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GOVERNOR OF
HAWAII



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

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

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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

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER, LAND, & HAWAIIAN AFFAIRS**

**February 5, 2020
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1921
RELATING TO HUNTING**

House Bill 1921 proposes to require any hunting guide or hunter to obtain and submit to the Department of Land and Natural Resources (the Department) written permission from any private landowner upon which the hunting guide or hunter is engaged in guide or hunting activities. It also requires the Division of Forestry and Wildlife to create and make available to the public a written permission form to be completed and filed by any hunting guide or hunter. **The Department supports this measure and offers the following comments.**

Section 183D-26 (a), Hawaii Revised Statutes, states that no person shall enter upon any land or premises belonging to, held, or occupied by another, for the purpose of hunting or to take any kind of wildlife including game without first having obtained permission from the owner or a duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

Thank you for the opportunity to comment on this measure.



HB1921

RELATING TO HUNTING

House Committee on Water, Land & Hawaiian Affairs

February 5, 2020

9:00 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **OPPOSE** HB1921, insofar as it would require individual hunters on private lands to first obtain written permission to hunt from the landowner, occupier, or holder of such lands.

Many Native Hawaiians currently engage in hunting for subsistence and other purposes as a traditional and customary practice. The Hawai'i Constitution, Supreme Court, and this Legislature consistently protect the perpetuation of these practices as a living component of the Hawaiian culture. However, while Native Hawaiians may reasonably engage in such practices on less-than-fully-developed lands notwithstanding certain trespassing and other laws, the written permission requirement of this bill may unduly burden practitioners who wish to do so, while also complying with statutory provisions.

Hunting remains an important cultural and subsistence practice for Native Hawaiians, many of whom may rely more heavily than others on wild-caught game. This reliance may be particularly pronounced in rural areas, as illustrated in the report issued by the Governor's Moloka'i Subsistence Task Force. This report found that **Hawaiian families on Moloka'i rely heavily upon subsistence practices to supplement meager incomes, deriving up to 38% of their food from these activities.** Such practices rely primarily upon wildlife game that is abundant on privately owned land, because game on public lands is too scarce to be reliably hunted. The report further found that subsistence activities, including hunting, were critical to the persistence of the Hawaiian cultural customs and values for which Moloka'i and other rural, kīpuka communities are renowned for. Updated data from 2014 found that Native Hawaiians on Moloka'i continue to **share the sentiment that subsistence is "very important" for their families' livelihood. Notably, Moloka'i would be particularly impacted by this measure, given the substantial amount of land on the island that is currently owned by a foreign, landowning corporation, from whom written permission could be very difficult to procure.**

OHA appreciates this bill's desire to protect the property rights of private landowners. However, **the written permission requirement of this bill may create substantial burdens for practitioners who wish to both engage in cultural hunting practices, while also avoiding the risk of arrest.** For example, as much as 90% of Hawaii's private lands are owned by 10-12 large landowners (Proceedings of the Constitutional Convention of Hawai'i of 1978), whose explicit,

written permission may be much more difficult to obtain than an implicit or verbal agreement. Large landowners who may otherwise wish to permit or even promote hunting on their lands may also be discouraged from doing so, by the inconvenience or liability inherent in a written permission requirement. Thus, while the Constitution broadly protects traditional and customary hunting activities, practitioners who are not able to obtain the written permission of landowners or occupiers could experience a chilling effect, as they would bear the burden of proving their rights to enforcement agents and prosecutors who may not understand the complex legal authority protecting their practices.

Finally, OHA notes that this measure may exacerbate the disparate impact of the criminal justice system on Native Hawaiians, by increasing the risk of arrest for Native Hawaiian subsistence practitioners, including those who may not even intend to enter onto private lands. As described in OHA's criminal justice 2010 report, Native Hawaiians are overrepresented in every stage of the criminal justice process, being more likely than any other racial or ethnic group to be arrested, convicted, receive longer probation terms, receive more and longer prison sentences, and be sent to an out-of-state facility.¹ Given the open and often undemarcated boundaries between private and public lands, even hunters who unintentionally enter private land may find themselves liable to arrest and potential prosecution, due to their lack of explicit, written permission. The higher likelihood of Native Hawaiians to be engaged in subsistence hunting practices suggests that Native Hawaiians may be disproportionately subject to such liability.

In light of these concerns, OHA urges the Committee to **HOLD** HB1921. Mahalo for the opportunity to testify on this measure.

¹ THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09_exs_disparatetreatmentofnativehawaiians_rd-ac.pdf.

HB-1921

Submitted on: 2/3/2020 6:44:28 PM

Testimony for WLH on 2/5/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole K Galase	Hawaii Cattlemen's Council	Support	No

Comments:

HB-1921

Submitted on: 2/3/2020 11:01:33 PM

Testimony for WLH on 2/5/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Clifford Goo	Hawaii Rifle Association	Support	Yes

Comments:

HB-1921

Submitted on: 2/1/2020 7:09:27 AM

Testimony for WLH on 2/5/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

Aloha Chair and committee members. While I am not a hunter, I support HB1921.

Benton

HB-1921

Submitted on: 2/3/2020 11:26:03 PM

Testimony for WLH on 2/5/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
J Ashman	Individual	Support	No

Comments:



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February 5, 2020

LATE

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

TESTIMONY ON HB 1921
RELATING TO HUNTING

Room 325
9:00 AM

Aloha Chair Yamane, Vice Chair Todd, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports HB 1921, which requires any hunting guide or hunter to obtain and submit to the Department of Land and Natural Resources written permission from any private landowner upon which the hunting guide or hunter is engaged in guide or hunting activities. It also requires the Division of Forestry and Wildlife of the Department of Land and Natural Resources to create and make available to the public a written permission form to be completed and filed by any hunting guide or hunter engaged in guide activities or hunting on private lands.

This bill does NOT in any way prohibit hunting on private lands. What it does do is separate the legitimate hunter from the criminal trespasser.

This bill is necessary because the current situation is extremely dangerous for both the landowner and the hunter. Over the last several years, incidents of livestock slaughtering, theft, vandalism, crop destruction, and poaching have become commonplace on farms and ranches on every island. These illegal activities must be stopped; however, the current laws relating to hunting are confusing and not easily enforced. Criminals have learned that there is no practical enforcement of the laws to prevent armed thieves and vandals from trespassing, stealing, and destroying other's livelihoods. If caught, these miscreants claim to be hunters and state that they had verbal permission to be on the property.

The burden should never be on the rancher or farmer to prove that he *did not* give permission to a gun-wielding trespasser to access his property.

Without knowing the intent of an armed trespasser on his property, a farmer or rancher may reasonably believe that the trespasser is there to steal his equipment, his livestock, or his crops. He may even think that his home and family are threatened and this could lead him to take steps to protect them. This scenario is just too dangerous for both a legitimate hunter and the farmer, and it can be avoided by the simple act of obtaining prior permission, in writing, so there is no confusion or misunderstanding.

A legitimate, law-abiding hunter would have no justification to object to this measure since he is already required by law to have permission from the landowner.

For many years, the Hawaii Farm Bureau has worked with police, prosecutors, and the Department of Land and Natural Resources to find a solution to trespass, theft, and vandalism problems. We respectfully request that this committee pass HB 1921 to clarify and help enforcement of the current laws that ALREADY prohibit trespass and prohibit hunting without permission. Please don't let another year go by without addressing the concerns of our farmers and ranchers. We sincerely believe that this can be done without penalizing legitimate hunters.

Thank you very much for your support of Hawaii's farmers and ranchers.

HB-1921

Submitted on: 2/4/2020 8:27:27 PM

Testimony for WLH on 2/5/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Rosie F Davis	Individual	Support	No

Comments:

HB-1921

Submitted on: 2/5/2020 7:17:40 AM

Testimony for WLH on 2/5/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Faith Tuipulotu	Individual	Support	No

Comments: