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GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of  
SUZANNE D. CASE  
Chairperson

Before the House Committee on  
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS

Tuesday, February 14, 2017  
8:30 AM  
State Capitol, Conference Room 312

**LATE**

In consideration of  
HOUSE BILL 438  
RELATING TO COMMERCIAL MARINE LICENSES

House Bill 438 proposes to require prospective commercial marine licensees to provide the Department of Land and Natural Resources (Department) with a copy of the work contract of all fishers that it employs, prior to being granted a license. **While the Department appreciates the intent of this measure, it is not clear what objectives this measure will achieve.**

The Department currently issues over 3,500 Commercial Marine Fishing Licenses annually. Of these, only approximately 800 are issued to long-line fishers. The Department has no knowledge of the number of commercial licensees that have written employment contracts with each fisher they hire. If this bill requires commercial licensees to now have written contracts with each fisher they hire, it may place an undue administrative burden on the majority of licensees.

If the objective of this bill is to create a record of employment terms for foreign national fishers, the Department suggests amending the bill as follows:

(g) Prior to granting any license under this section, the department shall require a prospective licensee **who employs foreign national fishers** to furnish to the department a written copy of the employment contract of every **such foreign national** fisher employed by the prospective licensee.

The Department notes that its core function is to monitor and manage the health of our fisheries and marine resources. While the Department collaborates with other agencies to achieve mutual objectives, it is not the Department's function to monitor pay and work conditions of fishers. This

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

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AQUATIC RESOURCES  
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LAND  
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measure does not explain what the Department should do with the work contracts when they are presented.

The Department believes that this issue requires further dialogue with the State of Hawaii Department of Labor and Industrial Relations, federal agencies such as the United States Department of Labor and Customs and Border Protection, and the commercial fishers. The Department respectfully recommends that a resolution be considered to support this effort in lieu of this bill.

Thank you for the opportunity to comment on this measure.

**Testimony of Jim Cook & Sean Martin  
of the Hawaii Longline Association  
Relating to HB 438, Commercial Marine Licenses  
Before the House Ocean Marine Resources & Hawaiian Affairs  
Tuesday, February 14, 2017  
(corrected version)**

Mr. Chairman and Members of the Committee, the Hawaii Longline Association, made up of approximately 140 vessels, is committed to ensuring that our sector operates free of any human trafficking or forced labor. Hawaii-based foreign fishing crew members are documented, legal, and afforded basic protections as set forth in U.S. law. They possess legal standing and have legal recourse. To date, there has not been any prosecution of a human trafficking or forced labor case coming from the Hawaii fishing industry.

**We are highly regulated by the federal government - U.S. Customs and Border Protection (CBP), U.S. Coast Guard (USCG), U.S. Homeland Security Investigations (HSI), and the National Oceanic and Atmospheric Administration (NOAA). As such, most respectfully, we do not believe the additional requirement set out in HB 438 is necessary. We oppose HB 438.**

HB 438 would require all marine licensees (all foreign crew members) to present a copy of their employment contract to the Department of Land and Natural Resources' (DLNR) Division of Aquatic Resources (DAR) before they can sail. Foreign crew members cannot leave the vessel and area surrounding the vessel unless they are paroled by CBP. On the face of the bill, the purpose of collecting all the foreign crew contracts is not clear. Reviewing the contract terms would appear to be beyond DLNR's jurisdiction. In addition, because the contracts are in a variety of native languages, DLNR would have to hire interpreters and others to accept and process the contracts. The question remains: what is the purpose of collecting these contracts.

We received a copy of an email response sent to Roy Morioka, a commercial bottom fisherman, from Representative Ing who wanted to know if HB 438 affected him. Representative Ing stated, "This bill is meant to address the issue of the alleged mistreatment of foreign workers by requiring DAR to keep records of their employment agency contracts. That way, spot auditors can compare what workers agreed to with what they observe." With all due respect, these are private contracts entered into between private parties. We are not sure who or under what legal authorities these "spot auditors" would operate. It is most troubling, and seemingly beyond DLNR's jurisdiction.

