresponding source of funding to cover the counties' costs to start a removal program, and to pay for future removal operations.
2. In testimony before the House Committee on Water, Land & Ocean Resources, the Department of Land and Natural Resources confirmed that "disposition is both costly and time-consuming." This bill shifts the costly and time-consuming responsibility to dispose of abandoned vessels to the counties, without also funding the mandate.
3. If this measure is passed, it should be revised to include an unspecified amount to provide funding for the counties to establish and continue vessel removal programs.

For the foregoing reasons, I oppose this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

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March 19, 2012

TO: Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Water, Land, and Housing

Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor

FROM: Joseph Pontanilla, Council Vice- Chair

A handwritten signature in black ink that reads "Joseph Pontanilla".

DATE: Tuesday March 20, 2012

SUBJECT: **OPPOSITION TO HB 2589, HD 2, RELATING TO VESSELS**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose HB 2589, HD 2** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo and urge you to oppose this measure.

12:03:19:kbn/JP: HB 2589 HD2