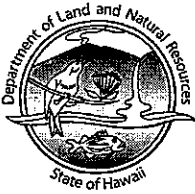


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
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COMMISSION ON WATER RESOURCE MANAGEMENT

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COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
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FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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

**Before the House Committee on  
FINANCE**

**Wednesday, February 29, 2012  
2:30 PM  
State Capitol, Conference Room 308**

**In consideration of  
HOUSE BILL 2590, HOUSE DRAFT 2  
RELATING TO AQUATIC RESOURCE VIOLATIONS**

House Bill 2950, House Draft 2 seeks to provide for transformative administrative penalty alternatives, and for an enhanced collection mechanism for outstanding fines and penalties resulting from aquatic resource violations. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

For many years, the Department has received numerous criticisms relating to the perceived lack of enforcement capacity for its aquatic resource laws. Accordingly, the Department has recently made substantial efforts to improve the capacity of the Department's Division of Conservation and Resources Enforcement to better monitor, educate, and encourage compliance with aquatic resources regulations in the field.

However, it has become apparent that the functions of natural resources law enforcement --including deterrence, rehabilitation, restoration, and providing the assurance of compliance necessary for community engagement in management strategies -- cannot be properly fulfilled without addressing issues arising out of a nearly exclusive reliance on the criminal justice system.

This Administration measure therefore provides the tools necessary for the Department to more consistently, efficiently, and appropriately address aquatic resource violations through the expanded use of its civil, non-criminal administrative enforcement process. The express authority to apply transformative penalties through natural-resources related community service will also provide a unique opportunity to turn poachers into stewards

and advocates for our nearshore aquatic resources, as demonstrated in a variety of other jurisdictions.

The Department notes that an individual testifier has previously expressed concerns relating to the driver's licensing suspension aspect of this bill. The Department would like to indicate that this suspension provision may only be triggered after the completion of an extensive series of procedural steps, which provide a much more flexible and equitable alternative to the current remedy of civil litigation. In order for the licensing suspension authority to be triggered, a person must: 1) Be found, after a public hearing, to have violated a law relating to aquatic resources protection and management; 2) Be subject to community service or fines as a result of such violation; 3) Fail to comply with the levied community service or fines; 4) After failing to comply, be found as potentially noncompliant by the board; 5) Be given specific written notice detailing the potential license suspension, as well as a 30-day opportunity to come into compliance or otherwise respond to the Board of Land and Natural Resources' concerns; and finally 6) If no resolution is reached, be certified by the board as noncompliant with the board's community service requirements or levied fines. No license suspension can occur without every step of this process being fulfilled. The Department feels that this process provides for multiple opportunities to comply and/or raise any concerns regarding the equity and fairness of the administrative penalties levied as a result of a person's rule violation, while still providing a more cost-effective and efficient alternative than cost-prohibitive civil litigation.

The Department therefore strongly supports this opportunity to take a significant step forward in fulfilling its responsibilities to conserve and manage the nearshore aquatic resources of the State.

Testimony of The Nature Conservancy of Hawai'i  
Supporting H.B. 2590 HD2 Relating to Aquatic Resource Violations  
House Committee on Finance  
Wednesday, February 29, 2012, 2:30PM, Room 308

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.*

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The Nature Conservancy supports H.B. 2590 HD2.

There is widespread agreement amongst a variety of stakeholders that Hawai'i's fragile environment is in need of improved compliance, enforcement and prosecution of violations of our State natural resource laws. A 2006 State Auditor's report concludes that DLNR Division of Conservation and Resources Enforcement (DOCARE) officers are spread too thin and lack the equipment they need to do their jobs. In a better economy, the Legislature had been able to support an increase in the number of trained officers and equipment. Not to be deterred by the current tough fiscal climate, DOCARE undertook its own review and strategic planning effort to improve its operational processes. Seeking national law enforcement accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA [www.calea.org](http://www.calea.org)) is an important outcome of that process.

Against this backdrop, a number of communities across the state have been organizing themselves to become more directly involved in the care and management of their natural resources, particularly in coastal and near shore areas. Some communities have partnered with DOCARE to raise awareness of natural resource laws and to improve compliance with those laws. With increased community involvement in marine resource management and enforcement, it will help DLNR, DOCARE, and community-based managers to have additionally flexibility in applying effective civil penalties to justly punish current infractions, effectively deter future violations, and foster greater compliance in the future. H.B. 2590 offers two enforcement strategies with community service and license suspension that can be employed when criminal or financial penalties are ineffective, particularly in an overburdened state court system.

Thank you for this opportunity to offer our support for this measure.

BOARD OF TRUSTEES

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February 28, 2012

*Directors*

*Mitch D'Olier  
Amy Monk  
Michael B. Pietsch  
Jennifer Taylor  
Laura Thompson  
Jean Tsukamoto  
Carol Wilcox*

To: Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair and  
Members of the House Committee on Finance

From: Amy Monk, Member, Member of Board of Directors, Malama Maunalua

Re: HB 2590 Relating to Aquatic Resource Violations  
Hearing: Tuesday, February 29, 2012, 2:300 p.m., Conference Room 308

Position: STRONG SUPPORT

Thank you for hearing this bill and for allowing me to present testimony today, in strong support of HB 2590 which provides for administrative penalties for aquatic resource violations providing an effective alternative to enforce existing laws which protect threatened or endangered species.

The mission of Malama Maunalua is to conserve and restore a healthy and productive Maunalua Bay through community kuleana. Based in East Honolulu, Malama Maunalua was founded in 2005, where we found supportive and cooperative partners in other community and environmental organizations, including Polynesian Voyaging Society, Hui Nalu Canoe Club, The Nature Conservancy and NOAA. In 2010/11, more than 3,000 volunteers have joined us in Maunalua Bay restoration activities, principally the clearing of invasive seaweed, but also reducing land based pollution and runoff, and restoring native aquatic habitat. Restoring habitat is vital to protecting and encouraging the restoration of native fish, shellfish, limu, and other aquatic resources. We are here because HB 2590 will support our mission to restore the health of Maunalua Bay. It will do the same for other coastal areas that are threatened by illegal activities.

There are very few Division of Conservation & Resources Enforcement ("DOCARE") officers and their area of responsibility is the entire State of Hawaii, from our coastal waters to our forests on the mountain ranges and the streams in the valleys. We know their resources are stretched very thin. A successful resource violation prosecution may take hours or days to properly investigate and document. Moreover, it is understandable given the priorities of an overburdened justice system, that the limited resources of the county prosecutors' offices, the state public defender's office, and the criminal court system, would focus on cases of assault or drug trafficking over prosecution of the illegal fish nets or taking undersized fish.

If enforced, current laws are adequate to protect the Hawai'i's aquatic resources, but the fact that there are very few prosecutions means there is no effective deterrent to the violation of existing laws. We believe civil fines levied by BLNR administrative



enforcement, or effective non-criminal monetary penalties, will provide a more effective deterrent to violators. At the same time, it may mitigate the costs of resources enforcement currently lost in the criminal justice process.

It is for these reasons, we support legislation that would:

1. Give the Board of Land & Natural Resources (“BLNR”) or an authorized hearings officer the authority to impose natural resources-related community service in lieu of, or in addition to, civil fines for aquatic resources violations; and

2. Provide a process by which the BLNR may suspend or revoke the driver’s license of violators who refuse to comply with levied fines or mandatory community service.

We believe that giving DLNR additional tools to protect Hawai’i’s natural resources will discourage poaching and illegal harvest of our aquatic resources. Penalties which have some bite, either financial penalties, community service, or the loss of a driver’s license will give violators disincentives to breaking existing laws, which are, currently violated with impunity. We urge the committee to pass this measure.





## CONSERVATION COUNCIL FOR HAWAII

Testimony Submitted to the House Committee on Finance  
Hearing: Wednesday, February 29, 2012 2:30 pm  
Conference Room 308

In support of HB 2590 HD 2 Relating to Aquatic Resource Violations

Aloha. The Conservation Council for Hawaii supports HB 2590 HD 2. This bill will greatly enhance the State's capacity to enforce its aquatic resources laws by providing the Board of Land and Natural Resources with the authority to use its civil administrative enforcement process in a more efficient, transformative, and consistent manner. This bill allows the BLNR to impose natural-resources related community service as a civil penalty in lieu of, or in addition to, monetary administrative fines, and further provides for a process by which the BLNR may place a stopper on a poacher's driver's license if he or she refuses to perform such community service or pay such administrative fines within the timeline set by the BLNR.

