

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

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

**Friday, February 9, 2018
10:00 AM
State Capitol, Conference Room 312**

**In consideration of
HOUSE BILL 1997
RELATING TO VESSELS**

House Bill 1997 proposes to establish a task force to review the process that the Department of Land and Natural Resources (Department) uses to respond to vessels stranded in nearshore waters and report to the Legislature on its findings. **The Department opposes this measure and offers the following comments.**

The Department's Division of Boating and Ocean Recreation (DOBOR) and the Division of Aquatic Resources (DAR) are among the first entities to respond to a grounded or sunken vessel in waters of the State. DOBOR and DAR work closely with the owner of the vessel, the insurance company if there is insurance on the vessel, the United States Coast Guard (USCG), and the State Department of Health (DOH) to address the grounding or sinking as quickly as possible. Within the last five years, DOBOR, in coordination with all other governmental agencies, has removed 47 of 170 known grounded or sunken vessels from waters of the State at a cost of \$1.16 million.

In 2016, DOBOR and DAR worked closely with all marine salvage companies, marine surveyors, and hazardous material (HAZMAT) removal companies to create procedures for contractors when removing vessels. Each vessel grounding is unique and must be handled on a case-by-case basis, depending on proximity to high-use areas; whether the vessel is aground on live rock, coral, or sand; ocean and weather conditions; whether or not the owner has proper insurance to remove the vessel; and a host of other factors.

The owner of the grounded vessel is ultimately responsible for safely removing the vessel. If the owner has insurance coverage, the owner must work with the insurance company to hire a qualified marine salvage company. Once a qualified marine salvage company is hired, DOBOR

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

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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

and DAR work directly with the salvage company to reduce or prevent further damage to our natural resources.

In some cases, there may be HAZMAT onboard a grounded or sunken vessel, such as gasoline, diesel, motor oil, or batteries. If this is the case and the owner of the vessel cannot remove any HAZMAT safely, USCG can step in to federalize the vessel and handle removal of HAZMAT. USCG has the advantage of access to a federal fund that can be used to immediately hire contractors to remove HAZMAT from grounded or sunken vessels, which was the case with the commercial fishing vessel (Pacific Paradise) that ran aground off the beaches of Waikīkī on October 10, 2017. This grounding was a unique situation with multiple state and federal agencies involved. A combination of unfortunate mitigating factors led to the delays in removing the vessel, and the Department will continue to work with all involved state and federal agencies to ensure the most efficient and expedient removal of grounded and sunken vessels.

In 2009, DOBOR instituted mandatory insurance for all vessels housed in its facilities and has been seeking a way to require across-the-board insurance (with hull removal coverage) for all recreational vessels, even those launched from trailers. In some cases, the owner of a grounded or sunken vessel may not have insurance coverage, in which case DOBOR can use the authority given under Section 200-47.5, Hawaii Revised Statutes (HRS), to remove the grounded or sunken vessel within 24 or 72 hours, depending on the circumstances. When operating pursuant to Section 200-47.5, HRS, DOBOR will handle procurement of bids from qualified marine salvage companies to safely remove and dispose of the vessel.

Instead of the measure as written, the Department suggests that the Legislature create a sunken vessel and ocean safety marine debris fund of \$1 million to assist the Department in the removal of grounded and sunken vessels where the owners cannot remove the vessels safely from our nearshore waters. The sunken vessel and ocean safety marine debris fund would also be intended to provide funding for removal of ocean safety marine debris from state shorelines and waters of the State.

Thank you for the opportunity to comment on this measure.

HB-1997

Submitted on: 2/3/2018 5:15:09 PM

Testimony for OMH on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Hawaiian Civic Club of Honolulu	Support	No

Comments:

Bryan Y.Y. Ho

Attorney At Law, A Law Corporation
Suite 909, Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813

Telephone: (808) 541-9799
Cellular: (808) 864-4071
Facsimile: (808) 533-8800

bryanho@admiraltyattys.com

February 6, 2018

HONORABLE KANIELA ING
Chair

VIA E-MAIL @reping@capitol.hawaii.gov

Committee on Ocean, Marine Resources & Hawaiian Affairs
Room 427, State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: ***HB 1997***
Hearing February 9, 2018 at 10:00 a.m.

Dear Chair Ing & Other Committee Members:

I submit the following testimony in opposition to HB 1997.

I am an attorney and have been licensed to practice law in Hawaii for more than 32 years, focusing primarily on admiralty and maritime matters. During the course of my career, I have represented owners and insurance companies of commercial and recreational vessels that have run aground throughout the State of Hawaii and Northwest Hawaiian Islands. Most recently, I represented the owner of a commercial fishing vessel that ran aground off of Waikiki on October 10, 2017.

As the owner's representative, I have been personally involved with hiring salvage companies and collaborating with the U.S. Coast Guard, Army Corp. of Engineers, Department of Land & Natural Resources ("DLNR") divisions of Boating and Aquatic Resources, and Department of Health, among others, developing plans to safely remove stranded vessels with the least harm to the environment and natural resources.

I oppose HB 1997 because it appears to be a poorly conceived idea that does nothing more than create an added layer of bureaucracy over the DLNR under circumstances where additional oversight and scrutiny isn't needed. In my experience, the Chair of DLNR and administrators for DOBOR and DAR, have always acted with the highest levels of expertise and professionalism in conjunction with information/expertise provided by the USCG and salvage companies hired. In the course of developing, evaluating and executing salvage plans the

HONORABLE KANIELA ING

February 6, 2018

Page 2

representatives of these agencies have demonstrated an appropriate balance of advocating for an expeditious and safe removal of the stranded vessel, while adhering to the mandates and responsibilities governing their respective divisions to protect the environment and natural resources.

If you have any questions, or require additional information, please do not hesitate to contact me.

Sincerely,

Bryan Y.Y. Ho

cc: Lynne DeCoite
All Members of OMH
Susan Case, Chair DLNR (via e-mail)

HB-1997

Submitted on: 2/8/2018 9:49:50 AM

Testimony for OMH on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

HB-1997

Submitted on: 2/2/2018 2:53:05 PM

Testimony for OMH on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Frank Farm Jr		Support	No

Comments: