

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
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**Testimony of**  
**SUZANNE D. CASE**  
**Chairperson**

**Before the Senate Committees on**  
**JUDICIARY**  
**and**  
**WAYS AND MEANS**

**Tuesday, February 26, 2019**  
**10:05 AM**  
**State Capitol, Conference Room 211**

**In consideration of**  
**SENATE BILL 931, SENATE DRAFT 1**  
**RELATING TO MARINE AQUARIUM FISHING**

Senate Bill 931, Senate Draft 1 proposes to prohibit any person from possessing a fine-mesh net or fine-mesh trap on their person or within a vessel within state marine waters or on or about the shore where fish can be taken and imposes a \$5,000 fine for violations; places a two-year moratorium on the commercial capture of aquatic life for aquarium purposes or under a commercial marine license through use of fine-mesh nets or fine-mesh traps; requires the research corporation of the university of Hawaii (RCUH) to evaluate the impacts of the Department of Land and Natural Resources' issuance of commercial aquarium permits on the island of Oahu and West Hawaii; requires a cultural impact assessment in coordination with the office of Hawaiian affairs and native Hawaiian cultural organizations; requires the RCUH to submit a progress report to the Legislature no later than twenty days prior to the regular session of 2020; requires the governor to accept the environmental impact statement (EIS) no later than twenty days prior to the regular session of 2021; requires the Department of Land and Natural Resources to establish a marine aquarium fishing advisory group; makes an appropriation; and repeals on 6/30/2021. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following comments and recommendations.**

The preamble to the bill added language stating: "There is evidence to show that historically the commercial capture of Hawaii's reef wildlife for sale to the aquarium pet trade has resulted in a depletion of marine resources." The Department notes that the environmental review now

**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

required prior to issuance of fine mesh nets is intended to analyze the potential impacts to marine resources. There is also evidence to show that management of portions of the aquarium fishery, such as in West Hawaii where aquarium fishery management areas have been established, have resulted in the recovery of marine resources.

Pursuant to recent Court decisions, all collection of marine life pursuant to aquarium (fine mesh net and trap) permits is prohibited until an environmental review is completed pursuant to the Hawaii Environmental Policy Act (HEPA), Chapter 343, Hawaii Revised Statutes (HRS). Under HEPA, for applicant actions such as this, an applicant is responsible for conducting the environmental review. The Department understands the legislature's concerns about neutrality of the EIS, but believes that HEPA provides sufficient safeguards against bias through the public review and comment process.

The Department appreciates the intent of this measure to halt commercial aquarium collection using fine mesh nets or traps for two years until the proposed external EIS is completed. However, the Department has concerns that this would unnecessarily prohibit aquarium collection under valid aquarium permits should any applicants complete the required HEPA review and the Department issue permits to those applicants based on such review before the two-year period is up.

The Department therefore recommends deleting SECTIONs 2, 3, 4, and 5 of the bill in their entirety. Other reasons for this recommendation are listed below:

1. The Department has concerns with the proposed definition of "fine-mesh." Current law allows the use of nets with a stretched mesh of 2 inches or greater. Any net smaller than this is considered fine mesh. The proposed definition of "less than three centimeters" would create an ambiguity regarding nets with a mesh size between 3 centimeters and 2 inches.
2. The proposed prohibition of possession of a fine-mesh net or a fine-mesh trap on page 6, lines 16-21, is overbroad and would prohibit legal gear, such as fine-mesh nets authorized under a commercial bait license and fine-mesh traps allowed for trapping shrimp.
3. The repeal of language in SECTIONs 4 and 5 of the bill would prematurely remove important tools that the Department uses for monitoring and compliance. The bill would allow continued aquarium collection using legal gear, so it is important that the Department continues to monitor aquarium fish export and that dealers issue receipts for transactions involving aquarium fish.

The Department appreciates the intent of SECTION 6 of the Bill, which would require RCUH to prepare an EIS, but notes a number of concerns. First, SECTION 6(a) is vague as to how a consultant would "demonstrate neutrality" in preparing an EIS. This should be clarified.

Second, SECTION 6(b) should not name specific organizations that RCUH is required to coordinate with in completing the cultural impact assessment.

SECTION 6(d) of the proposed bill requires the EIS to be “completed and accepted no later than twenty days prior to the convening of the regular session of 2021.” Acceptance of the EIS should be contingent upon adequate analysis under HEPA, rather than automatic on a certain date.

The Department notes that aquarium fishing is not a traditional & customary Hawaiian practice, therefore believes SECTION (b) (5) is unnecessary.

The Department supports SECTION 7 of the bill, but recommends deleting SECTION 7(c)(7) to be consistent with the Department’s recommendation to delete SECTIONs 2-5 of the bill. The Department supports SECTIONs 8, 9, 10, 11, 12, and 13 of the bill, including the appropriation directed to RCUH to perform the EIS. The Department notes that language in SECTION 13 reenacting Sections 187A-13, 188-31.5, and 189-11, HRS, would be unnecessary if the Legislature adopts the Department’s recommendation to delete SECTIONs 2-5 of the bill.

Thank you for the opportunity to comment on this measure.



**SB931 SD1**  
RELATING TO MARINE AQUARIUM FISHING  
Senate Committee on Judiciary  
Senate Committee on Ways and Means

February 26, 2019

10:05 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB931 SD1, which seeks to address the potential impacts of aquarium collection on our nearshore fisheries by prohibiting the taking of marine life for aquarium purposes using fine-mesh nets or traps; prohibiting the possession of fine-mesh nets or traps in or near the water; and tasking RCUH, in consultation with OHA, a statutorily established marine aquarium fishing advisory group, and other groups, to prepare an environmental impact statement (EIS) and comprehensive cultural impact assessment on the Department of Land and Natural Resources' (DLNRs') permitting program for the take of aquatic life for commercial aquarium purposes using fine-mesh nets and traps, with respect to O'ahu and West Hawai'i Island.

As a preliminary matter, OHA appreciates this measure's intent to properly assess the impacts of the aquarium collection industry on our nearshore resources. OHA notes that Native Hawaiian subsistence communities have long voiced concerns over the impacts of commercial aquarium collection on subsistence resources they rely upon, and have even successfully advocated for regulatory prohibitions and protections with respect to commercial aquarium collection on the West Coast of Hawai'i Island. Even with the implementation of such regulatory protections and the more recent court-ordered injunction that has enjoined aquarium collection in West Hawai'i as well as aquarium collection using fine-mesh nets and traps throughout the islands, certain subsistence community members have continued to raise concerns regarding the apparent continuation of commercial aquarium collection activities throughout the islands. Accordingly, OHA appreciates the additional attention and oversight this measure seeks to provide for commercial aquarium collection in state waters.

With regards to the current draft language of this measure, OHA offers the following comments and suggestions for the Committees' consideration, should the Committees choose to move this measure forward.

First, OHA notes that under the amended draft of this measure, commercial aquarium collection that does not involve the use of small mesh nets or traps may still occur in state waters. Accordingly, the Committee may wish to **retain the statutory provisions regarding aquarium fish export counts and commercial marine dealer receipts for aquarium fish**, which would be deleted in Section 4 and Section 5 of this measure's current draft.

Second, OHA appreciates this measure's express accommodation for Native Hawaiian traditional and customary practices as well as the taking of aquatic life from fishponds, as found on page 3, lines 9 through 14 of this measure. However, OHA does note that the prohibition on the possession of any fine-mesh net in the water or on the shore, as found in Section 3 of this measure's current draft, may inadvertently prohibit the possession and use of fine-mesh nets for the taking of pua'ama or juvenile mullet for fishpond stocking purposes, as may currently be permitted for pond owners and operators under Hawai'i Administrative Rules section 13-75-14(1). Such a prohibition may also inadvertently prohibit the possession and use of fine-mesh nets for the taking of 'opae, 'opelu, makiawa, or mikiawa as permitted under Hawai'i Administrative Rules section 13-75-14(3); the use of nets of one-and-a-half inch mesh for the taking of akule under Hawai'i Administrative Rules section 13-75-14(5); and the use of fine-mesh scoop nets of less than three feet in any dimension under Hawai'i Administrative Rules section 13-75-14(7).<sup>1</sup> **Accordingly, to avoid potential inconsistencies in prohibited, permitted, and excepted activities, the Committees may wish to adopt clarifying language regarding the scope of the fine-mesh net and trap possession prohibition in Section 3** of this measure.

Third, OHA recognizes that this measure would require OHA consultation in the development of a comprehensive cultural impact assessment on the DLNR's permitting program for the take of aquatic life for aquarium purposes using fine-mesh nets and traps. OHA notes that it regularly reviews environmental review documents, including cultural impact assessments, in the fulfillment of its statutory mandates and constitutional mission, and has provided extensive comments on the deficient draft environmental assessments previously submitted for the DLNR's permitting program with respect to O'ahu and West Hawai'i Island.

Finally, with regards to this measure's contemplated EIS, OHA respectfully recommends consultation with the DLNR, the Office of Environmental Quality Control, and the Research Corporation of the University of Hawai'i, as to whether the mandatory deadline for EIS acceptance found on page 10, lines 8-12, would provide sufficient time to properly assess the broad range of environmental and cultural impacts that may arise from the resumption of the DLNR's aquarium collection permitting program for O'ahu and West Hawai'i Island. Given the wide range of species and habitat types as well as the complex ecological processes and interactions that may be affected by commercial aquarium collection, as well as the potential capacity limitations of RCUH, OHA defers to these organizations as to whether a sufficiently informed EIS can be completed on such a timeline.

Mahalo nui for the opportunity to testify on this measure.

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<sup>1</sup> OHA acknowledges that Section 2 of this measure, which specifically prohibits the take of aquatic life for commercial aquarium purposes using fine-mesh nets and traps, provides an explicit exception for the use of fine mesh nets pursuant to licenses permits issued under HRS §§187A-3.5 and -6, among other exceptions; however, Section 3's general prohibition on the possession of fine-mesh nets or traps do not include such exceptions. In addition, the cited administrative rule provisions allowing for the use of small- and fine-mesh nets in certain circumstances are promulgated only under HRS § 187A-5, and not under HRS §§187A-3.5 or -6.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committees on Judiciary and Ways and Means  
Tuesday, February 26, 2019 at 10:05 a.m.

by

Vassilis L. Syrmos, Vice President for Research and Innovation  
University of Hawai'i System

### SB 931 SD1 – RELATING TO MARINE AQUARIUM FISHING

Chairs Rhodes and Dela Cruz, Vice Chairs Wakai and Keith-Agaran and members of the Committees:

The University of Hawai'i (UH) would like to provide comments on SB 931 SD1.

Currently, the proposed measure calls for the Research Corporation of the University of Hawai'i (RCUH) to 1) evaluate and prepare an environmental impact statement to evaluate DLNR's issuance of commercial aquarium permits on the island of O'ahu and in West Hawai'i, and 2) complete a comprehensive cultural impact assessment in coordination with the Office of Hawaiian Affairs and other Native Hawaiian cultural organizations.

The primary purpose of RCUH is to provide UH with professional and financial services that are required by extramurally funded projects. The researchers and specialists with the required knowledge to conduct the environmental and cultural studies outlined in this measure are all housed at the University of Hawai'i.

The University of Hawai'i respectfully recommends that the measure be amended to have the designed funds appropriated to UH to conduct the requested studies, with RCUH providing the necessary personnel and fiscal support.

Thank you for the opportunity to testify on this measure.



Research Corporation  
of the University of Hawai'i

Written Testimony Presented to the  
Senate Committee on Judiciary and  
Senate Committee on Ways and Means  
February 26, 2019

by  
Dr. Sylvia Yuen, Executive Director

**Senate Bill 931, SD 1, Relating to Marine Aquarium Fishing**

The Research Corporation of the University of Hawai'i (RCUH) recommends that SB 931, SD1 be amended to state that the University of Hawai'i (not RCUH) will (1) evaluate and prepare an environmental impact statement to evaluate DLNR's issuance of commercial aquarium permits on the island of O'ahu and in West Hawai'i, and (2) complete a comprehensive cultural impact assessment in coordination with the Office of Hawaiian Affairs and other Native Hawaiian cultural organizations. The funds appropriated to the University of Hawai'i to conduct the requested studies can be service ordered to RCUH for the necessary personnel and fiscal support.

Currently, the proposed measure calls for the Research Corporation of the University of Hawai'i to conduct the subject studies. The University, not RCUH, has the researchers and specialists with the required expertise to conduct the studies outlined in this measure. The primary purpose of RCUH is to provide the University of Hawai'i with support services required for extramurally-funded projects.

Section 8 of the bill appropriates funds to the University of Hawai'i for the study. The attached changes will make the bill consistent throughout in identifying the University of Hawai'i as the agency to conduct the environmental and cultural assessments.

Thank you for the opportunity to present written testimony.

Attachment (SB 931, SD1 with recommended amendments)

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# A BILL FOR AN ACT

RELATING TO MARINE AQUARIUM FISHING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that kanaka maoli values  
2 such as living in harmony and balance with nature, mālama ‘āina,  
3 kuleana for the surrounding environment, the concept of aloha  
4 ‘āina, and other Native Hawaiian traditional and customary  
5 gathering rights and cultural practices are the foundation of  
6 the constitution of the State of Hawaii's mandates related to  
7 the conservation and management of natural resources. There is  
8 evidence to show that historically the commercial capture of  
9 Hawaii's reef wildlife for sale to the aquarium pet trade has  
10 resulted in a depletion of marine resources. To allow the  
11 commercial trade to continue in a manner that adversely impacts  
12 marine resources would be contrary to effective marine resource  
13 management and traditional Hawaiian practices.

14           The purpose of this Act is to:

15           (1) Place a two-year moratorium on the commercial capture  
16           of aquatic life for aquarium purposes or pursuant to a





1 commercial marine license through the use of fine-mesh  
2 nets or fine-mesh traps;

3 (2) Require the ~~research corporation of the~~ university of  
4 Hawaii to prepare an environmental impact statement to  
5 evaluate the impacts of the department of land and  
6 natural resources' issuance of commercial aquarium  
7 permits on the island of Oahu and West Hawaii;

8 (3) Require the ~~research corporation of the~~ university of  
9 Hawaii to complete a comprehensive cultural impact  
10 assessment in coordination with the office of Hawaiian  
11 affairs and Native Hawaiian cultural organizations;

12 (4) Require the department of land and natural resources  
13 to establish a marine aquarium fishing advisory group;

14 (5) Prohibit any person from possessing a fine-mesh net or  
15 fine-mesh trap on their person or within a vessel  
16 within state marine waters or on or about the shore  
17 where fish can be taken and impose a \$5,000 fine for a  
18 violation; and

19 (6) Appropriate funds for the purposes of this Act.

20 This Act is intended to allow the following practices to  
21 continue:



- 1 (1) Issuance of special activity permits pursuant to
- 2 section 187A-6, Hawaii Revised Statutes;
- 3 (2) Issuance of recreational permits for non-commercial
- 4 capture of aquatic life for aquarium purposes, in
- 5 accordance with existing laws and rulings regarding
- 6 compliance with environmental assessments; and
- 7 (3) Captive-breeding and aquaculture efforts, as regulated
- 8 by section 187A-3.5, Hawaii Revised Statutes.

9 Nothing in this Act should be construed to prohibit any  
 10 person from exercising native Hawaiian rights, customarily and  
 11 traditionally exercised for subsistence, cultural, and religious  
 12 purposes pursuant to article XII, section 7, of the Hawaii State  
 13 Constitution, the lawful taking of fish for consumption or bait,  
 14 or lawful management or taking of aquatic life from fishponds.

15 SECTION 2. Chapter 189, Hawaii Revised Statutes, is  
 16 amended by adding a new section to be appropriately designated  
 17 and to read as follows:

18 "§189- Harvesting aquatic life for commercial aquarium  
 19 purposes; prohibition; exemptions; definitions. (a) No person  
 20 shall harvest aquatic life for commercial aquarium purposes  
 21 using a fine-mesh net or fine-mesh trap in any state marine



1 waters. No person operating under a commercial marine license  
2 pursuant to section 189-2, shall harvest aquatic life for  
3 commercial aquarium purposes using a fine-mesh net or fine-mesh  
4 trap in any state marine waters.

5 (b) This section shall not apply to the harvest or  
6 collection of aquatic life for purposes of:

- 7 (1) Activities pursuant to the issuance of a license or  
8 permit for activities permitted in sections 187A-3.5  
9 and 187A-6 and chapter 188; provided that the  
10 requirements of those sections are met;
- 11 (2) Scientific or research activities;
- 12 (3) Educational activities or activities conducted as part  
13 of a school activity or assignment;
- 14 (4) Activities permitted under federal law;
- 15 (5) Activities associated with the exercise of native  
16 Hawaiian rights, customarily and traditionally  
17 exercised for subsistence, cultural, and religious  
18 purposes pursuant to article XII, section 7, of the  
19 Hawaii State Constitution; and
- 20 (6) Activities otherwise expressly and lawfully permitted  
21 by state law or county ordinance.



1        (c) For the purposes of this section:

2        "Aquarium purposes" means to hold salt water fish,  
3 freshwater nongame fish, or other aquatic life alive in a state  
4 of captivity as pets, for public exhibition or display, or for  
5 sale for these purposes.

6        "Aquatic life" means any type or species of mammal, fish,  
7 amphibian, reptile, mollusk, crustacean, arthropod,  
8 invertebrate, coral, or other animal that inhabits the  
9 freshwater or marine environment and includes any part, product,  
10 egg, or offspring thereof; or marine plants, including seeds,  
11 roots, products, and other parts thereof.

12        "Commercial" means to take aquatic life for profit or gain  
13 or where the aquatic life is sold, offered for sale, possessed  
14 with intent to sell, bartered, landed, or transported for sale.

15        "Fine-mesh" means the rhombic (diamond-shaped) opening  
16 enclosed by four bars of twines or equal length at the four  
17 corners where the opening is less than three centimeters  
18 measured between corners when the mesh is stretched.

19        "Harvest" means to take and retain aquatic life."

20        SECTION 3. Section 187A-13, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§187A-13 General penalty; community service. (a) Any  
2 person violating this chapter or any rule adopted thereunder for  
3 which a penalty is not otherwise provided, shall be guilty of a  
4 petty misdemeanor and, in addition to any other penalties, shall  
5 be fined not less than:

6           (1) \$250 for a first offense;

7           (2) \$500 for a second offense; and

8           (3) \$1,000 for a third or subsequent offense.

9           (b) The court may require the defendant to complete an  
10 aquatic resources educational class administered by the  
11 department in addition to or in lieu of paying all or any part  
12 of any monetary fine authorized by this section.

13           (c) The court may direct the defendant to perform  
14 community service as administered by the department in lieu of  
15 paying any monetary fine authorized by this section.

16           (d) No person shall possess a fine-mesh net or fine-mesh  
17 trap on their person or within a vessel within state marine  
18 waters or on or about the shore where fish can be taken. Any  
19 person who violates this subsection shall be subject to seizure  
20 and forfeiture of any fine-mesh net or fine-mesh trap and shall  
21 be fined \$5,000.



1       For purposes of this subsection:

2       "Fine-mesh" means the rhombic (diamond-shaped) opening  
3 enclosed by four bars of twines or equal length at the four  
4 corners where the opening is less than three centimeters  
5 measured between corners when the mesh is stretched.

6       "Vessel" means every description of watercraft or other  
7 artificial contrivance used, or capable of being used, as a  
8 means of transportation on water."

9       SECTION 4. Section 188-31.5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11       "~~[+]§188-31.5[+]~~ **Aquarium fish for export; monthly count.**  
12 ~~[The department of land and natural resources shall adopt rules~~  
13 ~~in accordance with chapter 91 to monitor the aquarium fish catch~~  
14 ~~report and fish dealer's report for export of aquarium fish~~  
15 ~~taken from the waters of the State for aquarium purposes~~  
16 ~~pursuant to section 188-31. A monthly count of the quantities~~  
17 ~~taken of each individual species of aquarium fish exported shall~~  
18 ~~be reported to the board.] Repealed."~~

19       SECTION 5. Section 189-11, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "**§189-11 Receipts in duplicate.** Every commercial marine  
2 dealer shall issue receipts to the person from whom marine life  
3 is obtained and shall provide the following information in the  
4 receipt:

5           (1) The date of the issuance;  
6           (2) The name of the person to whom the receipt is issued;  
7           (3) The following information with respect to each of the  
8 varieties of marine life as the department shall  
9 require including:

10           (A) The weight in pounds of each of the varieties  
11 received;

12           (B) The numbers of marine life when they average a  
13 pound or more; and

14           (C) The price per pound paid; and

15           ~~(D) With regard to aquarium fish, regardless of~~  
16 ~~weight, the number and species of the fishes,~~  
17 ~~and]~~

18           (4) The signature of the dealer who issues the receipt.

19 Any dealer taking the dealer's own marine life or handling any  
20 marine life taken by commercial marine licensees working for or  
21 with the dealer, shall make out the same receipt, giving market



1 price for the marine life as prevails on the date of receipt. A  
 2 duplicate copy of this receipt shall be kept on file at the  
 3 premise where the marine life was sold by the dealer issuing the  
 4 same for a period of twelve months from the date of issuance,  
 5 and the duplicate copy shall be available for inspection upon  
 6 the demand of any conservation officer authorized to enforce the  
 7 laws of the State."

8 SECTION 6. (a) The ~~research corporation of the~~ university  
 9 of Hawaii shall prepare an environmental impact statement that  
 10 meets the requirements of chapter 343, Hawaii Revised Statutes,  
 11 to evaluate the impacts of the department of land and natural  
 12 resources' issuance of commercial aquarium permits on the island  
 13 of Oahu and West Hawaii. The ~~research corporation of the~~  
 14 university of Hawaii may prepare the environmental impact  
 15 statement internally or hire a consultant to prepare the  
 16 environmental impact statement insofar as the consultant can  
 17 demonstrate neutrality on the issue.

18 (b) As part of the environmental impact statement, the  
 19 ~~research corporation of the~~ university of Hawaii shall complete  
 20 a cultural impact assessment in coordination with the office of  
 21 Hawaiian affairs and Native Hawaiian organizations, including





1 but not limited to the Aha Moku advisory committee and Hunting,  
2 Farming, and Fishing Association.

3 (c) The ~~research corporation of the~~ university of Hawaii  
4 shall submit a report on its progress regarding the  
5 environmental impact statement and cultural impact assessment to  
6 the legislature no later than twenty days prior to the convening  
7 of the regular session of 2020.

8 (d) The governor shall serve as the accepting authority  
9 for the environmental impact statement. The environmental  
10 impact statement shall be completed and accepted no later than  
11 twenty days prior to the convening of the regular session of  
12 2021.

13 SECTION 7. (a) The department of land and natural  
14 resources shall establish a marine aquarium fishing advisory  
15 group, exempt from section 26-34, Hawaii Revised Statutes, to  
16 monitor activities addressed by this Act and provide guidance to  
17 the ~~research corporation of the~~ university of Hawaii and office  
18 of Hawaiian affairs toward completion of the environmental  
19 impact statement and cultural impact assessment. The advisory  
20 group members shall consist of the following:



- 1 (1) The administrator of the division of aquatic  
2 resources;
- 3 (2) One representative of the commercial aquarium  
4 industry, to be selected by the chairperson of the  
5 board of land and natural resources;
- 6 (3) One representative of a conservation organization, to  
7 be selected by the chairperson of the board of land  
8 and natural resources;
- 9 (4) One member with knowledge, experience, and expertise  
10 in the area of Hawaiian cultural practices, to be  
11 selected by the chairperson of the board of land and  
12 natural resources; and
- 13 (5) One representative of a fishing or fishermen's  
14 association.
- 15 (b) The marine aquarium fishing advisory group shall elect  
16 a chairperson from among its members. Any action of the  
17 advisory group shall be by a simple majority of its members.  
18 Three members shall constitute a quorum.
- 19 (c) The marine aquarium fishing advisory group shall be  
20 administered by the division of aquatic resources. The advisory  
21 group shall advise the department of land and natural resources



1 on issues related to marine aquarium fishing and the activities  
2 under this Act. The marine aquarium fishing advisory group  
3 shall:

4 (1) Advise the ~~research corporation of the~~ university of  
5 Hawaii and department of land and natural resources on  
6 any environmental reviews related to commercial  
7 aquarium fishing;

8 (2) Identify an appropriate scope of work for the  
9 environmental impact statement required pursuant to  
10 section 6 of this Act;

11 (3) Identify appropriate cultural groups and practitioners  
12 to be consulted on the cultural impact assessment  
13 required pursuant to section 6 of this Act;

14 (4) Work with the ~~research corporation of the~~ university  
15 of Hawaii and department of land and natural resources  
16 to ensure proper notice and community engagement on  
17 the environmental impact statement, such that  
18 stakeholders and community members have ample  
19 opportunity to engage in the review process;

20 (5) Make recommendations to the ~~research corporation of~~  
21 ~~the~~ university of Hawaii and department of land and



1 natural resources regarding local outlets or  
2 publications where notice of the environmental impact  
3 statement should be distributed;

4 (6) Make recommendations to the ~~research corporation of~~  
5 ~~the~~ university of Hawaii and department of land and  
6 natural resources regarding public meetings on the  
7 environmental impact statement; and

8 (7) Assess the impact of the moratorium implemented under  
9 this Act.

10 The marine aquarium fishing advisory group shall submit a  
11 report of its findings and recommendations, including any  
12 proposed legislation, to the legislature no later than twenty  
13 days prior to the convening of the regular session of 2021.

14 (d) Members of the marine aquarium fishing advisory group  
15 shall serve without compensation but shall be reimbursed for  
16 expenses, including travel expenses, necessary for the  
17 performance of their duties. No member shall be made subject to  
18 chapter 84, Hawaii Revised Statutes, solely because of that  
19 member's participation as a member of the advisory group.

20 SECTION 8. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$500,000 or so much



1 thereof as may be necessary for fiscal year 2019-2020 for the  
2 purposes of this Act.

3 The sums appropriated shall be expended by the university  
4 of Hawaii and ~~single-sourced~~ **service ordered** to the research corporation of the  
5 university of Hawaii for the purposes of this Act.

6 SECTION 9. If there is any conflict with section 188-31,  
7 Hawaii Revised Statutes, this Act shall supersede.

8 SECTION 10. This Act does not affect rights and duties  
9 that matured, penalties that were incurred, and proceedings that  
10 were begun before its effective date.

11 SECTION 11. If any provision of this Act, or the  
12 application thereof to any person or circumstance, is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act that can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

17 SECTION 12. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 13. This Act shall take effect on July 1, 2019,  
20 and shall be repealed on June 30, 2021; provided that sections  
21 187A-13, 188-31.5, and 189-11, Hawaii Revised Statutes, shall be



1 reenacted in the form in which they read on the day before the  
2 effective date of this Act.



**Report Title:**

Marine Aquarium Fishing; Fine-Mesh Prohibition; Commercial Aquarium Fishing Moratorium; Environmental Impact Statement; Cultural Impact Assessment; Marine Aquarium Fishing Advisory Group; Appropriation

**Description:**

Prohibits any person from possessing a fine-mesh net or fine-mesh trap on their person or within a vessel within state marine waters or on or about the shore where fish can be taken and imposes a \$5,000 fine for violations. Places a two-year moratorium on the commercial capture of aquatic life for aquarium purposes or under a commercial marine license through use of fine-mesh nets or fine-mesh traps. Requires the ~~research~~ ~~xxxxxxx~~ ~~xxxxxx~~ of the university of Hawaii (RUH) to evaluate the impacts of the department of land and natural resources' issuance of commercial aquarium permits on the island of Oahu and West Hawaii. Requires a cultural impact assessment in coordination with the office of Hawaiian affairs and Native Hawaiian cultural organizations. Requires the RUH to submit a progress report to the Legislature no later than twenty days prior to the regular session of 2020. Requires the governor to accept the EIS no later than twenty days prior to the regular session of 2021. Requires the department of land and natural resources to establish a marine aquarium fishing advisory group. Makes an appropriation. Repeals 6/30/2021. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



**SB-931-SD-1**

Submitted on: 2/23/2019 7:51:42 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randy Fernley	Testifying for Coral Fish Hawaii	Oppose	No

Comments:

Please do not pass this bill as it is severely flawed



## **Opposed to SB 931 Legal review by item and Hawaiian perspective.**

Friday 2/8/19 at 1:20pm in conference room 229.

**Dr. Bill Walsh DLNR after 15 years of fish counts “Fishery is Sustainable” more data below.**

**Suzanne case DLNR head 2019 re; SB 931 “ Fishery Sustainable and a Model Fishery” .**

**The bill ignores the proven data and science.**

Regarding section 1. Most Hawaiians are in support the aquarium fishery because it allows them the right to take aquarium fish as a way to support their families, and to pay their bills. The aquarium fishery is a proven highly studied sustainable fishery. It does comply with kanaka maoli values of living in harmony and balance ( fishing in a sustainable way ) with nature.

**(1) Kapu and other Hawaiian fishery management methods never included a complete shutdown or complete moratorium.**

The key to our future is sustainability while utilizing our highly renewable marine resources wisely.

**To ban a fishing group is not wise ecology, *unconstitutional*, it is in conflict with the Hawaii State Constitution a goes against proven scientific fact. We need to utilizing one of our most important resources not shut down a sustainable fishery.**

The aquarium fishery is in harmony with the Hawaiian’s way of life; it is similar to using fish ponds as a way to provide kanaka maoli cultural practices to feed their family and support their way of life.

**(2) To have the University of Hawaii do a CIS when we have already contracted another firm to do so is redundant, a waste of money and redundant. This could lead to conflict, delays, and Supreme court compliance legal issues.**

Sec. 2 Ch189; Obviously the bills introduced by the Hawaii State Legislature to shut down the fishery do not take into account the harm they will do to the state’s economy and the Hawaiian fishermen who fish in the fishery. Hawaii ‘s sustainable and very valuable aquarium fishery is a way to feed local families. This bill like other opposition is based in “user conflict”. A few vocal groups in the incorrect name of ecology threatens the Hawaiian fisherman’s way of life. They have convinced others there is an ecosystem problem. This is not true.

**The aquarium fishery benefits all of Hawaii residents.** Schools, tourist, Hawaiian emersion schools can all visit fish in public aquariums increasing education and knowledge of reef fish and ocean biology. We take and educate the children and world about Hawaii with our fishery. Every home marine aquarium hobbyist becomes aware of Hawaii’s beauty, culture and ecosystem science. The fishery has been commended and recognized worldwide for our ecofriendly and sustainable fishing practices that is what being kanaka maoli is about. Hawaiian fishing values are correct if the fishery is sustainable; the aquarium fishery is a sustainable fishery. To ban native Hawaiians from any fisheries is not pono or constitutional. It is biased and prejudice against the fishery for user conflict reasons and hurting not helping the Hawaiian community.

## **International and United States ocean laws guarantee the rights of all user groups to utilize all oceans.**

These laws protect Hawaiians. To undermine our fishery degrades Hawaiians rights to fish other fisheries too. The state role should be to manage regulate and maintain sustainability. DLNR has done just that over many years. The fishery continues to be sustainable and will also be in the future with current laws.

The [Hawaii State Constitution](#) regarding fisheries and public ocean submerged lands states:

### **Protections for Native Hawaiians**

The bill SB 851 and HB 851 makes no carve-outs or provisions to protect native Hawaiians. The Hawai'i Constitution guarantees that the State will "protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 . . . ." Hawai'i Const. Art. XII, § 7. Hawaiians have relied on the islands' near-shore fisheries for centuries, and this bill does not take into account the impacts that a moratorium may have on native Hawaiian livelihood, culture, and way of life.

### **Public Access to Fisheries**

The bill also impermissibly restricts public fishing access. Under the Hawai'i Constitution, "[a]ll fisheries in the sea waters of the State . . . shall be free to the public, subject to . . . the right of the State to regulate the same . . . ." Hawai'i Const. Art. XI, § 6. The

2

moratorium would eliminate an entire fishery over time, completely denying public access. This goes far beyond mere "regulation" of fisheries and would therefore violate the Constitution.<sup>1</sup>

### **Equal Protection and Due Process**

The bill also raises significant concerns under the equal protection and due process clauses of the United States Constitution, which are designed to protect against exactly this kind of arbitrary, unsupported government action. Even assuming the bill would be subject to only rational basis review (and setting aside for now the possibility that it would disproportionately impact native Hawaiians), there appears to be no rational basis for the proposed law. In fact, DLNR filed comments objecting to the bill because there is no scientific basis for it at all. The supposed benefits have not been studied, and there is no evidence that the moratorium will do anything to advance the State's purported interests. See, e.g., *Nehring v. Ariyoshi*, 443 F. Supp. 228, 239 (D. Haw. 1977) (concluding that there would be an equal protection violation under rational basis review where the State had not studied alleged environmental benefits and could produce no evidence to support their existence).

### **Dormant Commerce Clause**

SB 931 and HB 851 both raise concerns under the Dormant Commerce Clause, and there are other constitutional legal concerns with shutting down one user group over another.

Governor Ige rightly vetoed the SB 1240 two years ago another shut down bill of the fishery and The attorney general review of SB 1240 bill implied that many legal issues were of concern. I am sure the same concerns apply to SB 931.

Please hold and do not pass SB 931.

Dr. Bill Walsh October 2014:

*In my capacity as the West Hawai'i Aquatic Biologist for the Division of Aquatic Resources I have been involved in the management and biological monitoring of the West Hawai'i aquarium fishery for over 15 years.*

*I would like to share with you some of the results of our latest monitoring efforts as they relate to the issue at hand. Two species, the Yellow Tang and Kole make up over 93% of all aquarium fish caught in West Hawai'i. Since the no-aquarium collecting Fish Replenishment Areas (FRAs) were established in 1999 (protecting 35% of the coastline), the numbers of Yellow Tang have increased in the FRAs by almost 65% while not significantly decreasing in the remaining Open Areas. In the 30'-60' depth range alone, the numbers of Yellow Tang in West Hawai'i have increased by 1.3 million fish. Similarly Kole populations have increased not only in the FRAs (by 24%) but also in the Open Areas as well (by 28%). Kole populations in the same depth range have increased by over 2 million fish! Clearly resource management efforts are working in West Hawai'i.*

*Scientific studies which have indeed found high levels of mortality among aquarium fishes have typically been conducted in remote areas with poor handling capabilities. That is clearly not the case in Hawai'i.*

**~ Dr. William Walsh  
Division of Aquatic Resources  
State of Hawaii DLNR**

By Ron Tubbs B.S. N.D.

**SB-931-SD-1**

Submitted on: 2/24/2019 8:24:30 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
carina sugiyama	Testifying for wayne's ocean world, inc	Oppose	No

Comments:

Dear Chair and committee members,

Please do not pass SB931SD1. We are trying to make a living in Hawaii, and we need to be able to stay working.

**SB-931-SD-1**

Submitted on: 2/24/2019 1:51:39 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Water Inspired	Testifying for One Ocean Conservation	Support	No

Comments:

We strongly support restrictions on the commercial capture of aquatic life for aquarium purposes.

**SB-931-SD-1**

Submitted on: 2/24/2019 2:09:27 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
One Ocean Conservation	Testifying for Water Inspired Conservation Group	Support	No

Comments:

We strongly support restrictions on the commercial capture of aquatic life for aquarium purposes.

**SB-931-SD-1**

Submitted on: 2/25/2019 6:19:40 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Stockhausen	Testifying for Exotic Sealife Int'l Inc	Oppose	No

Comments:

To whom it may concern!

I am in strong opposition of SB 931! SB 931 would ruin the lives of many honorable and hardworking fishermen and their families.

SB 931 is flawed as it imposes a moratorium on fishing when no scientific information whatsoever indicates that is necessary or appropriate. As DLNR has testified, the fishery is sustainable. I personally have visited Hawaii on many occasions and dove and snorkeled all the islands over the last 25 years. The marine life is just as abundant now as it was 25 years ago, as a matter of fact I think it is more abundant now than ever. A moratorium is absolutely not appropriate.

SB 931 is unnecessary because the HEPA process is ongoing, and it is unnecessary to devote state financial resources to developing an EIS. The current HEPA process will be conducted in compliance with the law. The Governor retains approval authority over the final EIS once published. All public comments will be considered on the EIS.

SB 931 is not supported by the commercial aquarium fishery or commercial fishery. It would impose additional, unnecessary burdens on individuals that have paid for the development of HEPA documents to date in a good faith manner.

**SB-931-SD-1**

Submitted on: 2/25/2019 9:53:24 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:





February 25, 2019

**LATE**

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
COMMITTEE ON WAYS AND MEANS

Hearing Date: Tuesday, February 26, 2019

Hearing Time: 10:05am

Regarding: SB 931 SD1 Relating to Marine Aquarium Fishing

- **STRONGLY OPPOSE** SB931, Relating to Marine Aquarium Fishing

HFACT is a not-for-profit, IRS 501c(5) organization, that advocates for small boat commercial, non-commercial, and recreational fishermen throughout Hawaii. HFACT board members sit on a number of international, regional, and federal fisheries management and endangered species advisory committees as well as state marine, coastal zone, and fisheries advisory committees and working groups; and, HFACT is thoroughly familiar with and participates in ocean and marine resource management in Hawaii and the western and central Pacific.

HFACT **OPPOSES** the intent of SB931 SD1, Relating to Marine Aquarium Fishing. The state has shown commitment to sustainable fisheries and this bill is counter to the state's efforts to support sustainable use of marine resources. The aquarium fish collection fishery in Hawaii has been shown, via peer-reviewed scientific studies, as being sustainable.

The Hawaii courts ruled that an environmental impact statement is required to continue issuing commercial aquarium fishing permits. Since the ruling, aquarium fishermen have been diligently working toward completing an environmental impact statement to submit to the Department of Land and Natural Resources. Two years of hard work and tens of thousands of dollars have been expended by sharing costs among fishermen. All the scientific evidence will show that the fishery is sustainable and that the stocks are growing. It is incumbent on the legislature to allow this process to proceed to continue. SB931 SD1 will interfere with this process and therefore should not be approved.

HFACT believes SB931 SD1, as written, is simply duplicative of what the Hawaii Supreme Court has already decided. This bill simply wastes taxpayer money as HRS Chapter 343 on Environmental Impact Statements clearly lays out the requirements of an EIS. The EIS process provides ample review by the public, interested NGOs, and government agencies. Should the EIS be either inadequate or appear to be biased, public comments could state so and the Department of Land and Natural Resources and the Governor could choose not to adopt the EIS.

***Hawai'i Fishermen's Alliance for Conservation and Tradition, Inc.***  
***75-796 Hiona Street, Holualoa HI 96725***

HFACT believes that fisheries management decisions should be based on peer-reviewed science, stakeholder involvement, and guidance from the Department of Land and Natural Resources and its field biologists. If peer-reviewed science shows that strict management protocols need to be implemented, the Department of Land and Natural Resources has many statutory mandates to implement such management rules, simply put SB931 SD1 is unnecessary. Passing SB931 SD1 would set a bad precedent of managing fisheries resources on the basis of political opinion rather than on the bases of scientific monitoring of the fish stocks in the ocean.

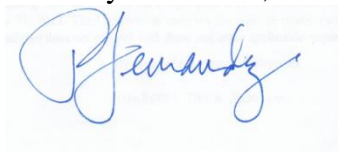
HFACT objects to bills such as this that purport to be based on science, but are in fact based on political and personal agendas. There is absolutely no credible science to support SB931 SD1. This is simply another attempt by special interest groups to take management of natural resources away from Hawaii, the Department of Land and Natural Resources, and the citizens that depend on these resources for cultural, subsistence, and economic reasons.

HFACT recommends that the Legislature support the Department of Land and Natural Resources adopt *more* science-based management of its fisheries rather than *less*, as implied in this bill. With the exception of the management of the aquarium fish collection and bottomfish stock management, Hawaii is behind the state-of-the-art in fisheries science compared to the rest of the nation, and also compared to many island nations. Adopting a science-based approach, as has been done with the aquarium fish collection fishery, is foundational to the proper management of irreplaceable natural resources.

The construction of Hawaii's fisheries statutes, rules, regulations and policies should be made on the basis of the best peer-reviewed scientific and commercial data available. The careful evaluation of scientific evidence is fundamental to the management of all natural resources. The State should strive to make every effort to utilize scientific advances that improve our ability to understand nature and its processes. SB931 SD1 flies in the face of fisheries management best practices.

HFACT thanks the chair, vice-chair, and committee members for this opportunity to provide comment and to assist in the conservation of Hawaii's natural resources.

Sincerely and Aloha,



Phil Fernandez  
President

**Marine Resources & Hawaiian Affairs Committee of the Hawaii Legislature**

26th February 2019

Dear Sir

Ref: **Testimony in OPPOSITION to Bill SB931 relating to the Hawaiian Ornamental Aquarium Industry**

Tropical Marine Centre is Europe's largest and oldest importer of ornamental marine animals for use in the Aquarium trade. We have a long association with the Hawaiian ornamental industry and have been a strong supporter of a humane, sustainable and ethical aquarium trade for over 40 years.

Tropical Marine Centre was a founding supporter, data provider and financial sponsor of UNEP –WCMC's Global Marine Aquarium Database (GMAD) as well as being a founding member of the Marine Aquarium Council (MAC) and became one of the first certified livestock operations in Europe. Tropical Marine Centre maintains a close relationship with our own Government's Department of the Environment and Rural Affairs and assists with the training of CITES Wildlife Inspectors in the United Kingdom in respect of identification and handling of CITES listed corals species.

Through the collecting operations in both O'ahu and in particular Kona which supply Tropical Marine Centre, we strongly oppose SB931. We represent a hobby that fully supports and promotes a sustainable fishery in Hawaii and one that benefits and supports the livelihoods of people of Hawaiian descent. Our industry further supports all efforts by the Hawaiian Ornamental Aquarium Industry to provide supporting evidence for continuing this sustainable and responsible trade in Hawaii, through Environmental impact studies and cultural assessments, and time should be given for these to report fully on their findings.

It is important for all stakeholders to note that the Hawaiian marine collecting businesses supplying Tropical Marine Centre already conform to the highest standards of best practice in our industry and this is reflected in the very high quality and condition of collected Hawaiian fish, and the low mortality both during transport and post transport to the UK. These mortalities are typically less than 0.1 -0.3% for the long journey from the Pacific, and the onward survivorship in our aquariums, with our retailers and with the hobbyist is very high.

The iconic status in our hobby of many unique species from Hawaii such as the Yellow Tang signposts not only the economic importance of Hawaiian species in our trade but also the love, appreciation and dedication to the keeping of these animals by a world-wide hobby that shares an investment with the peoples of Hawaii in sustaining their success and survival in both the wild and in captivity. In so doing the Ornamental Aquarium Industry keep these iconic animals in the consciousness of a much wider public and add to the scientific knowledge so needed for their future survival, both in the wild and in aquariums, for future generations to enjoy.

Tropical Marine Centre already consider the aquarium fishery in Hawaiian to be one of the best managed and regulated of all the 42 collection areas we work with worldwide. The cessation of a sustainable and low impact trade of highly valued marine animals from Hawaii will remove livelihoods from skilled people of Hawaiian descent and focus trade away to other countries which do not benefit from the same level of scrutiny, oversight and regulation already applied to the collection of animals for the ornamental aquarium industry in Hawaii.

Yours sincerely

Paul West BSc. Hons (Zool./Mar. Zool.)  
CEO

**SB-931-SD-1**

Submitted on: 2/22/2019 5:40:11 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

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

Comments:

**SB-931-SD-1**

Submitted on: 2/22/2019 3:45:39 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Craig Severance	Individual	Comments	No

Comments:

I am ambivalent about this Bill. The previous ban (moratorium on new licenses) (with CML holders grandfathered) was based more on emotion than solid science. The UHH and HDAR research shows that some of the most targetted species have high site fidelity, and that the FRA were working to keep the fishery sustainable. Many of the folks I talk to think the ban was un-necessary, and this bill may have the effect of totally shutting down a sustainable fishery. That is not a good precedent. I expect that the dive industry are strong supporters. The penalties appear to be draconian. The requirement for a cultural impact assessment is very Important since Hawaiians historically used finemesh underwater nets. If there are Hawaiians still in the fishery, PASH may come into play. Solid research on the impacts and cost/benefits needs to be done from the social science and biological science sides. Note that there is a very good resource for such research in the USGS FCRU (Fisheries Cooperative Research Unit) at U H Hilo. Mahalo, Craig Severance, Fisheries Social Scientist, Ret.