HB 2590 HD 2 provides is a creative and effective process to address aquatic resource violations. The process is fair, consistent, and efficient. We attach a one-page sheet on why HB 2590 HD 2 is important and worthy of your consideration and support.

Mahalo nui loa for the opportunity to testify.

Sincerely,

Marjorie Ziegler



Hawaii's Voice for Wildlife – *Ko Leo Hawaii no na holoholona lohiu*

Telephone/Fax 808.593.0255 • email: [info@conservehi.org](mailto:info@conservehi.org) • web: [www.conservehi.org](http://www.conservehi.org)

P.O. Box 2923 • Honolulu, HI 96802 • Office: 250 Ward Ave., Suite 220 • Honolulu, HI 96814

President: Hannah Springer \* Vice-President: Julie Leialoha \* Treasurer: Rick Barboza \* Secretary: Maka'ala Ka'auomoana

Directors: Lida Pigott Burney \* Koalani Kaulukukui \* Robin Kaye

Executive Director: Marjorie Ziegler

### Why HB 2590 HD 2 Is Important

1. **HB 2590 HD 2 will greatly enhance the state's capacity to enforce its aquatic resources laws.** Resource managers, scientists, conservationists, fishers, and policy experts all agree that the state's enforcement capacity presents a significant barrier to more effective management efforts. By resolving legitimate concerns with the civil administrative enforcement process, HB 2590 HD 2 will pave the way for the Department of Land and Natural Resources to effectively apply non-criminal monetary penalties through civil enforcement – a more efficient, effective, and appropriate process to address resource violations.
2. **The criminal justice system does not address resource violations consistently or with the appropriate level of concern.** Currently, the DLNR's exclusive reliance on the criminal justice system and the county prosecutors means that the relatively few aquatic resource cases are lumped in with hundreds of daily, more commonly encountered and easily understood violations, i.e. assaults, driving violations, drug possession, etc. As a result, penalties are inconsistent and often inappropriate, frustrating both managers and community stakeholders. Civil administrative enforcement before the Board of Land and Natural Resources will ensure that resource violations are dealt with consistently and with appropriate seriousness, without resorting to the criminal justice system.
3. **Transformative penalties provide an effective alternative to criminal liability.** In many cases, former poachers have become some of the most outspoken and effective stewards of the natural environment, if given the chance to understand their potential value in the rehabilitation of resources impacted by human activity. HB 2590 HD 2 provides the BLNR the ability to apply natural-resources community service in lieu of criminal penalties, providing a unique opportunity to transform former poachers into stewards of our aquatic resources.
4. **HB 2590 HD 2 will save the state money.** Division of Conservation & Resources Enforcement officers dedicate their careers to protecting our natural resources, through compliance and enforcement actions in the field. However, officers are often frustrated with the minimal fines that result from aquatic resource cases that may take hours or even days of their time to properly investigate and document; cases that also consume considerable resources in the county prosecutors' offices, the state public defender's office, and the criminal court system. The meaningful civil fines provided for in administrative enforcement by the BLNR will not only provide a much more effective deterrence to resource violations, but may further mitigate the costs of resources enforcement currently lost in the criminal justice process.
5. **Driver's licensing revocation will give teeth to resources enforcement, without resorting to civil litigation or the criminal process.** A major obstacle to administrative civil enforcement has been the lack of effective remedies for violators who ignore levied fines, as the only current remedy is the initiation of costly civil litigation. HB 2590 HD 2 will grant DLNR the ability to revoke a poacher's driver's license if they refuse to cooperate with levied fines or natural resources-related community service, providing a relatively efficient yet strong incentive for violators to take these fines seriously.
6. **This bill will provide a huge step forward in fostering community-based fisheries management.** Without a more effective law enforcement process to assure compliance by all stakeholders, community-based fisheries management efforts face considerable difficulties in fostering constructive engagement by users of our nearshore aquatic resources. By providing a more consistent and effective process to address resource violations and foster greater compliance with the law, this bill may greatly encourage the formation of community-based management strategies, as individuals will be much more likely to participate in management efforts when assured that others will comply.
7. **This bill may provide a model for an environmental court.** Many other jurisdictions have established a variety of "environmental courts," or tribunals specifically tasked with adjudicating environmental cases. The success of these institutions has prompted numerous attempts to establish an environmental court in Hawai'i; however, the magnitude and uncertainties of these previous proposals have effectively deterred their adoption. Giving the BLNR the tools it needs to explore administrative enforcement in the aquatic resources context may be a first, much more modest step towards exploring how an environmental tribunal may greatly enhance Hawai'i's capacity to defend and protect our natural and cultural resources.





# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.538.6616 hawaii.chapter@sierraclub.org

## HOUSE COMMITTEE ON FINANCE

February 29, 2012, 2:30 P.M.  
(Testimony is 1 page long)

### TESTIMONY IN SUPPORT OF HB 2590, HD2

Aloha Chair Keith-Agaran and Members of the Committee:

The Sierra Club, Hawai'i Chapter, with 10,000 dues paying members and supporters statewide, *supports* HB 2590 (HD2). This bill would provide the Board of Land and Natural Resources with additional flexibility to impose administrative penalties and ensure compliance.

Hawaii's nearshore and reef fisheries are in decline. Part of the reason for their decline is the behavior of individuals and businesses who flout our conservation laws. The legislature should support efforts to increase enforcement and to give BLNR the necessary flexibility to ensure that the enforcement occurs. This bill takes a step in that direction.

Mahalo for the opportunity to testify.



Emailed Feb. 28, 9:15 pm to [www.capitol.hawaii.gov/submittestimony.aspx](http://www.capitol.hawaii.gov/submittestimony.aspx)

Testimony for the House Committee on Finance  
Hearing on HB2590 HD1  
Feb. 29, 2012  
2:30 pm Room 308

Dear Chair Oshiro, Vice Chair Lee, and Members of the Committee:

Mālama Pūpūkea-Waimea **SUPPORTS HB2590 HD1** the ABOUTFACE bill ("Authorizing the Board to Use Transformative, Fair, and Consistent Enforcement").

Mālama Pūpūkea-Waimea (MPW) is a North Shore community group whose mission is to "to replenish and sustain the natural and cultural resources of the Pūpūkea and Waimea Ahupua'a for present and future generations through active community stewardship, education, and partnerships." For the past seven years, MPW has focused its successful volunteer outreach and community education programs on protecting the Marine Life Conservation District (MLCD) at Pūpūkea-Waimea, including Shark's Cove, Three Tables, and Waimea Bay.

DLNR is a vital partner with MPW in our community stewardship efforts under the statewide Makai Watch Program. Strengthening DLNR's enforcement programs through the innovative and common sense approaches in HB2590 is critically important to protecting our precious ocean resources.

Particularly because HB2590 does not request any budgetary appropriation – and may save the state funding over time – FIN should advance this measure.

**Please support DLNR and HB2590.**

Mahalo,

Denise Antolini, President  
MPW Board of Directors

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**Mālama Pūpūkea-Waimea**

Post Office Box 188  
Haleiwa, HI 96712

**Board of Directors**

*Denise Antolini*  
*John Cutting*  
*Bob Leinau*

**Staff Members**

*Drew Wheeler*  
*Jenny Yagodich*

Federal 501(c)(3) FEIN27-0855937  
State of Hawaii Non-Profit  
GET W90711385-01

February 29, 2012

To: Committee on Finance/Rep. Marcus Oshiro, Chair; Rep. Marilyn Lee, Vice Chair

By: Joanne Sheng, Consultant, Fish and Coral Think Tank (FACTT); Law student at the William S. Richardson School of Law

Re: HB2590: RELATING TO AQUATIC RESOURCE VIOLATIONS

Dear Chairs and Committee Members,

I am a third-year law student at the William S. Richardson School of Law. Over the past two years, I have had the unique opportunity to intern at two divisions within DLNR: the Division of Aquatic Resources (DAR) and the Division of Conservation and Resource Enforcement (DOCARE). My two internships at DLNR primarily consisted of researching pitfalls in the enforcement chain for aquatic resources laws. This research culminated in a thesis paper which (1) outlines the reasons why Hawaii's current natural resource enforcement system is ineffective and (2) identifies practical steps towards drastically improving the system.

Of the many "solutions" identified, the most important step that can be taken towards improving the enforcement of nearshore aquatic resources is developing and utilizing an effective civil enforcement system within DLNR. HB 2590 is an essential first step in developing a functional civil enforcement system.

The current system relies almost exclusively on criminal enforcement. The criminal justice system does not address resource violations consistently or with the appropriate level of concern. Currently, the DLNR's exclusive reliance on the criminal justice system and the county prosecutors means that the relatively few aquatic resource cases are lumped in with hundreds of daily, more commonly encountered and easily understood violations, i.e. assaults, driving violations, drug possession, etc. As a result, penalties are inconsistent and often inappropriate, frustrating both managers and community stakeholders. Civil administrative enforcement before the BLNR will ensure that resource violations are dealt with consistently and with appropriate seriousness, without resorting to the criminal justice system.

This bill will greatly enhance the state's capacity to enforce its aquatic resources laws. Resource managers, scientists, conservationists, fishers, and policy experts all agree that the state's enforcement capacity presents a significant barrier to more effective management efforts. By resolving legitimate concerns with the civil administrative enforcement process, the ABOUT FACE Act will pave the way for the Department of Land and Natural Resources ("DLNR") to effectively apply non-criminal monetary penalties through civil enforcement – a more efficient, effective, and appropriate process to address aquatic resources violations.

Transformative penalties provide an effective alternative to criminal liability. In many cases, former poachers have become some of the most outspoken and effective stewards of the natural environment, if given the chance to understand their potential value in the rehabilitation of resources impacted by human activity. The ABOUT FACE Act provides the BLNR the ability to apply natural-resources community service in lieu of criminal penalties, providing a unique opportunity to transform former poachers into stewards of our aquatic resources.

This bill will save the state money. Division of Conservation & Resources Enforcement (“DOCARE”) officers dedicate their careers to protecting our natural resources, through compliance and enforcement actions in the field. However, officers are often frustrated with the minimal fines that result from aquatic resource cases that may take hours or even days of their time to properly investigate and document; cases that also consume considerable resources in the county prosecutors’ offices, the state public defender’s office, and the criminal court system. The meaningful civil fines provided for in administrative enforcement by the BLNR will not only provide a much more effective deterrence to resource violations, but may further mitigate the costs of resources enforcement currently lost in the criminal justice process.

Driver’s licensing revocation will give teeth to resources enforcement, without resorting to civil litigation or the criminal process. A major obstacle to administrative civil enforcement has been the lack of effective remedies for violators who ignore levied fines, as the only current remedy is the initiation of costly civil litigation. The ABOUT FACE Act will grant DLNR the ability to revoke a poacher’s driver’s license if they refuse to cooperate with levied fines or natural resources-related community service, providing a relatively efficient yet strong incentive for violators to take these fines seriously.

This bill will provide a huge step forward in fostering community-based fisheries management. Without a more effective law enforcement process to assure compliance by all stakeholders, community-based fisheries management efforts face considerable difficulties in fostering constructive engagement by users of our nearshore aquatic resources. By providing a more consistent and effective process to address resource violations and foster greater compliance with the law, this bill may greatly encourage the formation of community-based management strategies, as individuals will be much more likely to participate in management efforts when assured that others will comply.

This bill may provide a model for an environmental court. Many other jurisdictions have established a variety of “environmental courts,” or tribunals specifically tasked with adjudicating environmental cases. The success of these institutions has prompted numerous attempts to establish an environmental court in Hawai‘i; however, the magnitude and uncertainties of these previous proposals have effectively deterred their adoption. Giving the BLNR the tools it needs to explore administrative enforcement in the aquatic resources context may be a first, much more modest step towards exploring how an environmental tribunal may greatly enhance Hawai‘i’s capacity to defend and protect our natural and cultural resources.

House Committee on Finance  
Hawaii State Capitol  
415 S. Beretania Street  
Honolulu, HI 96813

February 23, 2012

Subject: H.B. No. 2590 H.D. 2

Aloha Chair Oshiro, Vice Chair Lee and Members of the House Committee on Finance:

I write with great reservations to H.B. No. 2590, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO AQUATIC RESOURCE VIOLATIONS,"

The Committee on Judiciary's report asserts that the purpose of this measure is to strengthen enforcement of penalties resulting from aquatic resource violations by:

- (1) Authorizing the Board of Land and Natural Resources to impose natural resource-related community service in lieu of or in addition to monetary fines; and
- (2) Providing a process by which violators with outstanding fines or community service requirements may have their driver's license privileges suspended or revoked after a 30-day notification period and a reasonable opportunity to be heard.

*My Comments and Concerns:*

*General: There are sufficient penalties already associated with violations but the larger issue before us is that the division's education and outreach efforts to educate and inform the community has been limited at best to date. DAR has educational specialists on the Big Island, Oahu and Maui County (Kauai's position has remained vacant for about two years). I have heard from many throughout the state during island meetings that there have been neither sufficient nor consistent public meetings to educate the public on State saltwater fishing rules and regulations and that newcomers to the State are viewed to be a large part of the problem. Recently, there has been private action being taken on the Big Island to address this problem with the Micronesian community.*

*Here is where alternatives must be considered to help to mitigate the "problem" if it is the DLNR is truly serious about improving compliance. The registration or licensing of any individual (of age) to extract marine resources is a consideration similar to those required by current freshwater fishing regulations in order to participate in the privilege to fish. Free and open access as provided in our Constitution, does not imply "without rules" as many rules and regulations already exist but are not effectively administered.*

*Further as good stewards, in order to extract marine resources, participants should at a minimum be required to register annually, having reviewed the most current applicable rules and regulations and agree to comply with them to protect and ensure the sustainability of our marine resources. We already require commercial fishermen to be licensed and upon application agree to comply with the rules and regulations regarding the species they target, the approved gear types, bag limits, size limits, etc. This is no different than any sporting activity where rules and regulations govern the activity.*

*Recommendation: Effort must be made to effectively educate and inform before seeking compliance through additional penalties.*

Specifically to the measure, regarding:

- (1) Authorizing the Board of Land and Natural Resources to impose natural resource-related community service in lieu of or in addition to monetary fines;

*Much more discussion and exploration with the community must occur toward defining the terms and limits of "natural resource-related community service." To leave this definition ambiguous may not result in the desired compliance being sought and create unforeseen hardships on individuals. Example: Will marine violations result in the removal of invasive species in the watershed or in the marine environment?*

*Another concern is with having violators perform community service under the supervision of non-governmental entities. The problems and potential liabilities to the State must be thoroughly vetted before proceeding.*

*Recommendation: Engage the community as provided in the Chapter 91 Administrative Rule making process where the DLNR may find an alternative solution to this problem that has not yet been considered, before enacting legislation.*

- (2) Providing a process by which violators with outstanding fines or community service requirements may have their driver's license privileges suspended or revoked after a 30-day notification period and a reasonable opportunity to be heard.

*Before taking such a quantum leap, as I have commented before, to deny or confiscate one's driver's license is inconsistent with the nature of natural resource violations, fails to rise to level of "deadbeat dads" who fail to pay for child support and could have serious implications on an individual who is unable to fulfill the community service and or dollar penalties. There are specific gear confiscation penalties already included in current rules and regulations that penalize these violators that may affect their inability to "pay."*

*Recommendation: The DLNR should engage the community as provided by the Chapter 91 Administrative Rule making process to sufficiently discuss and explore solutions before seeking a legislative solution.*

Respectfully Submitted,

Roy N. Morioka  
349-9297  
Email: [rnvfishing@gmail.com](mailto:rnvfishing@gmail.com)

Cc: Representative Hashem, District 18

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 29, 2012 9:36 AM  
**To:** FINTestimony  
**Cc:** tony@pop-hawaii.com  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Oppose  
Testifier will be present: Yes  
Submitted by: Tony Costa  
Organization: Hawaii Nearshore Fishermen  
E-mail: [tony@pop-hawaii.com](mailto:tony@pop-hawaii.com)  
Submitted on: 2/29/2012

Comments:  
HB2590HD2

Testimony in opposition

HNF are opposed to HB2590hd2

1. Revocation of drivers licenses (if you cannot pay a big fine). Is this really applicable for resource management? We don't like this aspect - it doesn't match the crime. Would not be a deterrent and it shouldn't be a punishment.

Many fishermen - both recreational, subsistence, and even some commercial fishermen won't be able to pay the exorbitant fines detailed in this bill anyway. So, if they get their license revoked, how does it help them? It will just put them into a downward spiral and we would have the unintended consequence of adding unlicensed drivers to the roadways.

This is too onerous.

We feel this bill establishes that the DLNR can arbitrarily effect these new General Administrative Penalties of exorbitant fines, Community service hours through community groups and suspension/revocation of drivers licenses not only in for violations involving threatened or endangered species but also in any violation of chapters 187A through 190 which are many - some as simple as catching an under size fish. For fishing rules violations, we feel this bill is inappropriate. Thank you for allowing me to testify. Respectfully submitted,  
Tony Costa

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 29, 2012 9:45 AM  
**To:** FINTestimony  
**Cc:** thomas.k.ogawa@hawaii.gov  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Tom Ogawa  
Organization: Division of Aquatic Resources  
E-mail: [thomas.k.ogawa@hawaii.gov](mailto:thomas.k.ogawa@hawaii.gov)  
Submitted on: 2/29/2012

Comments:



## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 28, 2012 1:37 PM  
**To:** FINTestimony  
**Cc:** wctanaka@gmail.com  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Wayne Tanaka  
Organization: Environmental Caucus, Democratic Party of Hawai'i  
E-mail: [wctanaka@gmail.com](mailto:wctanaka@gmail.com)  
Submitted on: 2/28/2012

### Comments:

To the Honorable Committee Chair Marcus Oshiro, Vice-Chair Marilyn B. Lee, and Members of the House Finance Committee,

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of HB2590, Relating to Aquatic Resource Violations.

The state has a constitutional responsibility to manage its nearshore resources for the benefit of the people of Hawai'i. However, Hawai'i's ability to manage these resources, and to foster community engagement with management strategies, has been critically hampered by long-standing concerns over the effectiveness of law enforcement in assuring regulatory compliance.

This bill serves to finally address these concerns, by providing the Board of Land & Natural Resources with the authority to use fair, consistent, and effective enforcement via its civil administrative enforcement process. Until now, aquatic resources violations have been handled almost exclusively by the criminal justice docket, where aquatics violations have not been treated with the consistency or concern necessary to assure regulatory compliance. As the only executive board specifically tasked with carrying out the state's constitutional responsibilities over Hawai'i's aquatic natural resources, the Board of Land & Natural Resources may now have a meaningful opportunity to foster greater compliance through creative, public, and non-criminal actions designed to both deter noncompliance, and to rehabilitate violators via transformative penalties shown to be highly effective in many other jurisdictions.

This bill asks for no funding appropriation, and with a greater use of the administrative enforcement process, the state stands to save considerable expenditures normally associated with the criminal justice system, including time and financial commitments by county prosecutors, state public defenders, and the state Judiciary. Where appropriate, the meaningful civil fines provided for in administrative enforcement by the BLNR will not only provide a much more effective deterrent to resource violations, but may further mitigate the costs of resources enforcement currently lost in the criminal justice process.

The Environmental Caucus of the Democratic Party believes this bill is a significant step forward in both increasing the state's capacity to carry out its constitutional responsibilities, and strongly supports its passage this legislative session.

Mahalo nui loa for this opportunity to testify,

Wayne Tanaka, Congressional District 2 Delegate Environmental Caucus, Democratic Party of Hawai'i

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2012 8:44 AM  
**To:** FINTestimony  
**Cc:** meleoli@yahoo.com  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Carol Wilcox  
Organization: Malama Maunalua  
E-mail: [meleoli@yahoo.com](mailto:meleoli@yahoo.com)  
Submitted on: 2/27/2012

### Comments:

Dear Chairman Oshiro and member of the Finance Committee, On behalf of Malama Maunalua, a community based organization whose mission is to "conserve and restore a healthy and productive Maunalua Bay through community kuleana," I am asking for your support of this bill. The Maunalua community at large and fishermen in particular have expressed deep concern about the lack of enforcement of existing rules and regulation. Part of the reason for this is the absence of meaningful consequences for violations. This bill provides for such consequences. We respectfully ask that you support this bill.

Thank you for the opportunity to testify.  
Carol Wilcox  
Malama Maunalua

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2012 8:34 PM  
**To:** FINTestimony  
**Cc:** bsager42@gmail.com  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Bill Sager  
Organization: Individual  
E-mail: [bsager42@gmail.com](mailto:bsager42@gmail.com)  
Submitted on: 2/27/2012

**Comments:**

Near shore fisheries management is essentially non-existent. As a result, our fisheries resources are badly diminished. This bill will enable DLNR to conduct effective enforcement of their rules and regs. It is a big step in the right direction.

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2012 10:29 AM  
**To:** FINTestimony  
**Cc:** mjellings@hawaii.rr.com  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Carl P Jellings Sr  
Organization: Individual  
E-mail: [mjellings@hawaii.rr.com](mailto:mjellings@hawaii.rr.com)  
Submitted on: 2/27/2012

### Comments:

Each day thousands of people "pay" to visit protected sanctuaries throughout Hawaii. Places set aside by law to rebuild and protect resources, resources such as akule and opelu. Every day these protected areas are altered by a bombardment of recreational activities' bringing characteristic changes to both habitat and resource. These sanctuaries once provided a sustainable food resource for Hawaii's people many of them being created under strong protest from fisherman, including Hawaiian Fishermen.

Today some of these areas have made a few individual owners in the ocean tourism industry multi millionaires, These same actions have caused the opposite for fisher's and their extended communities who once relied on resources these sanctuaries provided

To date such actions part of a cumulative mounting transformation from ocean resource dependency to tourism based has come at great cost for food sustainability and overall health and wellness for different ethnic communities, including the Hawaiian community . mostly because maintaining a healthy lifestyle has become outrageously expensive.

past administration's have yet to acknowledge the tens of millions in meals provided annually by skilled fisherman. Fisherman who have contributed tons of product towards a more food secure sustainable Hawaii, Fishermen who every year are rewarded by coming to this legislature having to fight for their own existence.

SB2852 gives The Department in essence a heavy hammer. The excessive risk of trial court fee's lawyers fee's fines etc will likely cause the accused to plea to a lesser no contest or except a guilty verdict and not exercise or "gamble" his right to trial. charging the accused either way.

Honorable Members of The House Finance Committee Thank You For the Oportunity to give testimony Carl P Jellings Sr

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 29, 2012 10:04 AM  
**To:** FINTestimony  
**Cc:** alika@malamamaunalua.org  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Alika Winter  
Organization: Individual  
E-mail: [alika@malamamaunalua.org](mailto:alika@malamamaunalua.org)  
Submitted on: 2/29/2012

**Comments:**

Commercial and recreational fisherman agree that the State's enforcement efforts need to improve. This is an important bill which will allow the State to take steps towards effective enforcement.

Please support this bill and help it to get passed into law.

Mahalo NUI!

Alika Winter

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 28, 2012 3:03 PM  
**To:** FINTestimony  
**Cc:** papafarm@hawaii.rr.com  
**Subject:** Testimony for HB2590 on 2/29/2012 2:30:00 PM

Testimony for FIN 2/29/2012 2:30:00 PM HB2590

Conference room: 308  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Frank Farm  
Organization: Individual  
E-mail: [papafarm@hawaii.rr.com](mailto:papafarm@hawaii.rr.com)  
Submitted on: 2/28/2012

Comments:  
Do not support in current form.