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SUZANNE D. CASE
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STATE OF HAWAII
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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
JUDICIARY

Thursday, March 3, 2016
2:00 PM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 2378, HOUSE DRAFT 1
RELATING TO FOREST RESERVES VIOLATIONS

House Bill 2378, House Draft 1 proposes to allow the Board of Land and Natural Resources to set, charge, and collect fines for violations of Section 183-17, Hawaii Revised Statutes (HRS); clarifies that any person violating any provision of Part II of Chapter 183, HRS, or any rule adopted pursuant thereto, shall be guilty of a petty misdemeanor; and repeals Section 183-4, HRS. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

Currently, Part II (Forest Reserves) of Chapter 183, HRS, does not allow for criminal penalties, except for timber trespass offenses. There are other types of offenses, including violations of administrative rules adopted pursuant to Chapter 183, HRS that warrant the imposition of a stricter penalty to protect natural resources and public health and safety.

Establishing statutory authority for a criminal penalty to apply to any violation of Forest Reserves, or any rules adopted pursuant thereto, would strengthen the Department's enforcement capabilities, and allow for greater protection of the State's natural resources. It could also impact public health and safety if certain violations are subject to only a citation without the ability to arrest. This bill ensures a mechanism for pursuing enforcement actions when warranted, as well as providing a stronger deterrent for unauthorized and illegal use of public resources.

Section 183-4, HRS, authorizes general (civil) penalties for violations of the provisions of Chapters 183 to 185, HRS; however, civil penalties are already provided in Section 183-5, HRS, and Section 184-5.5, HRS. Further while Chapter 185, HRS, pertaining to land fire protection, does not include a civil penalty section, it does provide for criminal penalties under Section 185-

7, HRS. Due to the serious potential risk of harm to people, the environment, wildlife and habitat, the Department feels that violations of Chapter 185, HRS, should carry only criminal penalties – given the above, Section 183-4, HRS, has been proposed for repeal.

The Department supports the amendment in the House Draft 1 pertaining to Section 183-5(c), HRS, regarding general administrative penalties for violation of Section 183-17, HRS, that requires fines for destroyed or harvested koa and other trees or plants on state lands be based on the market value of the natural resource, loss of the resource to the habitat and/or environment, and the cost of restoration or replacement. The proposed amendment provides for a significant deterrent to theft of the public's natural resources. Currently, the statute only warrants a fine up to \$10,000 per koa tree and \$2,000 for all other forest products. The current market value of koa and other forest products, such as Hawaiian sandalwood, far exceeds the dollar amount of the current established fines (one koa tree can be worth more than \$10,000), and could be seen as a cost of doing business for potential violators.