My name is Rufus Kimura and I oppose SB 931. I was born and raised on the Island of Molokai and began collecting aquarium fish while I was still in high school. My father, who was also born and raised in Hawaii, taught me how to dive for fish and how to keep them alive and healthy. With the money I earned from diving for aquarium fish I was able to send myself to college. We use cutting edge technology such as closed circuit rebreathers and portable decompression chambers to collect deep-water fish in a healthy and sustainable manner. I was recently asked to give a talk at the Marine Aquarium Council of North America to an audience of thousands of people who are enthralled by Hawaii's aquatic biodiversity.

The scientific studies commissioned and carried out by the state of Hawaii show that the aquarium industry is the only sustainable local fishery. Those opposed to the aquarium industry would rather you ignore the science and facts and instead give in to their belief that this is a moral or emotional issue. Personally, I do not agree with tourism or the mass marketing of our island to outsiders, but this does not give me the right to try and push through legislation that might jeopardize the livelihoods of those involved in tourism or real estate sales. The future of the aquarium fishery, like all of Hawaii's fisheries, should be left up to the management and guidance of the state appointed custodians of the sea, the Department of Land and Natural Resources. The DLNR has checks and balances and management practices in place to insure that the nearshore reefs are not over-harvested by aquarium collectors.

Aquarium fishermen are incredibly good stewards of the sea. They know that if an area is overfished or the coral is damaged, the fish that they make their living off of will not return to that area in the future. Therefore, aquarium divers exercise great care when collecting fish. They leave large breeding pairs alone and never fully deplete an area of any type of fish. Aquarium fish have an incredibly high fecundity rate. Many of them can spawn almost every night, sending out tens of thousands of eggs. Unlike food fish that take years to reach market size, aquarium fish are more prized in the juvenile state. Most of them can be harvested in as little as four to five months of age. As soon as aquarium fishes are removed from the reef, the larvae from new spawns are already settling in to take their place.

It is my request that you leave the management of the ocean and its resources to those who have the skills and scientific background to properly manage it. This should not be a knee-jerk emotional issue but a sound action plan based on scientific studies and resource management. Let the Department of Land and Natural Resources continue to do the job that they were tasked by the State of Hawaii to do. If the legislature wants to interfere within the DLNR's realm of responsibility, where will it stop? If you allow people to take away my livelihood just because they have an emotional problem with it, how is that right?

**SB-931-SD-1**

Submitted on: 2/23/2019 2:27:36 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

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

Comments:

**SB-931-SD-1**

Submitted on: 2/23/2019 7:56:21 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
glenn fukuda	Individual	Oppose	Yes

Comments:

i'm a fisherman and can't understand why our industry is under continued attacks? more than 50 years ago we were allowed to fish under many regulations to ensure not to conflict with other types of fishing. our industry became the most organized working closely with the state to conform to its managing objectives. we imposed catch limits of the most collected species, suggested raising fees and much more but to no avail. our livelihood in jeopardy and deemed guilty by a environmental law which makes it very difficult to earn a living even after 50 years of impact. the state never warn us of any factors and our fishing continued so it can't be supplies. in a business without customers 50 years of anything would be doomed. we're blamed for everything from coastal fertilized golf courses to ill treated sewage and runoff and now hawaiian cultural practices. i wonder how many everyday events would be in conflict with this one? i oppose sb 931, let's not stop an established industry because of blind laws.



**SB-931-SD-1**

Submitted on: 2/24/2019 9:52:11 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Judith Perino	Individual	Oppose	No

Comments:

OPPOSE THIS BILL!

**SB-931-SD-1**

Submitted on: 2/24/2019 12:04:59 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
DENNIS YAMAGUCHI	Individual	Oppose	No

Comments:

**SB-931-SD-1**

Submitted on: 2/23/2019 8:49:41 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Washington Lopez	Individual	Oppose	No

Comments:

**SB-931-SD-1**

Submitted on: 2/25/2019 6:29:27 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James T Lovell	Individual	Oppose	Yes

Comments:

My name is Jim Lovell and I strongly oppose this bill.

The preamble of this this bill is not accurate. There is NO evidence to show that historically the commercial capture of Hawaii's reef wildlife for sale to the aquarium pet trade has resulted in a depletion of marine resources. Thr fact is that all the scientific evidence clears shows that this industry is sustainable and is NOT depleteing the reourse.

Everything that this bill is asking for is already being done. Do not hijack the HEPA process. Let it play out. Years of works and 100's of thousand dollars have already been spent. Now is not the time to throw that all out and start over.

There is no need to spend a half million dollars on something that is already being done. It is redundant and a waste of money.

Good bills and laws are based on truth and facts. This bill is based on lies and misinformation.

Thank You!

Jim Lovell

**SB-931-SD-1**

Submitted on: 2/25/2019 7:03:48 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Penny Lane	Individual	Oppose	No

Comments:

I oppose Sb 931.

The aquarium fishery has engaged in good faith the HEPA process. Contracts to finalize the EIS and CIA had been signed and prepaid. It would be finished before this even gets signed into law. To dictate who the EIS and CIA are conducted through would set a precedent, and could legally be challenged. It has already been paid for, so to mandate the State pay for it and require a new EIS to be completed via UH is corrupt.

The Supreme Court ruled this was an applicant trigger and the applicant must pay and conduct their own EIS. The rules are clear in the OEQC guidelines and for the legislature to try and re write the process mid-way would be wasteful and cause excess time to be wasted.

The science is on the side of the fishery, as stated by DAR. The only reason this bill is moving along is to try and impede due process.

We as a group have tried to reach out, with no response back. Senator Kahele has yet to speak with any aquarium fisherman and should be ashamed of himself for pushing something like this through without speaking to all parties involved.

Stop wasting money, and let the EIS process play out-OPPOSE SB 931

**SB-931-SD-1**

Submitted on: 2/25/2019 7:04:29 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Luci Price	Individual	Oppose	No

Comments:

**SB-931-SD-1**

Submitted on: 2/25/2019 7:05:42 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lee Ashford	Individual	Oppose	No

Comments:

**SB-931-SD-1**

Submitted on: 2/25/2019 7:07:09 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Maria Cristina Tiongco	Individual	Oppose	No

Comments:



**SB-931-SD-1**

Submitted on: 2/25/2019 7:16:58 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Eric Michael	Individual	Oppose	No

Comments:

Oppose SB 931

This bill should not be passed. OEQC has guidelines the HEPA process must follow and to try and change them midway would be a clear pervision of the process. Let the process play out and stop trying to over legislate.

Oppose SB 931

**FARAZ SOLTANI P.O.BOX 1056 LAHAINA, HI 96767  
(808) 344-8656 FARAZ@AQUATICEXPERTS.US**

**DATE:** February 25, 2019  
**SUBJECT:** OPPOSITION TO SB 931  
**TO:** State of Hawaii State Legislature  
**FROM:** Faraz Soltani

Aloha:

I am writing to express my strong opposition to the adoption and ratification of SB 931, because I believe the foundation of the proposed bill is based on misinformation and unsubstantiated claims by environmental groups, claiming that our fisheries are endangered and or are under threat of being over fished.

Based on my research with the DLNR, it is my opinion, and the opinion of other aquatic businesses in Hawaii that SB 931 is flawed, because it imposes a moratorium on fishing based on supposition, rumor, and non-scientific rhetoric from environmental groups to support their position that such a ban is necessary or appropriate at this time. As a factual basis, DLNR has testified before the legislature, that the fishery is sustainable, and that there is no need at this time to impose new regulations to control the fish population.

It is disturbing that state legislators would contemplate the passage of SB 931 without first reviewing the testimony of DLNR and their experts, or contacting Aquarium business owners to solicit their input, before they consider making such a burdensome and ill drafted bill that is not necessary, and frankly not wanted by those of us in the aquatic business or the public at large.

Mahalo for your time and consideration,

Faraz

Faraz Soltani Aquatic Experts LLC  
faraz@aquaticexperts.us  
aquaticexperts.us  
808.344.8656  
p.o.box 1056 Lahaina, HI 96767

**FARAZ SOLTANI P.O.BOX 1056 LAHAINA, HI 96767  
(808) 344-8656 FARAZ@AQUATICEXPERTS.US**

**FARAZ SOLTANI P.O.BOX 1056 LAHAINA, HI 96767  
(808) 344-8656 FARAZ@AQUATICEXPERTS.US**

**SB-931-SD-1**

Submitted on: 2/25/2019 8:33:52 AM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bruce Carlson	Individual	Oppose	No

Comments:

OPPOSED

This bill was hastily re-written and in some sections is unintelligible. I am also concerned about tax dollars being directed to study an issue that is already being paid for using private funds. And, there is no guarantee that RCUH or the UH will actually conduct this research within the required time frame. This is a sustainable fishery as stated by the head of DLNR during questioning in the WTL hearing and therefore this bill is unnecessary.

Bruce Carlson, Ph.D.

**SB-931-SD-1**

Submitted on: 2/24/2019 10:37:03 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
wylie ball	Individual	Oppose	No

Comments:

Aloha,

i am writing in opposition of bill sb931 which would put an unnecessary prohibition on tropical fishing with fine mesh nets. This is a poor decision because it encourages and forces professional fish collectors to catch larger fish with larger eye nets, which are the breeding population. If anything we should be putting a size restriction on catching larger fish, which would protect the breeding population of these fish forever. Smaller fish that can only be caught with fine mesh nets are more likely to be eaten by predators in the wild and are more successful and easier to keep in captivity. Evidence shows that the fishery is sustainable, please do what is pono and allow science to protect the livelihoods of local fisherman. It is not in line with hawaiian ways to prohibit fishing when people are using these fish to eat. Not that they are eating the fish, but in this case the fish stays alive, and it's taken care of and loved by a pet owner, who is brought joy and peace by the fish, and the fish collector is allowed to eat for catching the fish when he sells it. Therefore, people are eating because of these aquarium fish. Please do not keep local fisherman from being able to eat from fish simply because some activists feel it's not right to keep pets. We're not banning owning dogs because some people beat them, or allow them to get hit by cars from being careless owners. How is having a fish as a pet that different from having a dog as a pet? Or selling a live fish to eat different from killing a fish to eat it? Isn't it better if the fish stays alive and feeds the fisherman too? Plus more fish get injured in larger eye nets because they get stuck and injured, vs. fine mesh nets the fish can't get stuck in the eyes because nothing fits through them. This should be simple to understand, please do what is pono and allow the use of fine mesh nets while the required studies are done. Aloha. Wylie Ball

**From:** [RT Distributors](#)  
**To:** [JDCTestimony](#)  
**Subject:** Please make sure my testimony is added to hearing below. Thanks  
**Date:** Saturday, February 23, 2019 1:12:44 PM

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## **SB 931 SD1 02-26-19 10:05AM in conference room 211.**

### **Opposed to SB 931 Legal review by item and Hawaiian perspective.**

Friday 2/8/19 at 1:20pm in conference room 229.

**Dr. Bill Walsh DLNR after 15 years of fish counts “Fishery is Sustainable” more data below.**

**Suzanne case DLNR head 2019 re; SB 931 “ Fishery Sustainable and a Model Fishery” .**

**The bill ignores the proven data and science.**

Regarding section 1. Most Hawaiians are in support the aquarium fishery because it allows them the right to take aquarium fish as a way to support their families, and to pay their bills. The aquarium fishery is a proven highly studied sustainable fishery. It does comply with kanaka maoli values of living in harmony and balance ( fishing in a sustainable way ) with nature.

**(1) Kapu and other Hawaiian fishery management methods never included a complete shutdown or complete moratorium.**

The key to our future is sustainability while utilizing our highly renewable marine resources wisely.

**To ban a fishing group is not wise ecology, *unconstitutional*, it is in conflict with the Hawaii State Constitution a goes against proven scientific fact. We need to utilizing one of our most important resources not shut down a sustainable fishery.**

The aquarium fishery is in harmony with the Hawaiian’s way of life; it is similar to using fish ponds as a way to provide kanaka maoli cultural practices to feed their family and support their way of life.

**(2) To have the University of Hawaii do a CIS when we have already contracted another firm to do so is redundant, a waste of money and redundant. This could lead to conflict, delays, and Supreme court compliance legal issues.**

Sec. 2 Ch189; Obviously the bills introduced by the Hawaii State Legislature to shut down the fishery do not take into account the harm they will do to the state’s economy and the Hawaiian fishermen who fish in the fishery. Hawaii ’s sustainable and very valuable aquarium fishery is a way to feed local families. This bill like other opposition is based in “user conflict”. A few vocal groups in the incorrect name of ecology threatens the Hawaiian fisherman’s way of life. They have convinced others there is an ecosystem problem. This is not true.

**The aquarium fishery benefits all of Hawaii residents.** Schools, tourist, Hawaiian emersion schools can all visit fish in public aquariums increasing education and knowledge of reef fish and ocean biology. We take and educate the children and world about Hawaii with our fishery. Every home marine aquarium hobbyist becomes aware of Hawaii’s beauty, culture and ecosystem science. The fishery has been commended and recognized worldwide for our ecofriendly and sustainable fishing practices that is what being kanaka maoli is about. awaiia’s marine fish

Hawaiian Hawaiian fishing values are correct if the fishery is sustainable; the aquarium fishery is a sustainable fishery. To ban native Hawaiians from any fisheries is not pono or constitutional. It is biased and prejudice against the fishery for user conflict reasons and hurting not helping the Hawaiian community.

**International and United States ocean laws guarantee the rights of all user groups to utilize all oceans.** These laws protect Hawaiians. To undermine our fishery degrades Hawaiians rights to fish other fisheries too. The state role should be to manage regulate and maintain sustainability. DLNR has done just that over many years. The fishery continues to be sustainable and will also be in the

future with current laws.

The [Hawaii State Constitution](#) regarding fisheries and public ocean submerged lands states:

### **Protections for Native Hawaiians**

The bill SB 851 and HB 851 makes no carve-outs or provisions to protect native Hawaiians. The Hawai'i Constitution guarantees that the State will "protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 . . . ." Hawai'i Const. Art. XII, § 7. Hawaiians have relied on the islands' near-shore fisheries for centuries, and this bill does not take into account the impacts that a moratorium may have on native Hawaiian livelihood, culture, and way of life.

### **Public Access to Fisheries**

The bill also impermissibly restricts public fishing access. Under the Hawai'i Constitution, "[a]ll fisheries in the sea waters of the State . . . shall be free to the public, subject to . . . the right of the State to regulate the same . . . ." Hawai'i Const. Art. XI, § 6. The moratorium would eliminate an entire fishery over time, completely denying public access. This goes far beyond mere "regulation" of fisheries and would therefore violate the Constitution.<sup>1</sup>

### **Equal Protection and Due Process**

The bill also raises significant concerns under the equal protection and due process clauses of the United States Constitution, which are designed to protect against exactly this kind of arbitrary, unsupported government action. Even assuming the bill would be subject to only rational basis review (and setting aside for now the possibility that it would disproportionately impact native Hawaiians), there appears to be no rational basis for the proposed law. In fact, DLNR filed comments objecting to the bill because there is no scientific basis for it at all. The supposed benefits have not been studied, and there is no evidence that the moratorium will do anything to advance the State's purported interests. See, e.g., *Nehring v. Ariyoshi*, 443 F. Supp. 228, 239 (D. Haw. 1977) (concluding that there would be an equal protection violation under rational basis review where the State had not studied alleged environmental benefits and could produce no evidence to support their existence).

### **Dormant Commerce Clause**

SB 931 and HB 851 both raise concerns under the Dormant Commerce Clause, and there are other constitutional legal concerns with shutting down one user group over another.



Governor Ige rightly vetoed the SB 1240 two years ago another shut down bill of the fishery and The attorney general review of SB 1240 bill implied that many legal issues were of concern. I am sure the same concerns apply to SB 931.

Please hold and do not pass SB 931.

Dr. Bill Walsh October 2014:

*In my capacity as the West Hawai'i Aquatic Biologist for the Division of Aquatic Resources I have been involved in the management and biological monitoring of the West Hawai'i aquarium fishery for over 15 years.*

*I would like to share with you some of the results of our latest monitoring efforts as they relate to the issue at hand. Two species, the Yellow Tang and Kole make up over 93% of all aquarium fish caught in West Hawai'i. Since the no-aquarium collecting Fish Replenishment Areas (FRAs) were established in 1999 (protecting 35% of the coastline), the numbers of Yellow Tang have increased in the FRAs by almost 65% while not significantly decreasing in the remaining Open Areas. In the 30'-60' depth range alone, the numbers of Yellow Tang in West Hawai'i have increased by 1.3 million fish. Similarly Kole populations have increased not only in the FRAs (by 24%) but also in the Open Areas as well (by 28%). Kole populations in the same depth range have increased by over 2 million fish! Clearly resource management efforts are working in West Hawai'i.*

*Scientific studies which have indeed found high levels of mortality among aquarium fishes have typically been conducted in remote areas with poor handling capabilities. That is clearly not the case in Hawai'i.*

**~ Dr. William Walsh  
Division of Aquatic Resources  
State of Hawaii DLNR**

By Ron Tubbs B.S. N.D.

**From:** [RT Distributors](#)  
**To:** [JDCTestimony](#)  
**Subject:** SB 931 SD1 02-26-19 10:05AM in conference room 211  
**Date:** Saturday, February 23, 2019 11:34:13 PM

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Testimony Opposed to SB 931 SD1

**Opposed to SB 931** SD1 02-26-19 10:05AM in conference room 211

### **Opposed to SB 931 SD1**

Dear legislature member,

Please allow the aquarium fish HEPA EIS to be finished it will review both cultural and resource issues. To pass a bill like SB 931 before the EIS review is done is premature and extremely unfair.

The fishery has spent hundreds of thousands of dollars to comply with the EIS.

To now pass SB 931 means it was for nothing and then spend another 500,000 would just be a waste of money.

The state should not hijack the fisheries EIS.

The state constitutionally should not shut down any fishery especially without scientific just cause.

Please do not pass SB 931 SD1 it is bad legislation.

Fish populations in Hawaii are still in great shape. All the research shows a sustainable fishery and we are confident the cultural impact statement will show no major cultural impacts. The main part of Hawaiian culture is fisheries. Fish was embedded in their culture. We do not take eating fish and have no direct impacts to Hawaiian fisheries. Hawaiians support fisheries. There is enough fish and areas for all user groups. It is a user group conflict.

### **Hawaii's Fish Populations Increase**

Videos show tropical fish swarming state's reefs

<http://www.hawaiinewsnow.com/story/26454840/videos-show-tropical-fish-swarming-states-reefs>

HONOLULU (HawaiiNewsNow) -

It's being called a spawning event of "Biblical" proportions -- a summer swarm of fish over Hawaii's reefs. Aquarium fisherman and underwater photographer Ron Tubbs shot video off Oahu's coastline showing the population explosion.

I made a special trip last week to see it and video it myself. It really is unlike anything anyone has ever seen," **Rene Umberger said. Even dive shop owner, anti-fishing activists agree there lots tons of reef fish right now all across Hawaii.**

"In 35 years this is the most fish I have ever seen. For most species, it's just incredible. It's just amazing. Areas where you see hundreds of fish normally, that's a lot of fish for an area, you're seeing thousands of fish," Ron Tubbs said "This year the numbers are just exceptional."

What about Aquarium fishing in Hawaii?

January 2014 saw the new Kona aquarium fish rules go into law. Aquarium fishermen and Kona DLNR scientists created stricter laws for an already sustainably fishery. Dr. Bill Walsh now advocates for these fishermen due to their cooperation and efforts to maintain fish populations.

The same thing has been done on Oahu with the DLNR researchers there. The Oahu DLNR scientists also believe we are already sustainable but agree further regulations can help to protect our reef fish. The Oahu rules went in to effect in 2015. As a result we have wide spread support from marine biologist, DNLN and UH scientists and even private eco groups who once opposed us.

Aquarium fishermen continue to work with researchers to make it the greatest sustainably fishery in the world. The oceans belong to all and to protect them and preserve it wonders is the job of all ocean users.

Rick Townsend

**From:** [David Ramos](#)  
**To:** [JDCTestimony](#)  
**Date:** Saturday, February 23, 2019 5:52:08 PM

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Although I feel senator Kai'ali'i Kahele did a good job on his reconstruction of the SB 931 SD1 bill there are some parts that I don't flow with. So I will oppose the bill.

Dave Ramos  
Hawaiian Reef Dwellers

**From:** [Gary Beals](#)  
**To:** [JDCTestimony](#)  
**Subject:** SD 931 SD1  
**Date:** Saturday, February 23, 2019 4:43:08 PM

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I oppose this bill as it is not based on any scientific evidence to indicate it would result in improvement of the current stocks of fish.

Gary Beals  
140 Kuakolu Pl  
Hilo, HI 96720  
(808) 961-6201

Sent from my iPhone

**From:** [Analynn Bartlett](#)  
**To:** [JDCTestimony](#)  
**Subject:** Support Bill 331  
**Date:** Saturday, February 23, 2019 11:04:45 AM

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Senator Karl Rhoads, Chair  
Judiciary  
Hawaii State Capitol, Room 204  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Senator Rhoads,

My name is Analynn Bartlett. I am not a resident of Hawaii, but I have been watching the progress that Hawaii is trying to make. I am submitting this testimony in support of Senate Bill 331, which will permanently require open captioning at movie theaters in Hawaii. I believe the passing of this bill will open doors for other states and places to follow.

For many Deaf, Deaf-Blind and Hard of Hearing residents and visitors to the islands including all residents of Hawaii, seeing a film in a movie theater can prove to be difficult.

Often, movie theaters offer “closed captioning” glasses for attendees who are Deaf, Deaf-Blind or Hard of Hearing so they can view captions detailing spoken words, sounds, and music throughout the film. These glasses are unreliable due to battery failure and lack of proper connectivity. The glasses are heavy, often not properly cleaned - which could pose a health risk to those with compromised immune systems. The glasses are uncomfortable and can be difficult to wear for those that also use every day glasses, hearing aids, or cochlear implants.

Some theaters use a “captioning box,” which is placed in an attendee’s cup holder. The moviegoer then has to look back and forth between the box and the movie screen to understand what is happening. This causes strained necks and eyes and increases the likelihood that Deaf, Deaf-Blind and Hard of Hearing moviegoers miss portions of the film. These devices are also unreliable due to battery failure and lack of proper connectivity too.

Providing open captions directly on films allows patrons who are Deaf, Deaf-Blind or Hard of Hearing to enjoy a film equally to that of their hearing peers. Open captions do not just benefit individuals who are Deaf, Deaf-Blind or Hard of Hearing but also those with other disabilities or non-native English speakers who may rely on captions to fully understand what is said.

