

SB 2305, SD1



SB 2305 SD1
RELATING TO OCEAN RESOURCES
Committee on Judiciary and Labor

February 23, 2012

10:00 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB 2305 SD1, which would delete the “one-gallon per person per day” exception to the prohibition against the removal of sand and other beach materials.

OHA supports further protection of Hawai‘i’s beaches and resources. Alleged large scale sand removal at Hawai‘i’s beaches may have long-term impacts on our natural and cultural resources, and deleting the exception for intentional removal of sand and other materials could abate these long-term impacts by making reporting and enforcement easier.

SB 2305 SD1 can be strengthened by preserving the “one-gallon” restriction in addition to inserting the bill’s proposed new language. Accordingly, OHA suggests the following changes to page 1, lines 7 – 12 and to pages 3, lines 4 – 10:

- (1) The inadvertent taking from seaward of the shoreline of these materials, such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags; not to exceed one-gallon per person per day;
- (1) The inadvertent taking from the shoreline area of the materials, such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags; not to exceed one-gallon per person per day;

OHA urges the committee to PASS SB 2305 SD1 WITH AMENDMENTS. Mahalo for the opportunity to testify on this important measure.

February 23, 2012

Senate Committee on Judiciary
Senator Clayton Hee, Chair

Public Hearing: February 23, 2012, 10:00 a.m., Room 016

Re: Senate Bill 2305 SD1: Relating to Ocean Resources

Dear Chair Hee and members of the Committee on Judiciary,

In general, I support the intent of this bill but offer some comments for consideration.

It is imperative that we protect as much of our natural resources as possible both for current and future enjoyment and the health of our sea shores and I agree that the removal of sand should not be allowed to occur. However, I offer that the language within the current version of the bill goes far beyond just the prohibition of sand removal.

As a child, during my many visits to the shoreline, it was not uncommon to collect driftwood, shells, beach glass, or glass floats. It appears that the manner in which this bill is written would preclude continued collection or removal of these items since "marine deposits" could be construed very broadly to include these items also. I think part of the joy for many children (and adults) is the curiosity that allows them to be fascinated with what is brought on-shore by the tides and could become part of their continuing interest and learning with respect to the ocean cycles.

Today, shells, beach glass, and driftwood are used for commercial ventures for decorations or jewelry, this bill as written could have the effect of causing entrepreneurs to either end their business or utilize foreign sources for these items to continue their commercial venture. While not necessarily a bad thing, would we now need to regulate the sale of any items like this to qualify that they are not from Hawai'i? (This, of course, would **probably** not include the sale of Ni ihau shell lei as long as they meet the test of being an exercise of traditional cultural practices as defined in article XII, section 7, of the Hawaii State Constitution.)

Another example which draws into question the wording of this bill is the collection of limu. In the recent past (and hopefully not too distant future with efforts to re-populate the `Ewa coast) limu *manauea (ogo)* was collected on the shore as it washed up versus collecting it in the ocean. Would this be considered a "marine deposit"? Would that mean that you could not collect what would wash up with the tide?

I recall the days when visiting Hanauma Bay when we were told that we couldn't even come out of the area with sand in our clothes but had to wash as much out as possible before leaving the area. Are we setting up the same kind of situation with the rest of our beaches across the state? Should there be a definition of marine deposits or a listing of beachcombing items that would clarify what can be collected versus what we don't want harvested from our beaches? Either approach may work but there should be clear direction of the intent of this bill, even if noted in the committee report that identifies what is not affected by this bill, i.e. shells, driftwood, beach glass, etc.

Again, I do not oppose the intent of this bill but would ask for additional clarification to narrow the scope of the definition of what is versus is not allowed to be harvested/collected.

Thank you for the opportunity to testify.

Cynthia K.L. Rezentes
Wai`anae resident

Sen. Clayton Hee, Chair
Sen. Maile Shimabukuro, Vice Chair
Committee on Judiciary & Labor
Thursday, Feb. 23, 2012

In opposition to SB 2305, relating to Ocean Resources

I am writing in opposition to SB2305, which would make it illegal for people to take small amounts of beach sand for personal use. I am concerned by this bill, because I feel it will criminalize the activities of many local people without addressing the real problems faced by our beaches.

Presently, it is already against the law to take more than one gallon of beach sand per day, or to use that sand for commercial purposes. As such, all of the excessive and destructive uses for sand are already prohibited. Individuals taking only small amounts of sand for personal use does not pose a threat to our beaches, while still allowing local residents to use the resource. Among the uses for sand are personal aquariums, keeping sand turtles as bait for shoreline fishing, and many others. These are important activities to many people, especially children and families. It would be a shame if people could no longer enjoy the ocean just because of the unintended consequences of this law.

If, as has been reported, some beaches are being depleted by people taking excessive amounts of sand for construction or other purposes, this is clearly an enforcement issue; not a problem with the law. If the state can't enforce the laws already on the books, how will the passage of this bill improve anything? SB2305 will only punish the law-abiding public, without having any positive effect on conserving the resource.

If this bill must pass out of committee, please include some sort of provision so that people are still able to use small amounts of sand in their personal lives.

Thank you for the opportunity to testify,

A handwritten signature in black ink, appearing to read 'Matthew Ross', written in a cursive style.

Matthew Ross

From: [Randy Fernley](#)
To: [JDLTestimony](#)
Subject: Senate Bill 2305
Date: Tuesday, February 21, 2012 9:04:39 AM

Aloha,

My name is Randy Fernley, I own Coral Fish Hawaii, in Aiea.

I believe that Senate Bill 2305 should be **revised** to allow aquarists to take 1 gallon of sand per day “ for non-commercial purposes”- as the law currently states.

As the bill currently reads, I would **not** be in favor of it

Randy Fernley/ Coral Fish Hawaii- Owner

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: iiawah@hotmail.com
Subject: Testimony for SB2305 on 2/23/2012 10:00:00 AM
Date: Tuesday, February 21, 2012 8:24:05 AM

Testimony for JDL 2/23/2012 10:00:00 AM SB2305

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: daniel anthony
Organization: Individual
E-mail: iiawah@hotmail.com
Submitted on: 2/21/2012

Comments:

As a past resident Pokai Bay Drive in Waīanae, I have personally seen people taking sand for commercial purposes under the guise of "one bucket per day".

It's 2012 folks, if we think that using our precious beach sands and rocks to mix concrete and make stone gardens are ok, then our actions are such that future generations will suffer loss of our precious 'āina because we (the people of right now) failed to manage the 'ea o ka 'āina i.e. - Hawai'i's natural resources.....

mahalo no ka oukou manawa,
daniel anthony

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kbrittai@hawaii.edu
Subject: Testimony for SB2305 on 2/23/2012 10:00:00 AM
Date: Monday, February 20, 2012 9:57:04 PM

Testimony for JDL 2/23/2012 10:00:00 AM SB2305

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Karen Brittain
Organization: Individual
E-mail: kbrittai@hawaii.edu
Submitted on: 2/20/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: mjellings@hawaii.rr.com
Subject: Testimony for SB2305 on 2/23/2012 10:00:00 AM
Date: Monday, February 20, 2012 2:32:43 PM

Testimony for JDL 2/23/2012 10:00:00 AM SB2305

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Carl Pao Jellings Sr
Organization: fisherman
E-mail: mjellings@hawaii.rr.com
Submitted on: 2/20/2012

Comments:
In Support

From: [Karen Young](#)
To: [JDLTestimony](#)
Subject: Testimony for SB2305
Date: Sunday, February 19, 2012 8:27:33 PM

> Submitted by: Karen GS Young
> Organization: Individual
> E-mail: kgsyoung@hotmail.com
> Submitted on: 2/19/2012

>
> Comments:
> WE SUPPORT SB2305. For at least 25 years we have witnessed trucks or vans pulling up to the beach and 2-3 individuals shovelling sand into buckets which are poured into 3-5 trash bin sized receptacles in the bed of the truck. This is done very quickly and efficiently. We witness this about 3-4x/wk but sometimes nearly daily(!!) and often in the early evening or in the dark, at night. At night they use their headlights for light. Sometimes individuals will come by and fill 5 gallon buckets and drive off in their cars. When police are called, they come too late, because this is not an emergency, the job was done quickly and the trucks, vans or cars are gone.

>
> If we, at risk of violence and revenge, personally confront and inform the individuals what they are doing is against the law, they simply say they are doing it for the church, their grandchildren, or a construction project. They don't appear to feel they're doing anything wrong.
> I also see this happening sometimes as I'm driving past other beaches along the Wai'anae coast, and I suspect the same is going on at other beaches that aren't very visible. The coasts along Wai'anae used to be tall nearly white beautiful sand dunes, but not any more. I was told by an oldtimer that the State itself, paved over the beach across and along Makaha where Makaha Marketplace now stands, transforming a wide beach into a very narrow one. These practices, besides taking away BEACH, took away
> a natural protection from high waves, the great sandsliding terrain, and dunes that likely served other functions of nature as well.

We were told this law is unnecessary. As on site witnesses for the past 25 years, we can report that the existing 1 bucket/per person/per day is not being followed, and is impossible to enforce. Are police supposed to stand by and watch people shovel sand and make sure it's only 1 bucket each time? every day? all public beaches? We have never seen anyone take away only 1 bucket, the smallest is one 5 gallon large bucket. The BEACH IS NOT INFINITE, and needs to be protected just like any other natural resourc. We say "Enough Already !"

> Karen GS Young, Fred A Dodge, Summer Miles, Rachelle Enos
> Wai'anae, Hawai'i

From: [Nicholas Smith](#)
To: [JDLTestimony](#)
Subject: Testimony Regarding SB 2305
Date: Tuesday, February 21, 2012 8:55:59 AM

To whom it may concern,

I write you today in support of SB 2305, which proposes the deletion of the one gallon per person per day allowance of taking sand and stone from our beaches.

