
HOUSE CONCURRENT RESOLUTION

URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL
PROPERTY TASK FORCE TO DEVELOP A SUI GENERIS LEGAL SYSTEM
TO RECOGNIZE AND PROTECT NATIVE HAWAIIAN CULTURAL
INTELLECTUAL PROPERTY, TRADITIONAL CULTURAL EXPRESSIONS,
AND GENETIC RESOURCES.

1 WHEREAS, the Native Hawaiian people's collective
2 intellectual property rights are based upon the traditional,
3 cultural knowledge developed over thousands of years and passed
4 down from generation to generation; and
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6 WHEREAS, the value of Native Hawaiian cultural expressions
7 and art forms are exhibited in many forms, including the use of
8 ka 'ōlelo Hawai'i, hula, mele, mo'olelo, lei making, kapa making,
9 kākau, weaving, feather work, carving, and wayfinding; and
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11 WHEREAS, the western intellectual property system was
12 developed to protect the rights of creators and inventors
13 against plagiarism and to reward and encourage new inventions
14 and was not developed to protect the rights of indigenous
15 peoples to their collective, traditional knowledge, cultural
16 expressions, and art forms; and
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18 WHEREAS, existing western intellectual property laws
19 recognizing patents, registered trademarks, designs, and
20 copyright often facilitate the theft, misuse, and
21 misappropriation of indigenous knowledge by researchers,
22 authors, scientists, biotechnology corporations, universities,
23 the fashion industry, and others; and
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25 WHEREAS, disputes between indigenous peoples and third-
26 party users of indigenous knowledge resources over ownership and
27 control have steadily increased in the last five years; and
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29 WHEREAS, a non-Hawaiian food chain that originated in
30 Chicago, Aloha Poke Co., issued cease-and-desist letters



1 threatening small poke food businesses in Hawai'i and across the
2 nation from using the words "Aloha" and "Poke", in essence
3 claiming ownership of these cultural expressions; and
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5 WHEREAS, issues relating to indigenous intellectual
6 property rights have been addressed in many international
7 forums, including the World Intellectual Property Organization's
8 Intergovernmental Committee on Intellectual Property and Genetic
9 Resources, Traditional Knowledge and Folklore; the United
10 Nations Commission on Human Rights; the United Nations
11 Declaration on Rights of Indigenous Peoples; in relation to the
12 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and
13 the Convention on Biological Diversity; and
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15 WHEREAS, other indigenous people have developed strategies
16 and sui generis legal frameworks or systems to protect their
17 collective intellectual property rights and knowledge, including
18 the Indian Arts and Crafts Board federally funded through the
19 United States Department of the Interior, the Toi Iho registered
20 trademark for the Maori art and artists funded through a
21 charitable trust, and the Alaska State Council on the Arts
22 Silver Hand Program for Alaska Native artists funded through the
23 state; and
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25 WHEREAS, the Association of Hawaiian Civic Clubs previously
26 adopted Resolution Nos. 02-08, 03-13, and 17-57 to protect
27 Native Hawaiian cultural intellectual property and resources and
28 urge the Legislature to enact legislation, in consultation with
29 Native Hawaiians, that recognizes and protects the Native
30 Hawaiian people's collective intellectual property rights; and
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32 WHEREAS, the laws of the State of Hawai'i recognize the
33 traditional customary rights of Native Hawaiians but do not
34 expressly recognize and protect the collective intellectual
35 property rights of the Native Hawaiian peoples; now, therefore,
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37 BE IT RESOLVED by the House of Representatives of the
38 Thirtieth Legislature of the State of Hawaii, Regular Session of
39 2019, the Senate concurring, that the Department of Business,
40 Economic Development, and Tourism, State Foundation on Culture
41 and the Arts, Department of Commerce and Consumer Affairs,
42 Department of Land and Natural Resources, University of Hawai'i



1 System, and any other relevant state agency is urged, in
2 collaboration with each other and with the Association of
3 Hawaiian Civic Clubs, Office of Hawaiian Affairs, Council for
4 Native Hawaiian Advancement, PA'I Foundation, Hawai'i Arts
5 Alliance, Maui Arts & Cultural Center, Nā Mea Hawai'i, Native
6 Hawaiian Chamber of Commerce, Native Hawaiian intellectual
7 property lawyers, and other relevant legal scholars, to
8 establish the Native Hawaiian intellectual property task force
9 (task force); and

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11 BE IT FURTHER RESOLVED that the task force is requested to
12 develop a sui generis legal system to recognize and protect
13 Native Hawaiian cultural intellectual property, traditional
14 cultural expressions, and genetic resources; and

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16 BE IT FURTHER RESOLVED that the task force is requested to
17 consult with indigenous communities, as appropriate; and

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19 BE IT FURTHER RESOLVED that the task force is requested to
20 submit its recommendations, including any proposed legislation,
21 to the Legislature no later than twenty days prior to the
22 convening of the Regular Session of 2022; and

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24 BE IT FURTHER RESOLVED that certified copies of this
25 Concurrent Resolution be transmitted to the members of Hawai'i's
26 congressional delegation; Governor of the State of Hawai'i;
27 Chairperson of the Board of Trustees of the Office of Hawaiian
28 Affairs; Director of Business, Economic Development, and
29 Tourism; Director of Commerce and Consumer Affairs; Chairperson
30 of the Board of Land and Natural Resources; President of the
31 University of Hawai'i System; Executive Director of the State
32 Foundation on Culture and the Arts; Chair of the Senate Standing
33 Committee on Hawaiian Affairs; Chair of the House of
34 Representatives Standing Committee on Water, Land, and Hawaiian
35 Affairs; Mayors of the Counties of Maui, Kaua'i, and Hawai'i and
36 City and County of Honolulu; Executive Director of PA'I
37 Foundation; Chief Executive Officer of the Hawai'i Arts Alliance;
38 President and Chief Executive Officer of the Maui Arts &
39 Cultural Center; Chief Executive Officer of the Council for
40 Native Hawaiian Advancement; Founder of Nā Mea Hawai'i; and



H.C.R. NO. 155

1 Presidents of the Native Hawaiian Chambers of Commerce of O'ahu,
2 Maui, Kaua'i, and Hawai'i island.

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OFFERED BY: De Het

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