My colleagues from the United Fishing Agency and the Hawaii Seafood Council submitted testimony which sets out the detailed efforts undertaken to respond to the Associated Press article of September 8, 2016. It caught us by surprise. While it did not paint an accurate or fair picture of our industry, we took it upon ourselves to self-assess, self-police, reaching out for

expertise which resulted in a **Universal Crew Contract**, a **Rapid Assessment** survey that helped to shape a draft **Code of Conduct** with input by the U.S. Department of Labor, International Labor Affairs Bureau. A **Crew Orientation Packet** is being designed that puts all the above together in a variety of native languages, together with contact information for CBP, USCG, NOAA, their consulates and social support organizations. We are proud of the improvements we have made, and will continue to make. It has improved awareness and communication internally within the industry and externally with our stakeholders. We are once again selling to Whole Foods, and Costco continues to purchase our product.

In the remainder of our testimony, we feel compelled to point out the inaccuracies in the most recent AP story which ran in the Star Advertiser on February 11, 2017. We also appreciated Attorney General Douglas Chin's opinion, issued on December 29, 2016, which provided important clarifications.

First and foremost, the AG opinion affirms DLNR's issuance of commercial marine licenses to those who are lawfully admitted to the United States. For foreign fisherman, adequate proof is their landing permit/I-95 document issued by CBP and a valid passport. Much is made in the AP story about the stamp "permission to land at all U.S. ports is refused" to infer a conflict in the law. There is no conflict. CBP is responsible for the foreign crew including their legal standing, safety and well-being onboard the vessels. Foreign crew members are granted parole to legally "land" or enter the U.S. for medical appointments or to renew their passports, for example. Their status is legally defined.

Prior to 9/11, they we issued C-1 D visas. Post-9/11, the C-1 D visas were cancelled and have not been re-authorized on the grounds that they do not need visas because they are not intended to "land" or enter the U.S. to work onshore. Their place of work is at sea. As such, their setting foot on U.S. soil is incidental to their employ, but not prohibited. The AP story makes much about the foreign crew being "detained" or "imprisoned" on the vessel. This is not accurate. CBP has discretion, which it exercises, allowing the foreign crew to depart the vessel and walk about the fishing village, with a 5 minute muster call, meaning that crew members are required to return to their vessel in that time frame. A visit to Nico's or Uncle's at the fishing village will allow you to see foreign crew members out of their vessels walking about, visiting with one another at the tables and benches, or in the convenience store.

Lastly, in the September story and again in the February story, AP states that under federal law, 75% of the crew on most American commercial fishing boats must be U.S. citizens, but that Hawaii relies on a loophole allowing foreign fisherman to be employed. In fact, they incorrectly stated that Senator Inouye was responsible for the loophole and refused to correct the record when presented with evidence to the contrary. In fact, the provision allowing for foreign fishing crews was enacted in the 1980's for the benefit of the U.S. fishers on the Eastern coast, allowing them to hire Canadian fishermen. Hawaii had no such fishing sector in the 1980's. This provision applies to ocean-going fishing communities throughout the United States.

Mr. Chairman and Members of the Committee, we hope you will conclude that as a strictly regulated industry by the federal government, HB 438 is not necessary.



**Conservation Council  
for Hawai'i**

*Hawai'i's voice for wildlife*

*Kō Hawai'i leo no nā holoholona lōhiu*



Testimony Submitted to the House Committee on Ocean, Marine Resources, and Hawaiian Affairs  
By the Conservation Council for Hawai'i

Hearing: Tuesday, February 14, 2017 8:30 am  
Room 312

Support for HB 438 Relating to Commercial Marine Licenses

Chair Ing, Vice Chair Gates, and Members of the Committee,

Aloha. The Conservation Council for Hawai'i supports HB 438, requires prospective commercial marine licensees to provide the Department of Land and Natural Resources with a copy of the work contract of all of fishers that it employs, prior to being granted a license.

We recommend that this requirement be applied fairly to all licensees and not be prospective in scope. Unfortunately, this requirement is necessary to protect fishers on certain Hawai'i-based longline and possibly other fishing boats. The longline industry is not pono for so many reasons. It cannot be counted on to police itself. We hope you will step in and investigate the longline fishing industry, individual boat owners, and the Western Pacific Regional Fishery Management Council.

Passing HB 438 will at least provide some transparency and useful information to protect the fishers, the resource, and human health. Please pass HB 438.

Mahalo nui loa for the opportunity to testify.

*Marjorie Ziegler*

Marjorie Ziegler



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John Kaneko  
Hawaii Seafood Council and Hawaii Industry Task Force  
1130 N Nimitz Hwy, Suite A263  
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February 13, 2017

**RE: Written Testimony in opposition of H.B. 438**

I respectfully submit this testimony in opposition to H.B. 438, finding it unnecessary because this industry is already highly-regulated with multiple federal agency oversight of crewmen working in the Hawaii fishing industry.

My name is John Kaneko. I am the Program Coordinator for the Hawaii Seafood Council, a 501c3 non-profit organization. I am a member of the Hawaii Industry Task Force that formed specifically to address allegations of forced labor and human trafficking in the Hawaii longline fishing industry by the Associated Press (AP) on September 8, 2016. The Task Force coordinated a Rapid Assessment of the Crew by an independent and uniquely-qualified social science surveyor which found no evidence of human trafficking or forced labor. NO cases have On February 10, the AP released an article on the fishery which focused on whether State of Hawaii commercial fishing licenses can be legally issued to foreign crew working on Hawaii fishing vessels.

The fishery is well-managed. The Hawaii longline fishing vessels are managed by the National Oceanographic and Atmospheric Administration (NOAA) Fisheries Service under the U.S. Dept. of Commerce. The U.S. Coast Guard has oversight for vessel and crew safety and the U.S. Customs and Border Patrol under the U.S. Department of Homeland Security has the responsibility of monitoring and documenting the arrival, presence and repatriation of foreign crewmen working on Hawaii longline vessels. During vessel inspections, CBP also checks on working conditions and the welfare of the crew by looking out for indicators of labor abuse. While that State of Hawaii has primary responsibility for the management of fisheries operating in State waters, the Hawaii longline fishery operates by federal regulation, exclusively outside of a minimum of 50 nautical miles (nm) from shore in Hawaii in federal waters and outside of 200 nm in international waters. Hence, none of the fishery products produced in this fishery are harvested from within State waters.

For this reason, H.B. 438 is not necessary, plays no role in improving the management of this fishery or State of Hawaii marine resources and does not achieve greater protections for workers. For more information please read the following.

Sincerely,

John Kaneko

**On February 10, 2017**, the AP published an article which raised questions of the legality of issuing State of Hawaii fishing licenses to foreign crewmen working on Hawaii longline vessels. The article alludes to two cases of human trafficking. It should be stated clearly that the Hawaii Seafood Council, the Hawaii Fishing Industry Task Force and the United Fishing Agency (Honolulu Fish Auction) have zero tolerance for human trafficking and forced labor which are crimes. The AP claim of two cases of human trafficking associated with this industry is without merit and the AP has not identified specific individuals in peril for us to protect, or specific violators to investigate. The AP appears to be referring to two individual crewmen who were issued T-visas after they jumped ship in San Francisco as evidence of human trafficking. The U.S. government issues T-visas to foreign nationals specifically for the purpose of providing testimony in prosecuting cases of human trafficking in the United States. Although T-visas were issued to these two individuals, to my knowledge, the vessel owner in question has not faced charges, prosecution or conviction for human trafficking. The legality of issuing T-1 visas to these individuals is therefore questionable, and the T-visas are certainly not evidence of the crime of human trafficking.

**On September 8, 2016**, the Associated Press (AP) released an article alleging forced labor and human trafficking of foreign crewmen working on Hawaii fishing vessels. Allegations were made that foreign crew were 1) undocumented, 2) have no legal standing in the U.S., 3) are confined on vessels, 4) have had their passports taken from them and 5) lack basic legal protections under U.S. law.

### **Status of Foreign Crew Working in the Hawaii Longline Fishery.**

#### **OVERVIEW**

On September 8, 2016, the Associated Press (AP) released an article alleging forced labor and human trafficking of foreign crewmen working on Hawaii fishing vessels (AP, 2016). The AP claimed that foreign crew were 1) undocumented, 2) have no legal standing in the U.S., 3) are confined on vessels, 4) have had their passports taken from them and 5) lack basic legal protections under U.S. law.

These may be “red flags” for potential human trafficking and forced labor, but further investigation and deeper understanding is needed before drawing conclusions. No specific information was presented by the AP on which the industry could take action to approach specific vessels and protect crew at risk. Instead, an industry Task Force took action based on the allegations to assess the situation, learn about the accepted criteria for forced labor and human trafficking, and conducted a rapid assessment survey of vessels, owners and crew to better evaluate the current conditions.

Employers are responsible for providing a safe workplace. The Rapid Crew Assessment survey interviewed 207 out of 622 foreign crewmen (33%) from 105 of 141 active vessels (74%) in October 2016 (Gough, 2016). This survey involved interviews covering the 4 major home countries of the foreign crew (Philippines, Indonesia, Vietnam and Kiribati). The survey covered the entire work cycle from recruitment to repatriation. The results are a basis for collaboration within the fleet and with

government agencies and contributed to the development of an employers' code of conduct for the fleet and principles defining acceptable and unacceptable labor conditions.

This fact sheet seeks to provide greater clarity by describing and referencing the legal status of foreign crew on Hawaii fishing vessels and the documentation which supports their rights and entitlements.

## **The Right to Work.**

Fishing crew possess the same universal rights as any other to work voluntarily, freely and without penalty or menace, and to be paid as agreed (ILO, 2016a). These rights, which are defined in part in the Work in Fishing Convention 188 (ILO, 2016b), are to be respected and protected by employers and regulators and remedied in the event of breaches (UN, 2011). In practical terms this means Hawaii vessel owners have a shared responsibility with regulators to provide a safe workplace for fishing crew.

Hawaii-based foreign crew members are documented, legal, unconfined, and afforded basic protection in U.S. law. They possess legal standing on U.S. soil and have legal recourse. In recent interviews crew indicated they work voluntarily and are paid in full as agreed.

### **Fact 1. Hawaii Foreign Crewmembers are Documented and have access to their passports.**

Foreign crewmen working on Hawaii vessels are fully documented from the point of arrival at the workplace and through to their point of departure and return to the home country. Crew's arrival, departure, and status while at port are administered by the U.S. Customs and Border Patrol (CBP) of the Department of Homeland Security in person on the pier when they first arrive by vessel and during 3 musters weekly (minimum) and documentation checks. Musters are random checks on vessels in which there is a roll call where CBP checks on every crew member's status and well-being.

CBP holds the vessel owner/captain responsible for the whereabouts of the crew. For this reason, CBP requires that vessel owners/captains hold the crew passports for safe keeping on behalf of the crew and presentation to CBP for inspection during musters.

CBP's rules require that: *All crew members on board an arriving vessel should be presented for inspection as follows: (1) When and where directed by CBP officers; (2) In person; (3) With proper travel documents (passport and visa or other documentation as required); (4) With CBP Forms I-95 or I-184; and (5) With all names and biographical data properly listed on CBP Form I-418 (crew list). It is the responsibility of the owner, agent, or master to present all persons on board a vessel to a CBP officer for inspection, at the first port of entry to the United States. Likewise it is the responsibility of the owner, agent or master to ensure that all persons are properly documented for entry to the United States. Upon completion of inspection, the CBP officer will return each nonimmigrant crew members travel documents to the master for safekeeping. (CBP, 2012)*



The U.S. Coast Guard also inspects Hawaii fishing vessels for safety compliance (USCG, 2008). Inspections include checking the citizenship of the ship's master and crew and crew contracts for vessels  $\geq 20$  gross tons.

**Fact 2. Hawaii Foreign Crewmen are Legal and have Legal Standing on U.S. Soil**

U.S. vessel owners are afforded rights to employ foreign fishing crew in a number of ways by *The Commercial Fishing Industry Vessel Anti-reflagging Act of 1987* (Public Law 100-239) and the *Waiver of Citizenship Requirements for Crewmembers on Commercial Fishing Vessels* (USCG, 2014: 79 FR 8864).

CBP processes foreign crew and administers and monitors their legal standing as well as their safety and well-being onboard vessels and provides standing to enter the U.S. for a variety of reasons through "paroles". Vessel owners request paroles for crew to enter the U.S. for medical, dental, document or other needs and the permission is granted by the CBP.

Crew members' legal standing is administered by the CBP in a similar way as a visa standing but crew are not issued visas because they never intend to enter the U.S. to work onshore. Their status is legally defined and their legal standing is monitored continuously by CBP who parole them onshore to renew passports for example. The status affords an opportunity to professional fishermen from impoverished origins without necessarily a U.S. embassy in reach to work onboard U.S. vessels paying more than in other fleets.

**Fact 3. Hawaii Foreign Crewmen have Freedom of Movement and are Unconfined**

After the events of 9/11, foreign crew are no longer issued C-1-D visas which allowed them to arrive in Honolulu by air to reach the workplace. Currently they must arrive in the Port of Honolulu by a Hawaii vessel required to pick them up at a foreign port. CBP inspects the documents, issues landing documents, and photographs each arriving crewman at the dock at Pier 38 in Honolulu, before escorting them to their assigned vessel for work (CBP, 2012).

Without visas to allow entry into the U.S., foreign crew in the Hawaii fleet are officially "detained onboard". However, for humanitarian reasons, CBP policy is to allow crew to get off the vessel while berthed at Piers 15-17 and 36-38 in Honolulu but remain in the port areas. CBP supports their freedom of movement as needed for their health and good standing by providing permission to change vessel or to enter the U.S. for medical attention, renew passports and other needs. Crew can visit on other vessels and walk in the vicinity of the port, but are required by CBP to return to their vessels for musters.

Hawaii fishing vessels produce fresh fish stored in ice and typically make trips of 15-30 days in duration with on average 20 days away and 5 days at port. Foreign crew live onboard the vessels for the duration of their contracts with vessel owners. They are prohibited from performing any non-fishing related maintenance or repair work on vessels while in port. When docked they may leave the vessel

to socialize and to use the pier facilities, which include shops and services and a seafarers ministry service on Pier 38. In the future this will include a recreational facility.

CBP requires that: *All persons employed in any capacity on board any vessel in the United States shall be detained on board the vessel at the port of arrival by the master or agent of such vessel until admitted or otherwise permitted to land by a CBP officer. (Mustering:) CBP officers may re-board a vessel to insure that detained crew members have remained on board or that all crew members are present for a ship's departure. (Parole:) Crew members may be paroled at the port of entry, at the discretion of a CBP officer, in emergent circumstances. Crew members may be paroled for medical treatment. In such cases the following forms and conditions are required: CBP Form I-94 - Lines 1 through 17 completed, CBP Form I-259 (Notice to Detain, Remove, or Present Alien), and CBP Form I-510 (Guarantee of Payment). The owner, agent, or master will provide an explanation of medical conditions and approximate length of time for treatment. (CBP, 2012)*

#### **Fact 4. Hawaii Foreign Crewmen have Basic Legal Protections**

Crewmembers receive U.S. source income directly in the workplace from employers and are “employees” with some basic legal protections like other employees in the U.S. They can sue in U.S. courts as well as in local courts in their home countries.

Crew have status on U.S. vessels which is protected and supported by the CBP. CBP holds regular meetings with all federal agencies concerned with maritime affairs for collaboration and alignment on monitoring and enforcement. CBP holds quarterly meetings for vessel owners covering safety at sea and issues and concerns raised by crew during musters and vessel inspections. CBP oversees necessary changes and in the event conditions do not improve, the CBP will facilitate the transfer of a crew member to another vessel.

*CBP (2012; Vessel Inspection Manual page 38). All persons in the United States, even those here illegally, are protected by and subject to U.S. laws. CBP works closely with Homeland Security Investigations (HSI) and other federal partners to ensure that victims of human trafficking will be protected, given safe haven, and referred for medical or other assistance. You can report suspected human trafficking by calling the HSI tip-line at 866-347-2423 (from Canada, Mexico, or the United States) or at 802-872-6199 (from any country), or online at [www.ice.gov/tips](http://www.ice.gov/tips). Your tip can be provided anonymously. The tip line is staffed 24 hours a day, seven days a week by specially trained HSI personnel.*

In Hawaii protections for crew are also supported by government officials from their countries of origin including the Philippines Consulate in Honolulu, the Consulate General of the Republic of Indonesia in San Francisco, the Kiribati Honorary Consul in Honolulu, and the Vietnam Consulate in San Francisco.

Organizations in Honolulu that provide support services to foreign crew include the [Hawaii Immigrant Justice Center of Legal Aid](#), [Pacific Survivor Center](#), [Pacific Gateway Center](#), [Susannah Wesley Community Center](#), the Hawaii-Pacific Seafarer's Ministry and others.

#### **Fact 5. *Hawaii Foreign Crewmen have Legal Recourse***

If for any reason a crew member is not satisfied with the work place conditions or treatment by employers, they can request to be transferred to another vessel or be repatriated home. They may request this from the vessel owners/captains and the CBP. Should they wish to stay at work in the fleet, CBP facilitates the transfer to another vessel.

Crew members may also pursue a criminal or civil case. Forced Labor is a crime in the U.S. and perpetrators may be prosecuted. All forms of slavery including human trafficking and forced labor have been illegal since 1948 in [Title 18, chapter 77](#): 1581, 1582, 1584, 1589 (forced labor), 1590, 1592, 1593A. In Hawaii, foreign crewmen also have legal recourse through the [Hawaii Immigrant Justice Center of Legal Aid](#).

The U.S. Trafficking and Violence Protection Act strengthens the ability of law enforcement agencies to investigate and prosecute human trafficking, and also offer protection to victims. The T Nonimmigrant Status (T visa) is a set aside for victims of human trafficking, protects victims of human trafficking and allows victims to remain in the U.S. to assist in an investigation or prosecution of human trafficking ([T Nonimmigrant Eligibility](#)). Crew on this visa type are eligible for green cards and for pursuing civil suits in the U.S.

#### **Conclusion**

It should be noted that in November 2013, allegations of forced labor on Hawaii vessels were raised, but dismissed after CBP found no evidence. After the issue was raised again in September 2016, the U.S. Customs and Border Patrol and Homeland Security Investigations (HSI) opened the October 20, 2016 vessel owner's meeting to the media to explain the agency role in monitoring the whereabouts of the crew, what the agency requires of employers and how many cases of forced labor and/or human trafficking have been investigated and prosecuted. CBP has also held meetings for foreign crewmen to discuss the issue of human trafficking, to inform the crew of who to call if they have problems and to hear from the crewmen. CBP received no complaints of forced labor or human trafficking during these meetings. The most significant information during the meeting was presented by Joanna Ip, special agent in charge of U.S. Homeland Security Investigations (HSI) in Hawaii. She informed the group that HSI has received complaints about working conditions, but that to date, none of the cases have reached the threshold for prosecution for forced labor or human trafficking (Eagle, 2016).

Although no credible evidence of forced labor or human trafficking have been uncovered, the Hawaii industry Task Force is continuing to work on this issue with outreach and education to the vessel

owners, agents and crew to ensure clarity and understanding of the rights, protections and safety of the crew in the workplace.

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**House Bill 438, Relating to Commercial Marine Licenses  
Hearing before the Ocean Marine Resources & Hawaiian Affairs  
Tuesday, February 14, 2017 at 8:30 a.m. in Room 312**

Mr. Chairman and members of the committee, my name is Brooks Takenaka, General Manager of United Fishing Agency. I am a fisherman having learned from my father and grandfather who were fishermen. My grandfather was a captain of our family's long line fishing vessel.

We are proud to be Hawaii's single highest value food producing system based either dockside or farm gate value. We are also an important domestic fishery, supplying the U.S. seafood market which is increasingly dominated by imported seafood. We are committed to safeguarding the rights of foreign and domestic fishing crew members. The industry put stop-gap protective measures in place as self-assessment/self-policing efforts were put in to place. **The first, which is still in effect, is a Universal Crew Contract to clarify terms of the employment contracts, how and when they were paid, as well as their rights and who to contact if they are being abused. United Fishing Agency will not accept and land fish from vessels that have not signed Universal Crew Contracts.** The additional detailed efforts are set forth below. To date, no case of human trafficking or forced labor has been brought against the Hawaii fishing industry.

**With all due respect, we are highly regulated by the federal government, and as such, we do not believe that the additional requirement set out in HB 438 is necessary.**

- This bill requires all new marine licensees (i.e., all foreign crew members) to present a written copy of their employment contract to DLNR before they can set sail.
  - First, foreign crew members cannot leave the vessel/area surrounding the vessel without being granted parole by the U.S. Customs and Border Protection (CBP). Should CBP grant parole, each foreign crew member would need to be securely escorted to and from DLNR.
  - Second, it is not clear what DLNR would do with the written contracts which are in a variety of native languages, requiring DLNR to have interpreters present to accept them, matching contract and person. DLNR would be beyond its jurisdiction if the intent would be for the agency to in some way review the terms of the contract. Sharing the private contracts raises a host of privacy concerns.

- CBP is responsible for issuing the crewmen's landing permits (form 1-95) and checking passports. Hawaii Attorney General Douglas Chin recently confirmed in an opinion letter that this suffices as sufficient documentation for the foreign fishing crew to secure a state commercial marine license.

**U.S. Customs and Border Protection, U.S. Homeland Security Investigations and U.S. Coast Guard have jurisdiction; they monitor and enforce federal law over our industry and workforce.**

- In a public meeting (open to the media) on October 20, 2016, these federal agencies clearly stated their role and responsibilities including issuing crewmen's landing permits, checking passports, escorting the foreign workers (because they have no visas to enter the US) to their vessels upon arrival into the Port of Honolulu and to escort them to Honolulu Airport at the end of their work contracts.
- CBP does regular and random muster calls of the crew, requiring them to be present on the vessel within 5 minutes of the call. CBP exercises its discretion regarding the federal requirement "detained on vessel" to allow the crew to get off the vessel and use the facilities in the port area, i.e., the fishing village.
- Federal law also requires the employers to hold the crew passports. There have been no prosecutions for forced labor or human trafficking in Hawaii against the longline sector. *Civil Beat* October 20, 2016 <http://www.civilbeat.org/2016/10/feds-foreign-fishermen-have-no-complaints-working-on-us-boats/>

**Concrete steps in self-police, investigate and improve in consultation with the U.S. Department of Labor.**

- Imposed a **Universal Crew Contract** for all foreign crew members and employers (in native languages) to protect crew by setting out clearly employment arrangement in accord with the United Nations International Labor Organization (ILO).
- Conducted a **Rapid Assessment** of the crew to ensure no forced labor or human trafficking. None found. Area of focus: shoring up the relationship between manning agencies in the countries of origin and contracted crew member; previously, not involved other than as a contractor for crew members. Working on U.S. Vessels versus foreign vessels is highly sought after; Hawaii is one of the most sought after work locations.
- **Hawaii Code of Conduct for Socially Responsible Fisheries** drafted with input from the U.S. Department of Labor, International Labor Affairs Bureau. Purpose: Alignment between vessel owners, manning agencies, good crew contracting practices with guidance on detecting and preventing forced labor and human trafficking.
- **Crew Orientation packet** being prepared for all arriving crew members into the Honolulu port. It will explain the Code of Conduct, the terms of their employment contract, how and who to

express grievances to. There will be contact information for CPB, Coast Guard, NOAA, their consulates and social support organizations.

**Extensive community outreach sought and partnerships reaffirmed.**

- Vice Consul Andrea Christina Caymo, Philippine Consulate in Honolulu visited with Filipino workers on the pier, found no evidence of forced labor and reiterated the importance of remittance (largest import) to the Philippines.
- Indonesian Vice President Jusuf Kayla, together with the Indonesian Ambassador to the U.S. Budi Bowoleksono, made a fact finding visit in November 2016 to check into the welfare of the Indonesian crew members and were satisfied that they were being well-treated, and found no evidence of forced labor and human trafficking.
- The Hawaii-Pacific Seafarer's Ministry, Pacific Gateway Center and Pacific Survivors Center are all engaged to support the foreign crew members on the Hawaii longline vessels.

Thank you for this opportunity to share our views.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2017 7:06 AM  
**To:** omhtestimony  
**Cc:** dean@HawaiiGoesFishing.com  
**Subject:** Submitted testimony for HB438 on Feb 14, 2017 08:30AM

**HB438**

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dean Sensui	Hawaii Goes Fishing	Oppose	No

Comments: A commercial fisherman who goes on occasional day trips will often have friends with CMLs going along with them. These can change from one trip to the next, depending upon circumstances. It would be difficult and impractical to draw up a contract just to earn a share of the catch for every trip, and a massive administrative burden for the state to track.

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**HB438**

Submitted on: 2/10/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benton	Individual	Support	No

Comments:

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**HB438**

Submitted on: 2/12/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jim Hori, DDS	Individual	Oppose	No

Comments:

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