

HB 483

HD 1

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: amel.s.chun@hawaii.gov
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Friday, March 13, 2015 5:23:34 PM
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HB483

Submitted on: 3/13/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Carty S. Chang	DLNR	Comments Only	Yes

Comments: DLNR appreciates the intent and will offer comments.

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DAVID Y. IGE
GOVERNOR OF HAWAII



CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING 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



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
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Testimony of
CARTY S. CHANG
Interim Chairperson

Before the Senate Committee on
WATER AND LAND

Monday, March 16, 2015
2:45 PM
State Capitol, Conference Room 224

In consideration of
HOUSE BILL 483, HOUSE DRAFT 1
RELATING TO OCEAN RESOURCES

House Bill 483, House Draft 1 proposes to authorize administrative inspections of commercial fishers and wholesalers within the West Hawaii Regional Fishery Management Area (FMA). **The Department of Land and Natural Resources (“Department”) appreciates the intent of this bill and offers the following comments.**

The Department currently inspects commercial fishers and wholesalers under Sections 187A-15 and 189-14, Hawaii Revised Statutes (HRS). Section 187A-15, HRS, authorizes officers to examine or search the contents of any bag, container, vehicle or other conveyance used to carry or transport aquatic life, provided that the officer has *probable cause* to believe that such bag, container, vehicle or conveyance contains evidence of a natural resource violation. Section 189-14, HRS, authorizes officers, without probable cause, to inspect the *books and records* of commercial fishers and marine dealers. These statutes apply statewide, not just in West Hawaii.

House Bill 483, House Draft 1 proposes to provide the Department with additional authority (limited to within the West Hawaii FMA) to conduct administrative inspections of the bags, containers, vehicles, or conveyances of commercial fishers and marine dealers to check compliance without the burden of first establishing probable cause of a violation. The Department would suggest that the measure be expanded to apply statewide instead of only in West Hawaii to provide all enforcement officers the same tools to enforce law. More specifically, we suggest that the proposed language be inserted as an amendment to Section 189-14, HRS, rather than as a new section to Chapter 188F, HRS. This way, the Department’s inspection authority will be codified in one place, and it will apply statewide.

Because this bill raises potential Fourth Amendment issues, the Department would seek the advice of the Department of the Attorney General regarding its legal implications. Specifically, we would like clarification of subsection (b) that would preclude the use of evidence obtained through an administrative inspection for the purposes of criminal prosecution. This provision raises potential concerns, for instance, in cases where an administrative inspection uncovers evidence of more serious criminal misconduct such as the possession of drugs or weapons.

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: anne.e.lopez@hawaii.gov
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 12:17:15 PM
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HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Lopez	Department of Attorney General	Oppose	Yes

Comments: Deputy Attorney General, Colin Lau, will be present the hearing on HB483, HD1 to testify.

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**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

H.B. NO. 483, H.D. 1, RELATING TO OCEAN RESOURCES.

BEFORE THE:

SENATE COMMITTEE ON WATER AND LAND

DATE: Monday, March 16, 2015

TIME: 2:45 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Colin J. Lau, Deputy Attorney General

Chair Thielen and Members of the Committee:

The Department of the Attorney General opposes this bill.

The bill creates a new section in chapter 188F, Hawaii Revised Statutes, that empowers state law enforcement officials to conduct seizures and searches in the West Hawaii Regional Fishery Management Area and intends a lowered threshold of reasonable suspicion to justify a search rather than probable cause as provided in section 187A-15, Hawaii Revised Statutes.

The problem with the bill in its current form is that the administrative inspection scheme it proposes does not narrowly tailor the interactions between the inspector and the inspectee to limit the intrusion into a person's privacy. The bill appears to violate article I, sections 6 and 7, of the Hawaii State Constitution and the Fourth Amendment of the United States Constitution. These provisions protect the right of people to privacy and the right to be free of unreasonable searches, seizures, and invasions of privacy.

We support the general intent of the bill to enhance law enforcement tools in conducting seizures and searches in the West Hawaii Regional Fishery Management Area.

But the new section creates a warrantless, suspicionless administrative inspection environment that includes a purported consensual basis for search. The administrative inspections indicate a standard of reasonableness – but only as far as identifying potential targets of searches if a fishery activity is being conducted. But, this is not the equivalent of a reasonable suspicion investigation standard that a crime is being or has been committed.

The inspections are to examine: (1) any commercial license, permit, or registration issued under subtitle 5 of title 12 of the Hawaii Revised Statutes; (2) the contents of any bag or

container that may be used to carry aquatic life; (3) the area of a vessel or vehicle used to transport harvested aquatic life; and (4) the premises, containers, fishing equipment, marine animals, and required records of any person shipping aquatic life within the State or to another state, or a wholesale sales outlet of aquatic resources.

The scheme also provides that applicants who take aquatic resources must give prior consent to searches upon the completion of an application for a commercial license, permit, or registration. Refusing to consent to an administrative search of vehicles, vessels, and containers; or to cooperate with a demand to produce the required license, permit, or registration; results in the immediate suspension of the related license, permit, or registration without a due process hearing being provided. Evidence obtained by these inspections may not be used in any criminal proceeding, but may be used in civil or administrative enforcement proceedings, or even forfeiture proceedings.

Under search and seizure law, a prolonged encounter by law enforcement with the public is subject to a reasonable suspicion standard in which a law enforcement officer must be able to state specific and articulable facts that an offense has been committed under the totality of circumstances. An exception to the requirement of reasonable suspicion is where an administrative inspection scheme has been established as part of a general regulatory scheme in furtherance of an administrative purpose. *U.S. v. McCarty*, 648 F.3d 820, 831 (9th Cir. 2011).

Generally, administrative inspection schemes such as “airport screening searches . . . are constitutionally reasonable administrative searches because they are ‘conducted as part of a general regulatory scheme in furtherance of an administrative purpose, namely, to prevent the carrying of weapons or explosives aboard aircraft, and thereby to prevent hijackings.’” *Id.* However, because warrantless, suspicionless administrative searches remain subject to the Fourth Amendment, a *particular* search is “constitutionally reasonable [only where] it ‘is no more extensive nor intensive than necessary, in the light of current technology, to detect the presence of weapons or explosives [and where] it is confined in good faith to that purpose.’” *Id.* (citations omitted).

Under the Fourth Amendment, even administrative inspections of commercial property “may be unreasonable if they are unnecessary to further important [government] interests, or if their occurrence is so random, infrequent, or unpredictable that the owner has no real expectation

that property will from time to time be inspected by government officials.” *U.S. v. Kaiyo Maru No. 53*, 699 F.2d 989 (9th Cir. 1983) [citation omitted]. “A warrant may be required where the legislative or regulatory scheme is so unrestrictive that business owners are exposed to ‘the unbridled discretion [of] executive and administrative officers,’ without the assurance that ‘reasonable legislative or administrative standards for conducting an . . . inspection are satisfied.’ *Id.* citing *Camara v. Municipal Court*, 387 U.S. 523, 538, 87 S. Ct. 1727, 1735 (1967).

As written, the bill is also overbroad because it extends the jurisdiction of the West Hawaii Regional Fishery Management Area (WHRFMA) beyond its geographic boundaries.¹ Proposed subsection (a)(3) and (4) allows “[a]ny area of a vessel or vehicle that the officer reasonably believes may be used to transport [harvested] aquatic life” as well as the “premises, containers . . . of any shipping agent or other person placing or attempting to place aquatic resources into interstate or intrastate commerce” to be inspected. Shipping agents (e.g., air cargo) and wholesale outlets selling aquatic resources are not a designated part of the WHRFMA and subject to WHRFMA jurisdiction. Vehicles and business premises are also beyond the ocean jurisdiction of the WHRFMA.

Unlike an airport administrative inspection scheme, this proposed regulatory scheme does not have a discrete objective in which the limits of the intrusion into a person’s privacy are narrowly tailored to reasonable dictates of the administrative purpose. Inspections are not conditioned on time, place, or manner. Although the inspections are conditioned on the presumed prior consent of all commercial licensees, permittees, and registrants as a condition of their application, it is unlikely that an enforcement officer will be able to identify who is a licensee or permittee prior to initiating an inspection.

For the above-stated reasons, we ask that House Bill No. 483 H.D. 1 be held.

¹ The WHRFMA is defined in section 188F-2, HRS, as the “**ocean area** on the west coast of Hawaii Island, from Ka Lae, Kau (South Point) to Upolu Point, North Kohala, but not including Kawaihae commercial harbor.”

From: mailinglist@capitol.hawaii.gov
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Cc: publicpolicy@oha.org
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
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HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Office of Hawaiian Affairs	Office of Hawaiian Affairs	Support	No

Comments:

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HB483 HD1
RELATING TO OCEAN RESOURCES
Senate Committee on Water and Land

March 16, 2015

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB483 HD1, which would facilitate the verification of commercial fishers' and wholesalers' compliance with aquatic resource laws, through administrative inspections of containers, records, and other relevant items.

This bill would facilitate the exploration of noncriminal alternatives to meaningful and effective enforcement of aquatic resource laws. Over the last decade, it has become clear that numerous issues continue to inhibit the effective enforcement of aquatic resource laws and regulations under the jurisdiction of the Department of Land and Natural Resources (DLNR). Such enforcement difficulties expose our natural and cultural resources to ongoing abuse and misuse, limit management approaches to those amenable to "practical" enforcement, and foster public distrust and skepticism of state conservation resource enforcement officers and environmental policymakers alike. While funding and overall capacity are clear and obvious challenges to resources enforcement, **it appears that the current, nearly exclusive reliance on the criminal court system has also presented significant barriers to the effective enforcement of our natural and cultural resource laws.** Such barriers include:

1. The reluctance of district court judges and prosecutors to impose criminal liability commensurate with criminal property damage, drug possession, or third degree assault for natural resource violations;
2. The substantive and procedural burdens of proof required to establish a criminal violation, including the "beyond a reasonable doubt" criminal burden of proof, **probable cause requirements for criminal searches and seizures**,¹ and the relatively stringent Hawai'i Rules of Evidence;
3. A lack of substantive institutional knowledge within the criminal district court system of specific natural resource laws, their jurisdictional bases, and how they are or should be interpreted or applied; and
4. The disproportionate cost of enforcing rare and esoteric natural and cultural resource cases in an overburdened criminal court docket, consisting almost entirely of more familiar and readily established crimes.

This bill would both directly and indirectly address the issues noted above. By providing for administrative, non-criminal inspections of commercial fish

¹ U.S. CONST. AMEND. IV. The Hawai'i State Constitution contains a similar provision. See HAW. CONST. ART. I, SEC. 7; HRS §§ 187A-15, 199-7. But see infra n. 2.

containers and other items related to commercial fishing, based upon prior consent through license or permit conditions and/or the lowered expectation of privacy in West Hawai'i's pervasively regulated commercial fishing industry, this bill would allow substantive enforcement of season, bag, size, and gear limits that have been found difficult to enforce by questions regarding constitutional search and seizure protections. **Simply put, a "bag" limit on take cannot be enforced without the ability to look into a bag and count the number of fish taken.** This bill clarifies and guides the constitutional authority of conservation resource enforcement officers to inspect bags, containers, records, and vessels to ensure regulatory compliance within West Hawai'i's commercial fishing industry.²

In addition, the administrative, noncriminal enforcement actions taken as a result of inspections under this bill will allow the exploration of administrative alternatives to the aforementioned criminal justice approach to aquatic resources enforcement. Such administrative enforcement by the DLNR may provide a more fair, consistent, and effective alternative to resources enforcement, by an agency with the expertise and appropriate concern to protect and conserve our natural and cultural resources.³

Therefore, the OHA urges the Committee to **PASS** HB483 HD1. Thank you for the opportunity to testify.

² See, e.g., *State v. Boyer*, 42 P.3d 771, 776 (Mont. 2002) ("Thus, no objectively reasonable expectation of privacy exists when a wildlife enforcement officer checks for hunting and fishing licenses in open season near game habitat, inquires about game taken, and requests to inspect game in the field"); *Balelo v. Baldrige*, 724 F.2d 753, 765-66 (9th Cir. 1984) ("[C]ommercial fishing has a long history of being a closely regulated industry"); *United States v. Kaiyo Maru No. 53*, 699 F.2d 989 (9th Cir. 1983) (warrantless searches and seizures of foreign fishing vessels allowable under the Fishery Conservation and Management Act); *United States v. Raub*, 637 F.2d 1205 (9th Cir. 1980) (allowing warrantless stopping and searching of salmon fishing vessel due to pervasive regulation of commercial salmon fishing, limitations on opportunities for abuse, and important federal interests at stake); see also *New York v. Hill*, 528 U.S. 110, 114 (2000) ("[T]he most basic rights of criminal defendants are . . . subject to waiver"); *United States v. Mezzanatto*, 513 U.S. 196, 201 (1995) ("absent some affirmative indication of Congress' intent to preclude waiver, we have presumed that statutory provisions are subject to waiver by voluntary agreement of the parties").

³ See Fish and Coral Think Tank, The Authorizing the Board to Use Transformative, Fair, and Consistent Enforcement (ABOUT FACE) Act, <http://factt.weebly.com/about-face-act.html> (last accessed February 9, 2015).

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: Leimana.K.Damate@hawaii.gov
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 10:05:38 AM
Attachments: [AMAC Testimony HB 483 HD1 WTL 31615.docx](#)

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Leimana DaMate	Aha Moku Advisory Committee	Support	Yes

Comments:

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**Department of Land and Natural Resources
Aha Moku Advisory Committee
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

Testimony of
Leimana DaMate
Executive Director – Aha Moku Advisory Committee (AMAC)

Monday, March 16, 2015
2:45 P.M.
State Capitol, Conference Room 224

**In SUPPORT of
House Bill 483 HD 1
Relating to Ocean Resources**

House Bill 483 HD 1 authorizes administrative inspections within the West Hawaii regional fishery management area (WHFMA). **The Aha Moku Advisory Committee (AMAC) supports this bill.**

The AMAC works with moku and ahupua'a communities through the Aha Moku System (System), a traditional land and ocean management system that dates from the 9th century and has been restored by the kupuna practitioners of each island. Through this System, generational resource knowledge and methodology is shared with the site-specific communities of the ahupua'a as well as with the Department of Land and Natural Resources (Department) to whom the AMAC is attached.

The West Hawaii Fisheries Management Council has jurisdiction along the West Hawaii coast that goes through three large moku districts – Kohala which has 41 ahupua'a of which 20 are located within the WHFMC. Kona Moku has 45 ahupua'a with all located within the WHFMC and Ka'u has 25 ahupua'a, 7 of which are located within this fishery management area. This is a total of 72 ahupua'a out of 111 specific ocean districts that are impacted by this Fisheries Management Council.

AMAC was created by the Legislature in 2012 but could not become functional until 2013. However, from the beginning our moku representatives have been concerned about the common violations that occur frequently in the WHFMC jurisdiction. The violations adversely impact subsistence and traditional ocean practices. The ahupua'a communities within the West Hawaii area are just now beginning to actively organize but these same issues of non-compliance with established rules for the marine resources along the coast continue to percolate. We believe allowing the Department additional authority to conduct administrative inspections as described in HB 483 HD 1 would address the ever increasing problem of natural resource violations in West Hawaii but would set the precedence for the entire state.

Aha Moku works with all of the 587 ahupua'a in the pae'aina and this problem of ocean resource violations occurs on every island impacting native Hawaiian gathering and fishing practices. AMAC supports the Department in their recommendation that the proposed language in this bill be inserted as an amendment to Section 189-14, HRS, rather than as a new section to Chapter 188F, HRS, thereby impacting and benefitting the entire state.



For the Protection of Hawaii's Native Wildlife
HAWAII AUDUBON SOCIETY

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THE SENATE
TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON WATER & LAND
Senator Laura Thielen, Chair
Senator Brickwood Galuteria, Vice Chair

Monday, March 16, 2015
2:45 p.m., Conference Room 229, State Capitol

H.B. No. 483, HD1
Relating to Ocean Resources

Chairperson Thielen, Vice Chairperson Brickwood, and members of the committee, my name is Linda Paul and I am testifying in favor of H.B. 483 HD1, which authorizes much-needed administrative inspections within the West Hawaii regional fishery management area.

This bill has no probable cause problem under either the U.S. or the Hawaii constitution. Under H.B. 483 HD1 §188F-(a) the authority of DLNR to conduct administrative inspections is strictly limited to harvesting aquatic life pursuant to a commercial license, permit, or registration. When a fisherman applies for a commercial license, permit, or registration to harvest and sell aquatic life, in doing so he consents to administrative inspections to insure that he complies with the applicable laws and rules related to harvesting the public trust resources of the State of Hawaii. If consent is given he has no constitutionally-protected expectation of privacy and there is no need to establish probable cause before conducting an administrative inspection.

Consent is one of the five narrow exceptions to the Fourth Amendment to the U.S. Constitution protecting citizens against unreasonable searches and seizures and Article I, Section 7 of the Hawaii Constitution as specified by the Hawaii Court of Appeals in *State v. Przeradski*, 5 Haw. App. 29, 33-34 (1984). See also *State v. Kearns*, 75 Hawaii 558, 571 (1994).

HAR §13-74-2 already provides that: "General license and permit conditions (2) A licensee or permittee shall show the license or permit and confirming identification upon the demand of

any officer authorized to enforce the fishing laws of the State. No person shall refuse any such officer the examination of the license or permit and confirming identification."

H.R.S. § 199-6 outlines DOCARE officers' power of search and seizure. In accordance with this provision, "[a]ny police officer or agent of the [Department] . . . shall have the authority to conduct searches on *probable cause* as provided by law" Under this statute, an officer's probable cause requires a belief that a "bag, vehicle, or conveyance contains evidence of a violation" of Hawaii's fishing laws. The officer's probable cause must be "as provided by law." This bill provides the law applicable to administrative inspections in the West Hawaii Fishery Management Area.

In *New York v. Burger*, 482 U.S. 691(1987) the U.S. Supreme Court found that warrantless inspections of a commercial entity are permitted if the entity is (1) part of a "closely regulated industry"; (2) there is a "substantial government interest"; (3) the regulation of the industry serves the State's substantial interest and warrantless administrative inspections are necessary to further the regulatory scheme; (4) a statute provides an adequate substitute for a warrant; and (5) the time, place, and manner of searches are limited to place "appropriate restraints" on inspecting officers.

The *Burger* test would appear to be clearly satisfied by HB483 HD1. Here, as in *Burger*, the commercial fishery in West Hawaii is (1) very highly regulated, with license, catch reporting, gear and vessel labeling, specialized species limits and prohibitions, and numerous other regulations which have been in place or in discussion in West Hawaii for over a decade; (2) there is a "substantial government interest" in regulating fisheries extraction and commercial harvest, given the constitutional mandates in Article XI to protect and conserve our marine and natural resources for present and future generations, as well as in Article XII with respect to protecting traditional and customary native Hawaiian practices dependent upon these resources. In addition, as illustrated by substantial testimony submitted on this measure as well as by warrantless administrative inspection schemes in a number of other fishery jurisdictions, it would be impracticable if not impossible to enforce commercial fishery regulations serving these substantial government interests without the ability to spot-check commercial fishers for regulatory compliance with the aforementioned species, bag, and gear limits; and (3) administrative inspections of commercial fishers' coolers, vessels, and other containers where evidence of regulatory violations may be easily concealed is "necessary to further the regulatory scheme" in the commercial fishing industry in West Hawaii.

HB483 HD1 will also (a) provide an adequate substitute for a warrant in that it will provide commercial fishers operating in West Hawaii waters due notice that they may be subject to searches pursuant to statute; (b) specify that DLNR agents will be the officials conducting searches; (c) inform commercial fishers as to what containers and vessels they must (and need

not) let be inspected, to comply with the statute; and (d) clearly describe the time, place, and manner of inspections such that inspecting officers will be appropriately restrained.

DOFAW already has a provision in its hunting licenses (see following) which allows inspection of bags, containers, etc. – closely paralleling what is being proposed for DAR Commercial Marine/Dealer licenses:

§183D-25 Licenses; display thereof. No person to whom a hunting license has been issued shall permit any other person to carry, display, or use the license in any way. Every person to whom a hunting license has been issued shall physically possess the license when hunting and shall show the license upon the demand of any officer authorized to enforce the game laws of the State. No person, upon the request of an officer, shall refuse to show the license or withhold permission to inspect the person's game bag, container, hunting coat or jacket, or carrier, or vehicle of any kind where game might be concealed. [L 1985, c 174, pt of §4]

Please pass this much-needed bill and thank you for giving me the opportunity to testify.



Linda M. B. Paul, Esq

President of the Hawaii Audubon Society

808-262-6859

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: tinaowens@hawaii.rr.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 11:53:23 AM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Tina Owens	LOST FISH Coalition	Support	No

Comments: I strongly SUPPORT this measure. I believe a few things might be clarified in case there is any argument about wording, etc. If you will allow me to make a few suggestions: It could be clarified that this bill is to direct DLNR to develop an administrative search scheme (perhaps based on other searches, such as DOA agriculture searches, DOFAW hunting searches, etc.) and then implement. It is not meant to just start searching folks before developing the rules. 2) It could be clarified that the bill is to be enacted under the authority of the DLNR, and searches of boats on the water, as well as at the ramp and other related areas on land, such as wholesalers, can be conducted under DLNR's jurisdiction on land or water. This measure is limited to the WHRFMA and its adjacent land areas. 3) Determination of who does or does not have a commercial marine license should be easy to do by checking hull numbers, etc. This would be included in the administrative search scheme.

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Cc: Smith6849@hawaii.rr.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 2:41:21 PM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Smith	Individual	Support	No

Comments: Please support HB483. It is necessary for effective enforcement in West Hawaii. Officers have the right to inspect hunting licenses. We need to make sure fish collectors are following the rules. Mahalo.

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Cc: mjellings@hawaii.rr.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 8:42:54 PM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Carl M Jellings Sr	Individual	Oppose	No

Comments: Honorable Members DLNR Officers already have these powers in place. anyone holding a CML has to sign a waiver to allow several different actions, one of them being search without probable cause. Chair Woman Thielen is aware of this as she held the position of Land Board Chair Person for 4 years. as part of having a CML Fishers already forfeits their rights to privacy, anyone sending coolers from Hawaii Island would be a CML holder.

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Cc: 333cory@gmail.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Friday, March 13, 2015 10:22:58 PM

HB483

Submitted on: 3/13/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Cory	Individual	Support	No

Comments: Aloha legislators, Please support cooler inspection. Otherwise enforcement officials have to rely on "fishing tales". Hunters get inspections; fishers should too, as in many other marine states. mahalo!

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Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Friday, March 13, 2015 8:39:56 PM

HB483

Submitted on: 3/13/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Urry	Individual	Support	No

Comments: Please pass this bill so fisheries are made accountable for their actions. Very important for West Hawaii reef's survival.

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Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
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HB483

Submitted on: 3/13/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
cynthia Walsh	Individual	Support	No

Comments: please support this bill

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Cc: alpineairhawaii@yahoo.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 11:45:45 AM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
David Dart	Individual	Support	No

Comments: Hopefully, in the near future, all fishers and gatherers will be subject to cooler inspections.

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To: [WTLTestimony](#)
Cc: yamaguchd009@hawaii.rr.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 8:06:53 AM
Attachments: [HB 483 Senate WTL.docx](#)

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Dennis Yamaguchi	Individual	Support	Yes

Comments: testimony attached

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Senate Committee on Water and Land

Senator Laura Thielen Chair

Senator Brickwood Galuteria Vice Chair

Testimony in Support of Bill HB 483

March 23, 2015

Chairperson Thielen and Committee Members,

My name is Dennis Yamaguchi and I support the passage of HB 483. I am a full time commercial fisherman for aquarium fish on Oahu. Although this bill pertains only to the West Hawaii Fisheries Management Area on Hawaii Island, I believe enforcement of any of Hawaii's fishing laws is necessary for managing the State's resources. Administrative inspection authority within the waters of West Hawaii will be a step in the right direction.

Please pass HB 483. Thank you.

Dennis Yamaguchi

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: neuhealth1@hotmail.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 5:47:11 AM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Diane Neuman	Individual	Support	No

Comments: With most other marine states having such statutes, this is necessary for effective enforcement.

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Cc: douglasperrine@yahoo.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 11:00:14 AM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Perrine	Individual	Support	No

Comments: This measure is absolutely necessary to allow enforcement of regulations pertaining to management of marine resources in West Hawaii. Failure to pass it will encourage disrespect for the law and support the widespread belief that natural resource management in Hawaii is a sham.

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Cc: etvuong@hotmail.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Friday, March 13, 2015 6:39:19 PM

HB483

Submitted on: 3/13/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Erik Vuong	Individual	Support	No

Comments: I support an administrative consent to conduct inspection on the taking of our marine natural resources. This would allow DLNR enforcement officers to effectively catch the people who abuses our limited marine resources.

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Cc: janetgoodmanson@gmail.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 3:37:14 PM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Goodmanson	Individual	Support	No

Comments: Inspection of commercial vessels' coolers is an important tool in enforcing the state's laws in West Hawai'i. Most other marine states have similar laws to protect and limit marine life caught. Please vote to support this bill.

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To: [WTLTestimony](#)
Cc: j.fjh@hawaiiintel.net
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Friday, March 13, 2015 6:09:40 PM

HB483

Submitted on: 3/13/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry F. Halverson	Individual	Support	No

Comments: This proposed legislation is absolutely necessary for effective regulation. Similar provisions are common for states bordering on the ocean. Please give it your support!

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To: [WTLTestimony](#)
Cc: john.holman@outlook.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 10:09:27 PM
Attachments: [Testimony Supporting HB483.docx](#)

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
John Holman	Individual	Support	No

Comments: Please pass HB 483 to protect our reefs and wildlife.

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March 15, 2015

Testimony in support of HB483

Dear Honorable Legislators,

I am writing to you to express my strong support for House Bill 483, relating to ocean resources. The passage of this bill is critical to ensuring that the laws we have in place to protect our ocean resources are both respected and enforced, when necessary.

I believe it is essential that we provide law enforcement officers the authority to inspect catches on all commercial fishers in West Hawaii state waters. This is important and is critical to making our regulations work.

My only regret is that this law does not go far enough by extending to waters across the state. However, it is an important step in the right direction. Just as our Native Hawaiian predecessors protected our ocean resources through careful conservation, it is now our kuleana to follow in that tradition.

Please pass House Bill 483 and support the enforcement of our laws meant to protect our ocean resources.

Thank you for your time and consideration of my comments regarding this important issue.

Sincerely,

John P. Holman

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: kcooke@hokuliclub.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 1:02:18 PM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Kellie Cooke	Individual	Support	No

Comments: I believe this is necessary for effective enforcement. Other states have rules like this.

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To: [WTLTestimony](#)
Cc: LouiseMarie@me.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 2:25:38 PM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Louise Morris	Individual	Support	No

Comments: Very important to our ocean environment and directly relevant to attracting and keeping our tourist industry alive and well. We would rather see these creatures in the wild than in an aquarium.

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To: [WTLTestimony](#)
Cc: makani.christensen@gmail.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 7:50:50 AM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
makani	Citizen	Oppose	No

Comments: -This is not constitutional!

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Cc: matt.htfa@gmail.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 8:47:17 PM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Ross	Individual	Comments Only	Yes

Comments: I support the intent of HB 483. However, some of its provisions are extremely broad and, as written, appear to be unconstitutional. I am especially concerned about the provision that officers can inspect any vehicle or place of business without probable cause, even though they may not necessarily be carrying marine life taken from West Hawaii. If this bill is to move forwards, please address these issues.

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Cc: nathanabe@yahoo.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 10:09:13 PM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Nathan Abe	Individual	Oppose	No

Comments: 4th Amendment and why only Kona (west Hawaii)? sounds like a lawsuit.

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Cc: golitzenp@hawaii.rr.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 7:25:43 AM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Peter Golitzen	Individual	Support	No

Comments: West Hawaii desperately needs to control its fishery and aquatic life. Inspecting catches is commonplace in the first world - ignoring them is third world!

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Cc: rnvfishing@gmail.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 11:10:07 PM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Roy N Morioka	Individual	Oppose	No

Comments: chair Thielen, Vice Chair Galuteria and Members of the Senate Committee on Water and Land. I strongly oppose this bill as it appears to violate our State Constitution and its Bill of Rights. ARTICLE 1 – BILL OF RIGHTS RIGHTS OF INDIVIDUALS SEARCHES, SEIZURES AND INVASION OF PRIVACY Section 7. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978] Thank you for your consideration. Respectfully, Roy N. Morioka

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Date: Saturday, March 14, 2015 9:09:52 AM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Shirley Spencer	Individual	Support	No

Comments: Please consider this bill.

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Cc: tony@pop-hawaii.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Saturday, March 14, 2015 7:38:42 PM

HB483

Submitted on: 3/14/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Tony Costa	Individual	Oppose	No

Comments: Fundamental - erosion of probable cause

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Cc: warvonarn@aol.com
Subject: Submitted testimony for HB483 on Mar 16, 2015 14:45PM
Date: Sunday, March 15, 2015 5:43:47 PM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Von Arnswaldt	Individual	Oppose	No

Comments: I consider this bill to be a violation to our constitutional rights unless due process is known for a criminal act not known. It would be better if DAR WOULD GET OUT THERE ON THE WATERS AND FIND VIOLATIONS,

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HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
William K.Chang	Individual	Oppose	No

Comments:

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Subject: *Submitted testimony for HB483 on Mar 16, 2015 14:45PM*
Date: Sunday, March 15, 2015 7:55:39 AM

HB483

Submitted on: 3/15/2015

Testimony for WTL on Mar 16, 2015 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
William Studdert	Individual	Oppose	No

Comments:

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