Thank you so much for reading and hopefully supporting!

Sincerely,  
Analynn Bartlett  
Sherman, Texas

**LATE**

**SB-931-SD-1**

Submitted on: 2/25/2019 12:06:02 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

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

Comments:

Dear Honorable Committee Members:

Please support SB931. Collecting fish for sale to aquariums depletes our already dangerously depopulated coral reefs. Aquatic resources are our most valuable natural resource in terms of tourism and the economy.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei

**From:** [RT Distributors](#)  
**To:** [JDCTestimony](#)  
**Subject:** SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee  
**Date:** Monday, February 25, 2019 7:58:54 AM

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## **SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee**

### Testimony **Opposed** to SB 931 SD1

I lost my small mesh permit to a Supreme Court Decision that was wrong. We paid for a HEPA to be done and now you want to take all the consulting firms EA and CIS work and pay again for the University of Hawaii to do it again? It does not make sense. Please do not pass this bill.

SB 931 SD1 is flawed as it imposes a moratorium on fishing when no scientific information indicates that is necessary or appropriate. As DLNR has testified, the fishery is sustainable and a Model fishery.

SB 931 SD1 is unnecessary because the HEPA process is ongoing, and it is unnecessary to devote state financial resources to developing an EIS. The current HEPA process will be conducted in compliance with the law. The Governor retains approval authority over the final EIS once published. All public comments will be considered on the EIS. You should not be able to hijack someone's EIS and have a state university do it?

SB 931 SD1 is not supported by the commercial aquarium fishery or commercial fishery. It would impose additional, unnecessary burdens on individuals that have paid for the development of HEPA documents to date in a good faith manner.

Please do not pass hold SB 931 SD1

Rick Townsend



**From:** [Lynn Taube](#)  
**To:** [JDCTestimony](#)  
**Subject:** SB 931. OPPOSED  
**Date:** Sunday, February 24, 2019 7:09:27 AM

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I am opposed to SB 931. This bill is flawed and will remove countless people from their jobs.

--

Lynn Taube  
(808) 937-0159

**From:** [Judith Perino](#)  
**To:** [JDCTestimony](#)  
**Subject:** SB931. SD1  
**Date:** Sunday, February 24, 2019 10:26:25 AM

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OPPOSE

Chairman Rhoads:

DLNR has testified that the ornamental fishing industry IS sustainable and they publicly opposed this bill. This bill is flawed because it imposes a moratorium on this fishery without any scientific information indicating that it is necessary or even appropriate.

The industry has undertaken an EIS to comply with the court ruling regarding HEPATITIS and this should be completed without further action by the legislature until it can be fully reviewed.

Any further considerations should be delayed until this EIS is completed and published.

The industry is doing everything possible to comply with the courts ruling - please allow them the opportunity to complete the EIS process.

Please do not pass this flawed bill.

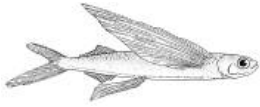
Sincerely,

Luciano Perino

Sent from my iPhone

From: [Thomas Jung](#)  
To: [JDCTestimony](#)  
Subject: SD931 SD1  
Date: Sunday, February 24, 2019 9:17:51 AM

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# von Wussow Importe GmbH

Haderslebener Str. 4a, 25421 Pinneberg, Germany, Tel.: +49 4101 789890 Fax.: +49 4101 789891, Mobil +49 171 5304060

Handelsregister Pinneberg HR B 5689 Geschäftsführer Thomas Jung, UStNr. 31/284/44459 UStID. DE813626383

Internet: [www.vonwussowimporte.de](http://www.vonwussowimporte.de) Kunden: [sales@vonwussowimporte.de](mailto:sales@vonwussowimporte.de) shipper: [import@vonwussowimporte.de](mailto:import@vonwussowimporte.de)

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Judicial Committee  
Sen. Karl Rhoads, Chair

RE: SD931 SD1

OPPOSE

Dear Mr. Rhoads,

I want to explain that I am against the prohibition of taking marine life for aquarium purpose. The catch of any marine life either for consumption , aquarium or bait should not be ruled under the usage terms only under the scientific control and management of the resource. That means if the populatin of an species is healthy and a small amount can be fished it is equal if you eat the fish, use as bait or for aquarium. The pet industry is suffered from emotional but unscientific arguments from radical wildlife protection people. We should follow the stock assesment of the fisheries biologists of the university of Hawaii and apply their suggested catch quota. Fisheries are a part of the culture of all pacific islands populations. It should be allowed to generate an income for inhabitants of Hawaii .

Please take in mind that aquarium fish catching is non reef destrcuting and gives a very high value. Due to that the fish MUST be delivered alive, undamaged and healthy, it is sure that the fish is caught with care and handled with care.

The Hawaian Aquarium fish Industry is the world best in quality and responsibility !

I hope my english is good enough that you get me.

Best Regards

Thomas Jung

Graduated Fisheries Biologist

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Diese Nachricht ist nur für die Person bzw. Organisation/Unternehmenseinheit bestimmt, an die sie gerichtet ist. Sie kann Informationen enthalten, die vertraulich sind oder der gesetzlichen Geheimhaltungspflicht unterliegen. Sollten Sie nicht der beabsichtigte Empfänger dieser Nachricht sein, weisen wir Sie darauf hin, dass jegliche Offenlegung, Vervielfältigung und/oder Weiterleitung dieser Nachricht bzw. der darin enthaltenen Informationen streng verboten ist und rechtswidrig sein kann. Sollten Sie diese Mitteilung versehentlich erhalten haben, benachrichtigen Sie uns bitte umgehend, indem Sie auf diese E-Mail antworten, und löschen Sie diese Mitteilung von Ihrem System. Die von Wussow Importe GmbH ist weder für die einwandfreie und vollständige Übertragung der in dieser Mitteilung enthaltenen Informationen noch für ihren eventuell verspäteten Empfang verantwortlich.



**From:** [RT Distributors](#)  
**To:** [JDC Testimony](#)  
**Subject:** SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee  
**Date:** Monday, February 25, 2019 8:35:55 AM

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## **SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee**

### **Testimony *Opposed* to SB 931 SD1**

Testimony Opposed to SB 931

-  
Opposed to SB 931 SD1

-

My name is Mamoa Ntiua, I am from Christmas Island. My husband collects fish

from Christmas Island to help and support our family and also our child.

Without wholesalers in Hawaii we cannot sell our fish. We depend on fish from Kona as

a way to sell our countries fish worldwide. Kona is now shut ace real serious hardship and the decision is not based in science or fish counts. A loss of even one more wholesaler could hurt us.

Some of my family members who depend on this income to pay for their life saving medical and food for their families.

About eighty percent of our countries economy depends on tropical fish. All these tropical fish are sold to the Hawaiian Marine Fish Wholesalers. Our whole economy depends on Hawaii's Tropical Fish Industry. In the south Pacific fifty nine million dollars is gained from tropical fish sales annually. Please do not restrict and take away this opportunity away from us for this industry. Like Hawaii our fishing industry has sustained catches for 30 years and more. Aquarium Fish industry is sustainable unless ecology groups are allowed to shut us down. Thanks you for your time.

Respectfully, Mamoa Ntiua

**From:** [RT Distributors](#)  
**To:** [JDC Testimony](#)  
**Subject:** SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee  
**Date:** Monday, February 25, 2019 8:31:03 AM

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**SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee**

**Say NO to SB 931 SD1**

Testimony Opposed to Opposed to SB 931 SD1  
**02-26-19 10:05AM in conference room 211 JDC Committee**

**I am Hawaiian and make money packing fish for the aquarium fishery. It is not pono to take my job away!**

SB 931 SD1 would basically close down aquarium fishermen. This is not fair to Tropical Fish Fisherman. This is not an attempt at ecological protection but an attempt to put one group of fishermen out of business. This is not fair or productive in its intent. The **SB 931 SD1** has so many issues, how can such a bill even have been introduced.

Each issues are complex and significant in there effect. Emotion not logical thinking is the driving force behind such a Resolution. Science and due process has been left by the wayside. Please sincerely consider the problems associated with acting on such a resolution. Oppose SB 931 SD1!

Thank you,  
Tasha Keao Hawaiian Waimanalo

**From:** [RT Distributors](#)  
**To:** [JDC Testimony](#)  
**Subject:** SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee  
**Date:** Monday, February 25, 2019 8:27:17 AM

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## **SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee**

### **Testimony Opposed to SB 931 SD1**

As a representative for Christmas Island OPPOSED TO SB 931 SD1

To the JDC Senate Committee,

### **User conflict not ecology! And the fishery dies not even go where tourist go!!!**

#### **From Snorkel Bob's website;**

**"Talking Points:** Keep it brief. **Avoid facts & figures.** No matter what we say, the aquarium advocates will call it untrue. The committee will count support and opposition. Give the aquarium collectors NOTHING to grasp."

Lies are the norm with Snorkel Bob and Rene, facts are to be perverted. Eco gourps are to be duped. They were opposed to more fishing restrictions on the aquarium fishery with the 2014 and 2015 rules packages passed by DLNR and now law. We worked to protect the oceans more and ensure sustainability by working with DLNR and they opposed it and testified against it.

**WHY: It is not about ecology or science it is about business and they are out to shut down the fishery due to user conflict. If you want to see Hawaii's fish you must pay them. They absolutely do not want you going to a public aquariums or god forbid having a private aquarium.**

### **Why would tourist based ecology groups testify against scientific based legislation? Many do not care about the science! Some do not care about the truth.**

There were so many lies from groups and individuals trying to protect fish at all cost, even to the point of perpetuating lies in numerous media adds, we must slow down, assess the issues and logically and scientifically address the future of our oceans. If we don't make the right decisions jobs and incredible benefits will be lost for no reason. Closing large areas could increase impacts on other areas leading to serious ecosystem damage. Science and sound decisions must be done.

Christmas Island's whole economy depends upon our ability to sell fish to local Hawaii wholesalers who then send our fish around the world. Sales are down enough please do not make doing business any harder than it already is. I fear that if passed this bill will cause shutdowns of some wholesalers in Hawaii and in turn cause a major loss in our important economy.

Thanks for your time and I am sure you will do the right thing. Do not pass SB 931 SD1

Sincerely,

Donna Namikin



From: [RT Distributors](#)  
To: [JDC Testimony](#)  
Subject: SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee  
Date: Monday, February 25, 2019 8:39:03 AM

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**SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee**

**Say NO to SB 931 SD1**

**Dear Senator,**

**Please vote no to SB 931 SD1**

**I am of Hawaiian ancestry and I oppose shutting down where my family has been able to fish forever to give the ocean to a bunch of mainland tourists. There are no scientific based studies to support the claims that fish counts are down.**

**EA was completed and the cultural CIS is being done. What impeded another review? We know what it will say. The fishery should continue.**

**Just the opposite years of DNLN catch reports show sustainable, renewable fisheries in Hawaii. The strictest laws are already in effect with nearly 10% of Oahu already in some type of preserve. Corals are in great shape growing 3 to 5 inches per year.**

**Fish counts are up according to Great American fish count species recognition done across our state. Whale counts, monk seal counts are up. Turtle counts are up. DNLN has done a great job putting new laws in place and is working on several new laws which are scientific based. Many marine biologists oppose this bill. The only supporters are those who bend the truth or click on Snorkel Bob's website form letter from the mainland.**

**Please do not close our Ocean just as tourism and the economy are in a major decline. Please do not give our oceans to the rich tourist tour groups leaving us without fish to sell to feed our families.**

**Thanks,**

**Brian Persinger**

**LATE**

**SB-931-SD-1**

Submitted on: 2/25/2019 1:00:35 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

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

Comments:

**From:** [Alex Garcia](#)  
**To:** [JDCTestimony](#)  
**Subject:** SB 931 Opposed  
**Date:** Monday, February 25, 2019 9:26:05 AM

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Aloha,

The State asked for research conducted on the Aquarium fishery and wanted Science based data. It was done and the data proved that our fishery was sustainable. Yet the legislature disregards it.