My name is Nick Smith. I am 25 years-old and a lifetime resident of Wai'anae, HI. My family tells me that I could swim before I could walk, and learned to do so out on the leeward coast, most likely at Makaha Beach. I love the beach. I love the ocean. Because of this, I feel SB 2305 is an important piece of legislation for us to consider.

I spent five straight summers of my adolescence in the Junior Lifeguard program, which teaches youth around the state valuable life-saving skills and further reinforced my appreciation for the ocean and it's power and beauty. My group was based at Poka'i Bay three days out of the week and Makaha Beach the other two. Fast-forward to 2012, and I'm hearing from friends of mine who live in the area that three to four times a week, under cover of darkness, men arrive at Poka'i in pick-up trucks and vans, proceed filling garbage cans with Poka'i sand, load up their vehicles, and leave.

Now first I thought, "Dang, if these guys are coming late at night, they're already breaking rules." I, myself, have been asked to leave the Poka'i premises when I walked my girlfriend's dog there one night past 10pm. Then I thought, "Okay, if the rule says 1 gallon per person per day, then they must be using some really small trash cans or be traveling in a very large group," which are both contrary to what I've heard.

Allow me to put this into perspective: your run of the mill public trash can, like the ones we see at beach parks like Poka'i, have an approximate volume of 105 gallons (This calculation is assuming the can is 3 feet tall, and 1.5 feet wide at the top). Now, I haven't heard reports of 105 people at Poka'i at night, plus a sand topped-off trash can of this size would weigh around 1,300 lbs (and that estimate is on the low side for sand, considering our west-side sand is not as fine and dense and therefore not as heavy as sand from other places)... So let's look at some real numbers:

An average half-ton pick-up truck (assuming it can in fact haul a half-ton) loaded to max with sand could carry away about 80 gallons with one load. Let's say two trucks each hauled off one 1/2 ton load 3 times a week, adding up to 3 tons of sand removed in that amount of time. That may not sound like much, but in one year that's 156 tons of sand. That's a far cry from the 200,000+ tons removed from Waimea Bay alone since the 40's and 50's (the big jumping rock was once only a 6-foot bump above the sand of the beach - This references "Disappearing Sands" by Adam Ayers of Green Magazine Hawai'i, Vol. 3 #5), or the countless tons removed from Keawa'ula and other leeward beaches in the same period of time, but little by little, one gallon here and one gallon there change a beach forever. We know a few things to be true:

First, coastal erosion is a natural occurrence, and it is cyclical like many other processes in nature. Waves pick up, sand goes out, swells change, sand comes back. But beaches like Poka'i and others protected by jetties and break-waters (which were put in place to keep the water calm and prevent sand from escaping but actually end up keeping sand out, a problem we face in Waikiki and probably the lagoons of Ko Olina too) can potentially lose their sand at rates that cannot be reversed naturally.

Secondly, human alteration, like removing sand and building beach-front property atop former beaches and dune systems (the buffer between land and a healthy beach like those we can still find on the north shore) interrupt the natural cycles at work, and in many ways make the conditions for such permanent structures more dangerous, leaving them vulnerable to inundation and storm surge that may otherwise never reach human habitation because of the protection beaches and their dune system buffer zones provide.

Third, we know that beaches are ecosystems vital for supporting many species on land and in the ocean, including humans. Just as an example, I can't remember exactly how long it has been since our beaches were picked clean of shells. I only really thought about it when I traveled to Florida and other places where stricter laws seem to deter people from taking too many shells, if any, allowing animals like hermit crabs to reuse shells that others have left behind.

With all that said, I understand that sand is a resource like any other, and has many uses such as being mixed into concrete or filling sandbags to stave off floods, and these are beneficial for our economy and safety. However, like any other non-renewable resource, we need to recognize the opportunity that we have to allow our supply of sand to last as long as it possible can, now, before it's nearly gone, at which point we'll be shipping sand here from Abu Dhabi just to keep Waikiki the way it is now.

We need to make taking sand and stone for these or any other purposes illegal (except maybe in emergency circumstances or with special permission, but even then still closely regulated) because with all the forces arrayed against and eroding our beaches, we may live to see some of them change irreparably, just as my father has in the past 30 years living in Wai'anae. I may even live to see some of them disappear entirely, leaving jagged and rocky husks behind. And I think we all know that our beaches, so vital to the tourism industry, cannot be allowed to be gradually destroyed.

People may say, "The sand belongs to everyone, just like water, or dirt. You have no right to tell us who can and cannot take and use it," and for the most part I would agree. But being given the freedom to do so, to take from the Earth without considering the consequences of our actions, has led us to the particularly prickly environmental pickle that we are in right now. And, with such freedom, a few would abuse our natural resources and steal them away from us all. Those who would do this for the purpose of profit or power know no limits and in turn make it impossible for us as a whole sit back without a worry that our world is being ravaged right before our eyes.

So, esteemed representatives of the people of Hawai'i, I implore you to take a hard look at SB 2305 and support it. Imagine a Hawai'i maybe not in our lifetimes, but our childrens' or theirs', stripped bare of its white sand beaches and all the good things that once took place upon them. Let's nip this one at the bud.

Sincerely,
Nick Smith