

DAVID Y. IGE
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
WATER AND LAND**

**Friday, February 1, 2019
1:15 PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 1526
RELATING TO CONSERVATION ENFORCEMENT.**

Senate Bill 1526 proposes to appropriate funds for one OCARE DLNRTip app administrator position and software upgrades and app enhancements to improve the DLNRTip application. **The Department of Land and Natural Resources (Department) supports this measure, provided that its passage does not replace or adversely impact priorities indicated in the Executive Budget request.**

This request would make an appropriation of funds to upgrade the DOCARE DLNRTip app and establish an app administrator position resulting in enhanced collection and distribution of information for in progress and changing incidents requiring a law enforcement response. The Department believes this will benefit the program by creating positive interaction with the public and increase opportunities for information gathering.

Thank you for the opportunity to comment on this measure.

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

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Testimony on SB 1526, Relating to Conservation Enforcement

Submitted to Senate Committee on Water and Land
1:15 PM, February 1, 2019 Hearing in Conference Room 229

Thank you for the opportunity to present my concerns about conservation enforcement. SB 1526 proposes appropriations to improve public reporting of violations. Unfortunately, better reporting of violations does not provide the resources or willpower necessary for better enforcement.

To illustrate the problem, I suggest that this committee ask the DLNR to explain:

- why hasn't the DLNR administratively imposed civil fines on the hotel beach concessions which illegally store unrented commercial beach chairs and umbrellas on Waikiki Beach?
- How would SB 1526 affect DLNR enforcement of a state contract and rules which prohibit storage of unrented commercial equipment on Waikiki Beach?

RELEVANT PROVISIONS OF A 1965 STATE CONTRACT AND STATE RULES

The SurfRider-Royal Hawaiian Sector Beach Agreement is a 1965 contract between the State and the owners of Waikiki beachfront property from the eastern end of the Moana SurfRider through the western end of the Royal Hawaiian. The Agreement includes exhibits which designate a "Line A" and a "Line B" over the beach. The Agreement provides that the beach mauka of "Line A" is privately owned and not subject to a public easement; the beach between "Line A" and "Line B" is privately owned and subject to a public easement; and any beach makai of "Line B" is publicly owned.

The 1965 Beach Agreement authorizes the Moana SurfRider, Outrigger, and Royal Hawaiian Resorts to install fences and post signs to exclude the public from the "private beach" mauka of "Line A". However, Item 9 of the Agreement and §13-255-6(c), Hawaii Administrative Rules, unambiguously prohibit storage of unrented commercial equipment on the public easement makai of "Line A".

Item 9 of the 1965 SurfRider-Royal Hawaiian Sector Beach Agreement explicitly requires that

The State will not conduct or permit any commercial activity of any kind on the public beach in the SurfRider-Royal Hawaiian Sector of Waikiki Beach, including ... the area ... subject to public easement.... The Owners [of the beach subject to public easement and abutting property] will not conduct or permit any commercial activity of any kind on the area ... subject to public easement....

When the DOT was responsible for small boat harbors, the DOT adopted rules to prohibit storage of unrented commercial equipment on the part of Waikiki Beach subject to a public easement under the 1965 Beach Agreement. When responsibility for small boat harbors was transferred to the DLNR, the DLNR adopted the following rules.

HAWAII ADMINISTRATIVE RULES TITLE 13 SUBTITLE 11 PART III CHAPTER 255 WAIKIKI BEACH

§13-255-5 Definitions. As used in this part, unless the context clearly indicates otherwise:

“Waikiki Beach” means any and all lands . . . from the . . . Elks Club . . . to . . . Fort DeRussy . . . over which the State of Hawaii . . . acquires an easement for the use of the public as a bathing beach and for passing over and along by foot. . . .

§13-255-6 Waikiki Beach uses and activities; restrictions. . . .

(c) Storage, parking, and display prohibited. No person shall store, park, moor, place, or display any thing or personal property on or at Waikiki Beach for the purpose of engaging in, conducting, transacting, or soliciting business of any kind; provided that an outrigger canoe or sailing catamaran registered by the department pursuant to Hawaii ocean waters and shores rules may be placed, moored, or anchored below the mean high water mark. . . .

§13-255-7 Penalties. Any person who is guilty of violating these rules shall be fined . . . as provided in section 200-14, Hawaii Revised Statutes.

§13-255-8 Powers of arrest. Any law enforcement officer or any duly authorized employee, agent, or representative of the department who observes any violation by any person of these rules may forthwith arrest the person without a warrant.

§13-255-9 Taking legal custody of property. As incident to a lawful arrest, the arresting authority may take legal custody of any personal property which is the subject of or

related to any violation of these rules. The property may be released only upon approval by the court which has jurisdiction of the case.

§13-255-10 Attorney general. The attorney general may bring appropriate proceedings to enjoin the continuance of any act or omission in violation of these rules.

The following photographs were taken at 8:45 am on Friday January 18, 2019 to document that the Royal Hawaiian and Outrigger Hotel beach concessions are still conspicuously illegally storing unrented commercial beach chairs and umbrellas on a public easement over Waikiki Beach where commercial activity has been explicitly prohibited for more than 50 years by both a state contract and state rules.











SB-1526

Submitted on: 1/30/2019 12:42:50 PM

Testimony for WTL on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Inga Gibson	Individual	Support	No

Comments:

RE: Strong Support for SB1526; DLNR tip/tip app appropriation

Dear Chair Kahele and Senate Water & Land Committee members,

For the Fishes, West Hawaii Humane Society and other wildlife protection organizations recently partnered with DLNR-DOCARE on a joint reward-tipline to report potential reef wildlife violations thus, we fully support additional staff/funding for a dedicated position handling calls and tips regarding potential wildlife violations. DLNR-DOCARE has tremendous enforcement and investigative responsibilities to protect numerous species, both marine and terrestrial, across the state. We support this initiative along with other efforts to provide much needed funding and resources to DOCARE.

Thank you for your consideration of this testimony.

Inga Gibson, Policy Consultant

For the Fishes

West Hawaii Humane Society

808.922.9910, ponoadvocacy@gmail.com

SB-1526

Submitted on: 2/1/2019 8:57:03 AM

Testimony for WTL on 2/1/2019 1:15:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Billie Napoleon	Individual	Support	No

Comments:

SB-1526

Submitted on: 2/1/2019 9:09:42 AM

Testimony for WTL on 2/1/2019 1:15:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Dillon Yim	Individual	Support	No

Comments:

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith Agaran, Vice Chair Committee on Water and Land

Dillon Yim

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We strongly support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

This bill will help to preserve nature and the environment. There will be more enforcement for illegal acts such as illegal fishing nets, and many other illegal acts that the public can report using this app. There is currently a Crime Stoppers app that many people do not use. There are a lot of illegal crimes that go unreported and if we are able to get the public to use this app, more environmental crimes will be solved. This will benefit many fishponds because fishermen who fish illegal will be stopped and the fish will be able to thrive in and out of the fishponds. The general public will be a great help to this TipApp because they are going to be the main source of crime reporters. The DLNR officers would also have an easier time tracking down illegal crime with the help of the public which would benefit everyone.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally,

socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

SB-1526

Submitted on: 2/1/2019 9:19:52 AM

Testimony for WTL on 2/1/2019 1:15:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Gavin Ball	Individual	Support	No

Comments:

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith Agaran, Vice Chair

Committee on Water and Land

Gavin Ball

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We fully support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

DLNR is an underfunded, overstretched department in charge of Hawaii's most valuable resource, nature. Hawaii's is one of the most diverse ecosystems in the world but, due to human activity as in poaching, littering, and other wildlife crimes the ecosystem that is in our back yard is bound to disappear. Unless, unless there is action something to keep a small department in the right place at the right time. This is why SB 1526 is importing it will be the best bang for the buck wildlife enforcement it will keep DOCARE where is needed and never a time wasted in our battle for our ecosystem.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

Senator Kaiali'i Kahele, Chair
Senator Gilbert S.C. Keith Agaran, Vice Chair
Committee on Water and Land

<<Teja Laird>>

Friday, February 1, 2019



Support for S.B. No. 1526, Relating to DLNR Tip App

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In my opinion, I think this DLNR TipApp is very good for the community and the people because it increases the amount of people committing criminal acts and it helps save the earth. For example, Kanaloa was telling us how the other day a guy was throwing huge fish nets outside of the bay, which is illegal. Kanaloa eventually cut the nets but in the end, if the DLNR TipApp was made, he could have called in and the guy would have gotten in trouble. The point isn't to just get people in trouble, but it's to discipline and show our community respect. All in all, there are so many different problems on this island, using this app we can take matters into our own hands and help this earth.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

SB-1526

Submitted on: 2/1/2019 9:32:10 AM

Testimony for WTL on 2/1/2019 1:15:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Giovanni Rufino	Individual	Support	No

Comments:

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith Agaran, Vice Chair Committee on Water and Land

Giovanni Rufino

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We strongly support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

Many residents who call Oahu their home take pleasure in fishing, and hunting off of the land. Many uncles and Aunties will show their nieces/nephews secret tricks or secret spots to catch the most fish. However most of these secret locations and tricks are illegal and is a main reason why the state needs to pass S.B. No. 1526. With the help of this bill people will be able to better understand what is legal and illegal. Being able to see the fines for different acts will help to educate the public who most of the time dont even know the acts they are doing are illegal. Also since people who tip are now getting paid this will create a bigger incentive for people to do the right thing. Hopefully with the help of this bill people become more aware of hunting and fishing laws, and think twice before committing an easily avoidable crime.

Overall, by expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

SB-1526

Submitted on: 2/1/2019 10:08:37 AM

Testimony for WTL on 2/1/2019 1:15:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Gillian Mckenzie	Individual	Support	No

Comments:

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith Agaran, Vice Chair

Committee on Water and Land

Gillian Mckenzie

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We strongly support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

<<State or list the reasons for your position, starting with the most important or compelling reasons. Include any facts, figures, statements, and experiences to support your position. >>

The reason it is mandatory for this DLNR app to be improved and maintained is to ensure the survival of our native fish living in the water surrounding the Hawaiian islands. The National Oceanic and Atmospheric Administration's Pacific Islands Fisheries Science Center said that the first-ever assessment of Hawaii's reef fish shows that 11 of 27 species are being overfished. Some of the 11 species are ulua, five surgeonfishes, two goatfishes, and three parrotfishes. The new and improved DLNR app will allow anyone who comes across an illegal act regarding fishing in prohibited areas, with the wrong equipment, or over fishing etc. to be turned in on the spot.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

SB-1526

Submitted on: 2/1/2019 10:09:42 AM

Testimony for WTL on 2/1/2019 1:15:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Henry Man	Individual	Support	No

Comments:

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith Agaran, Vice Chair Committee on Water and Land

<<Henry Man>>

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We strongly support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

I support S.B. No. 1526 relating to the DLNR Tip App. Hawai'i, although being known as a land of paradise and beauty, has slowly been getting dirtier. The growing pollution and damage of environment can be attributed urbanization and the increasing human population. Marine debris has devastated beaches all over the state. Kamilo beach, located at the southern tip of the Big Island, has been labeled "the Dirtiest Beach in the World" by BBC, due to it's horrible plastic pollution. Fishermen are using illegal fishing nets, and using them at illegal times. A Crime Stoppers has already been made, but is hardly used. I believe that if we were to create a new app and implement new features, than it will be much more effective. Making this app will provide power to the people in terms of catching people who violate environmental laws. Our land of Hawaii has given so much to us, it's time to give back.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

LATE

SB-1526

Submitted on: 2/1/2019 10:21:16 AM

Testimony for WTL on 2/1/2019 1:15:00 PM

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

Comments:

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith Agaran, Vice Chair

Committee on Water and Land

Nui

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We strongly support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

The reason why I think our app is great and successful is because over the news we witness crimes that can be stopped, but don't actually say something about it. Now with this app you can help crime stoppers by using this app to report crimes or things happening around you. Our class has found out about how unsuccessful the DLNR was before our app and now the success rates on the improved app will go up. I hope our communities will make use of this app especially because of how useful it can be.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally,

socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

SB-1526

Submitted on: 2/1/2019 10:35:35 AM

Testimony for WTL on 2/1/2019 1:15:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Brooks Hitomi	Individual	Support	No

Comments:

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith Agaran, Vice Chair

Committee on Water and Land

Brooks Hitomi

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We strongly support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

In regards to the current DNLR Tip App, there is a lot of room for improvement. This app has the potential to be a vital resource the DNLR uses to help protect Oahu's environment and culture. The Tip app currently lacks geo-positioning, data collection/analysis, regulation/law enforcement, a permit purchasing function, and much more. Once this bill gets passed, the DNLR will have funds that will severely help the function and utilization of the app.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

Senator Kaiali'i Kahele, Chair
Senator Gilbert S.C. Keith Agaran, Vice Chair
Committee on Water and Land



Kanoa Hirschmann.

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

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This position will finally help the terrible DLNR tip app become what it was intended to be. I'm really glad that the people who lay bed net and do bad things to fish will be punished. These evil fishermen will now have to fear the DLNR tip app and the civilians who wield its immense power. I will personally be going to places where people fish and report them for any and all violations. I will be the protector of aquatic wildlife, defender of the sea!

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

LATE

SB-1526

Submitted on: 2/1/2019 10:40:53 AM

Testimony for WTL on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jackson Morrice	Individual	Support	No

Comments:

Senator Kaiali'i Kahele, Chair
Senator Gilbert S.C. Keith Agaran, Vice Chair

Committee on Water and Land

Jackson Morrice

Friday, February 1, 2019

Support for S.B. No. 1526, Relating to DLNR Tip App

Our 10th grade STEM and Humanities classes at Mid Pacific Institute have been learning about ecology and civics through our work with Heeia Fishpond. We strongly support S.B. No. 1526 relating to the DLNR Tip App, which would appropriate additional funds for the improvement and maintenance of the App, including enhanced data management; this would allow for increased efficiency of violations enforcement.

In the state of Hawaii, we have a huge problem with protecting our special ocean environment. Our reefs are damaged, fish are overfished and our endangered sea creatures inch closer to extinction each day. The DLNR app has already made 138 arrest on land. With these new additions to the DLNR app, we can start converting these DLNR arrest to the ocean, finally making a stand for the creatures that make Hawaii unique and the place to be on your vacation.

In expanding the capabilities of the DLNR tip app, we are creating opportunities for the stewardship of our natural environment, which is vital to the people of Hawaii culturally, socially, and economically. We urge the committee to pass S.B. No. 1526. Thank you for this opportunity to testify.