The State Supreme Court asked our industry to do an EA/EIS, we started the process at great expense. Yet the legislature disregards this.

Now we are being told that Aquarium fishing is not Hawaiian Values? Every logical argument has supported a very sustainable industry, and this is the last ditch effort to derail good local people from making a living.

As a Native Hawaiian who employs many other native Hawaiians I am appalled and offended by this bill and it's intent. Shame on anyone that supports it. The legacy of this bill would be remembered as taking away the MOST sustainable fishery in the state and hurting good local and HAWAIIAN families for no reason other than that it makes a few people feel bad. Do your job and protect our jobs and sustainable fisheries!

Alika Peleholani Garcia  
808-220-1964  
[Hawaiianreefer@gmail.com](mailto:Hawaiianreefer@gmail.com)

Sent from my iPhone

**From:** [Natasha Lee](#)  
**To:** [JDCTestimony](#)  
**Subject:** SB 931 opposed  
**Date:** Monday, February 25, 2019 9:25:55 AM

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Aloha,

How can you argue aquarium fishing goes against ALL Hawaiian values and beliefs when you have Hawaiians working in the industry? The dying reefs will kill the fish long before aquarium fisheries ever will. The legislature should on finding a solution to the real problem instead of robbing local Hawaiians of their livelihood.

Sent from my iPhone

**From:** [Kaponu Kaluhiokalani](#)  
**To:** [JDCTestimony](#)  
**Subject:** SB 931 Opposed  
**Date:** Monday, February 25, 2019 9:45:48 AM

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I am Hawaiian and I oppose SB 931.  
Kaponu Kaluhiokalani

Sent from my iPhone

**From:** [RT Distributors](#)  
**To:** [JDC Testimony](#)  
**Subject:** SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee  
**Date:** Monday, February 25, 2019 8:44:37 AM

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*SB 931 SD1 02-26-19 10:05AM in conference room 211 JDC Committee*

## **Opposed to SB 931 SD1**

**Pet Industry reaches 70 Billion in 2018 sales.** With more pets in American homes than children people and an ever increasing pet supply industry Hawaii is missing out on a big potentially sustainable way to improve the state's economy.

With each **breeding pair of reef fish producing 10,000 to one million fry per spawning pair** and an already vast increasing Hawaii fish population it would be a big mistake to shut down a proven sustainable aquarium fishery. Hawaii needs to cash in on those sales create jobs reduce homelessness and feed local families.

I would like to share the below info;

### **Why save the Hawaii Aquarium Fishery:**

#### **Aquarium Fish Collectors and what they do:**

by Ron Tubbs, RT Distributors

The [September 6, 2017 Hawaii Supreme Court](#) HEPA (Hawaii Environmental Protection Act) ruling has nearly shut down Hawaii's [aquarium fishery](#). It will take years and cost hundreds of thousands of dollars in legal fees to get HEPA filings finished even though the studies proved our fishery sustainable long before the courts considered the issue.

Based on the Court ruling, all Department of Land and Natural Resources (DLNR) ocean business permits will be facing HEPA permit requirements. As with the Thirty Meter Telescope, we expect to face legal challenges to the aquarium fishery after completing the HEPA filings.

Resale of aquarium imports will keep the fishery alive but not for long. We need legislation to save the fishery and all DLNR ocean issued-permit businesses.

[SB1240](#), phasing out of the fishery, vetoed by Governor Ige two years ago, reflected an [unscientific nearside approach to Hawaii's Marine resources](#). Sustainable practices can be used to increase Hawaii's businesses with no or little impact to the environment. Instead of shooting itself in the foot with fishing bans on our [proven sustainable fisheries](#) the State needs to continue to explore sustainable management and harvest its vast ocean resources to ensure Hawaii's economic future. Large ocean closures and the forcing of fishers to less sustainable methods are not scientific. FRA and MPA and management areas do work. It took us five years but working directly with state DLNR resulted in laws to make sure in the future the fishery will always sustainable. [Hundreds of restrictions and laws](#) were

created to protect Hawaii's resources. The Kona rules became effective in 2014 and the Oahu rules in 2015. All this done at the prompting of the fishermen. Many commended us for this and we continue to work with many state officials, the Hawaii State Legislature, and researchers worldwide.

It is illegal according to the State of Hawaii Constitution to restrict public access to its ocean resources. The State's role is to manage and ensure sustainability and DLNR has done that effectively. To close a fishery as some suggest just to benefit their own ocean tourist business is biased and unscientific. Tourism and fisheries can coexist and have for many years.

Hawaii's fish travel the world as our little ambassadors increase awareness to the wonderful amazing fish that exist here in Hawaii. Many consider Hawaii the best vacation destination and Hawaii's fish help increase tourism by making others aware of Hawaii's beauty. Aquariums worldwide educate and empower their owners with an understanding to the world's oceans that no other hobby can provide. The benefits of public and private aquariums are far reaching.

Reef fish are the most efficient breeders in the world. Most produce at least 10 to 20,000 fry per spawning with some doing this 7 times a year. Some produce 1 million fry per spawning daily over many days. They are the most renewable resource on the planet. The fishery can actually help save the oceans. Our fishers collect marine fish for studies and public aquariums. Fishermen help monitor and provide information about the resource. Here is a short list of what we do to give back to the oceans we love so much:

- For years fish collectors have provided fish to educate schools across the nation. In Hawaii schools are taken on field trips to local aquarium fish wholesalers or children to ocean field trips by some of our collectors. One program brought live fish to the classrooms for children education. Fish collection for major public aquariums locally and worldwide educate many on ocean ecology.
- I am currently collecting seaweed for a Princeton University Study for run off pollution. My dive partner is a Marine Biologist. Every year we monitor the seaweed in certain areas and take samples for them.
- Rare species are left alone and protected by collectors. Collectors have repopulated fish to areas where populations have declined due to extreme warm summers. Fish population issues are reported to researchers.
- Turtles caught in nets are removed. Hooks and fishing line around turtles are removed. A hook found in a monk seal's mouth was reported by collectors and NOAA captured the seal and removed the hook. Garbage and nets are removed by many collectors. Some even collect the old bottles found in the ocean. Illegal dumping grounds are reported. Old downed planes and wrecks are reported and identified by researchers.
- Many boat rescues and ocean users have been aided by tropical fish collectors. Ocean abuses have been reported by aquarium collectors. Many aquarium fish collectors are Marine Biologists, Zoologist, and Ichthyologists. Information is shared by most collectors with other researchers to aid in ocean ecology. Black coral infestation of an invasive species was reported for observation. It has since become a mute issue resolving itself on its own. Dive data pictures and video are shared to further research by many aquarium fishermen.
- The recent toxic killing of puffer fish in Hawaii led to a self-imposed 'no collection' of all puffers. Researchers were brought samples and taken to normally abundant puffer locations to help with the problem. The population has since recovered and with our help it was determined that it was a natural toxin causing the problem.



- Pregnant reef fish are collected with our help for researchers to aid breeding projects. Ocean food is supplied for captive breeding stocks.
- Trigger fish have been supplied for US Naval ocean propulsion studies.
- Invasive species like Argus groupers and blue line snappers are targeted and eliminated with the help of the tropical fish collectors. These invasive species eat more marine fish than the aquarium fish collectors take for live aquariums.
- DNA samples to study different ecosystems and fish species have been collected and shared with DNA ocean researchers at no cost.
- Aquarium fish collectors have gone on TV shows to speak for ocean ecology and share information to protect our ocean. NOAA researchers and others studying fish are educated in fish collecting techniques for research purposes.

Tourism is too vulnerable to be a sole source for an economic income base for the state. We need to wisely manage--not shut down--our renewable resources. We are running out of non-renewable resources and need to wisely utilize sustainable.

Hawaii can lead the way in ocean resource management (and already was with the aquarium fishery), ocean business development, and decrease its dependence on imported goods. Sea weeds, cultured and wild caught fish and many other ocean resources can supply nutrition and fuels for our state. Clam, lobster, pearl, fish farms, ocean based business could flourish here with the right incentive and help the environment at the same time. Wave or current to power energy and deep cold water cooling of buildings are just a few examples of our ocean resource potentials.

If the aquarium fishery closes then sources for breeding stock, research studies and public aquariums also stops. The importance of the economic impacts to Hawaii and to the nation's \$70B pet industry should not be underestimated. Many jobs have already been affected.

The [economic cost](#) to Hawaii of eliminating or not saving the Aquarium Fishery is very far reaching. Local dive shops, pet stores, public aquariums, tourism, boating stores, gas stations and the airlines will suffer major income declines due to the fishery. The airlines alone is estimated to make over 7 million in freight charges per year for fish transport. It could mean potential cut backs in flights and flight choices directly hindering the tourist industry. Ticket prices will rise due to lost freight income.

Fish and Wildlife inspectors, USDA inspectors and veterinarians will also lose big with inspection declines.

The 70 billion dollar pet industry hinges it aquarium supply brands, tanks, foods, filters and many other products on the fishery. Many pet stores especially ones with large salt water sales may and already have gone out of business. It is not the fishery being effected here!

Many agree that the world's healthiest and highest quality fish come from Hawaii. [Aquarium fish populations](#) are on the rise. The [Hawaii tropical fish collector](#) has been known as the best for ecologically-friendly collecting for over 50 years. The world's fishermen and ecologists have looked to Hawaii for development of industry collecting methods.

The scientific and [economic cost](#) of eliminating or not saving the aquarium fishery is very far reaching.

Please support Hawaii's sustainable fisheries. Jesus and George Washington where fishermen!

**Kim Newfeld**

**From:** [Sic Spunjah](#)  
**To:** [JDCTestimony](#)  
**Subject:** Sb931 opposed  
**Date:** Monday, February 25, 2019 9:37:15 AM

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Aloha

My name is Mikolelehua Barrios I am Hawaiian and I live on Oahu all my life. I work for a shop that exports aquarium fish. The work is hard hours long but I make enough to support myself and my retired parents, we don't own a house and have been renting. I have lived on Oahu all my life 39years and I have been witness to ever changing economy. I come from a blue collar background and live like most people pay check to pay check. By you closing this industry you make it more difficult for me and my family to live here at home on Oahu. Many of my friends who are Hawaiian had to move to the mainland because finding a decent paying job was difficult. I believe in regulation. But to close an industry where Hawaiian people depend on is poor judgment. Please stop this bill.

Mahalo

**LATE**

**SB-931-SD-1**

Submitted on: 2/25/2019 4:48:25 PM

Testimony for JDC on 2/26/2019 10:05:00 AM

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

Comments: