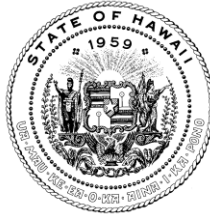


DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
JUDICIARY

Monday, February 24, 2020
2:00 PM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 2414, HOUSE DRAFT 1
RELATING TO SHARK PROTECTION

House Bill 2414, House Draft 1 proposes to prohibit and establish fines and penalties for knowingly capturing, taking, possessing, abusing, harassing, entangling, or killing any shark within state marine waters; provides certain exemptions, and exempts nationally qualified educational institutions from the requirement to obtain a special activity permit to conduct scientific and educational research activities on sharks. **The Department of Land and Natural Resources (Department) supports this measure, subject to the following comments and proposed amendments.**

The Department recognizes the important role sharks play in maintaining healthy marine ecosystems, and the detrimental impact from significantly depleting their populations in our waters. The Department also recognizes the importance of these species for native Hawaiian cultural beliefs and practices, as well as their value for ocean recreation and tourism.

The Department supports regulating the take of sharks, and will implement this measure by adopting regulations through the administrative rulemaking process to evaluate and apply scientific management principles, give due consideration to public interests, and carefully craft language to avoid conflict with existing state and federal laws.

The Department has concerns that this measure would categorically exempt nationally qualified educational institutions from the requirement to obtain a special activity permit to conduct scientific and educational research activities on sharks. It would also categorically disallow research by anyone not affiliated with a nationally qualified educational institution. While the Department supports scientific and educational research on sharks, it has a responsibility to

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

consider the environmental and cultural impacts of those research activities. Special activity permits enable the Department to review and place conditions on research activities, while also allowing shark research to be conducted. The Department therefore recommends deleting the entirety of SECTION 3 and amending Section 188-__ (f)(1), HRS, to read:

(f) This section shall not apply to:

(1) [~~Research performed by nationally qualified educational institutions;~~] Special activity permits allowed under section 187A-6 or research permits authorized by law;

The Department also has concerns that the proposed definition of “harass” is too broad and could potentially criminalize unintentional actions. The Department recommends amending the definition of “harass” to include some requirement of intent or negligence associated with the approach of sharks. Under the Endangered Species Act, “harass” means “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.”

Thank you for the opportunity to comment on this measure.



HB2414 HD1
RELATING TO SHARK PROTECTION
Ke Kōmike Hale o ka Ho'okolokolo

Pepeluali 24, 2020

2:00 p.m.

Lumi 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB2414 HD1, which would prohibit the killing, capturing, or otherwise harming of any shark in state waters.

OHA supports strong protections for culturally important species that also serve critical ecological functions. As this bill recognizes, Hawai'i's shark species may hold special cultural significance for Native Hawaiians. For example, sharks are recognized as kinolau for Kū and Kanaloa, and certain individuals and species can be regarded as 'aumakua by some families. Sharks are also featured in mo'olelo, 'ōlelo no'eau, and other cultural narratives that inform the Hawaiian understanding of the world and our natural environment. OHA also understands that the ecological services provided by apex predators such as sharks promote a healthy ocean environment, which is necessary for the continuation of Native Hawaiian cultural and subsistence practices. **Accordingly, OHA appreciates the proposed enhanced protections for sharks in state waters.**

OHA notes that sharks are also used for traditional and customary practices, including in the crafting of implements, weapons and ceremonial objects; OHA accordingly further appreciates the proposed statutory language explicitly allowing for the continuation of such cultural practices.

Accordingly, OHA urges the Committee to **PASS** HB2414 HD1. Mahalo nui for the opportunity to testify on this measure.

HB-2414-HD-1

Submitted on: 2/21/2020 6:23:57 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Goeggel	Animal Rights Hawai'i	Support	No

Comments:



One Ocean Conservation
#SaveTheOcean

Aloha Chair and representatives its unfortunate the we now must oppose the current version of bill HB2414, specifically H.D.1 because it contradicts the entire intent of the original purpose of the bill which we had supported for conservation.

This bill is no longer a conservation bill.

The purpose of the bills introductions states that the legislature acknowledges that sharks are economically, environmentally, and culturally important.

However, with the new amendments contradict and stand to damage all of those points.

Amendment 6. (h) that define harassment as 150ft it would make it impossible for any dive or snorkeling company in Hawaii to conduct business without being affected by this unreasonable and unenforceable definition.

Banning people from approaching within 150ft of a shark would impede business operations and shut down some companies, leading to **unemployment for many residents, including many women in marine science and diving.**

Hundreds of thousands of people come to Hawaii specifically to dive with sharks, shark diving specifically brings hundreds of millions of dollars into local economies around the world (search Palau, Bahamas, Cabo Pulmo, Australia, Mexico, etc.) and is successfully and safely done in Hawaii for over two decades brining in multiple millions of dollars both directly with shark diving but also with normal dive operations as seeing sharks is a highlight for most divers.

The movement of sharks can also be very unpredictable, so its **impossible to control if a shark will swim by on any given dive** and since drift dives are a normal dive flowing with a current, its not possible to swim away/stay away from a shark **at least 150ft, attempting to do so would create a safety hazard** if people had to swim away from a reef or into deeper water to maintain space.

Visibility is not 150ft underwater so its impossible to know if a shark is in the area because they dont breathe air there is no way to tell from the surface. Sharks do not breath air like mammals and turtles, therefore its impossible for people to avoid approaching them by any means knowingly unless they saw it while they were in water but you cant even see 150ft away so by time you realize there is a shark you would already be in violation.

If a fisherman is fishing and a shark comes up to them or is seen in the area you will affect them from being able to fish in that spot, which could hinder their ability to provide food for their ohana or make a living.

Sharks do not breath air like mammals and turtles, therefore its **impossible** for people to avoid approaching them by any means knowingly unless they saw it while they were in water but you cant even see 150ft away so by time you realize there is a shark **you would already be in violation.**

From a shark behavior standpoint you should realize **if you support this bill with the current amendments you're encouraging a safety hazard** as people may attempt to swim away from a shark to maintain distance, swimming away from a shark is like running away from a dog, they are more likely to chase, its better to stand your ground and if anything swim at them.

The programs like One Ocean Diving are research and conservation based safety programs. They teach people what to do and not do to avoid an adverse interaction. **We've helped people to avoid shark bites and there is a record low number of incidents in the State of Hawaii since this program has reached hundreds of thousands of people for nearly a decade with a perfect safety record.** This bill would ban those educational public safety programs which have helped people to better understand and coexist with sharks. **The program has literally helped to save lives when people surfing or swimming at a later time** or different location were able to implement the knowledge learned to save another person. Hundreds of thousands people travel to Hawaii specifically to learn about what to do if approached by a shark, if this bill passes the state will lose out on multiple millions of dollars from sustainable shark ecotourism and diving and create a public safety hazard as Kama'aina and visitors who have become used to joining the One Ocean program venture out on their own without a professional safety diver. This bill would cause the **unemployment of many marine scientists and professionals in the dive industry (mostly women.)** **If you really want to support conservation you should support programs like this that are scientifically proven to encourage**

conservation actions. See article on the study here: <https://www.theinertia.com/environment/shark-tourism-can-change-your-mind-about-these-much-maligned-predators/>

Current long term NON-INVASIVE research, such as photo identification and environmental impact studies would be affected by this bill if its limited to nationally qualified educational exemptions.

We do not support amendment section (2)

“(2) Exempt nationally qualified educational institutions from the requirement to obtain a special activity permit to conduct scientific and educational research activities on sharks.””; provided that no permit shall be required by a nationally qualified educational institution to conduct scientific or educational research activities on sharks. “

*****No one should be above the law to the point of a complete exemption and the same permit process should apply to everyone including local nationally qualified institutions***Special permit applications can document and limit the impact of research and allow the public to be aware of the studies being conducted on Manō for their own safety and so there can be concern and respect for the treatment of aumakua.**

Suggested amendment/language changes:

1. Change the definition of “Harass” to “chase or touch.” A reasonable and enforceable approach distance would be 3 meters or 9ft, just like DAR recommends for turtles.
2. Not allow for any scientific or educational invasive research to be exempt from special permitting.
3. Require all sharks killed to be documented and reported on a publicly accessible record.

HB-2414-HD-1

Submitted on: 2/22/2020 8:40:48 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Water Inspired Conservation Group	Water Inspired Conservation Group	Oppose	No

Comments:

Aloha dear representatives,

Please consider our testimony **in opposition** with two suggested amendments

We supported the original bill but cannot support the new amendments that state that sharks cannot be approached within 150ft because this **would harm Hawaii's conservation efforts, dive tourism, economy, and the employment of kama'aina in sustainable industries.**

We also do not support the complete exemption from the requirement of special permits for invasive research that requires catching a shark.

We support suggestive alternatives such as:

Harass being defined as intentionally touching or chasing and approach limits of 3 meters.

Special permits exemption for non-invasive research that does NOT include capture, take, or possession, due to the fact that sharks are sometimes killed during this type of research the requirement of special permit should remain in place.

HB-2414-HD-1

Submitted on: 2/22/2020 9:49:17 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kai Keemoku	Sustainable Swim	Oppose	No

Comments:

We oppose the unreasonable 150ft approach distance for sharks.

We support reasonable approach distances for sharks such as 10ft

We oppose the complete exemption from the permits that are currently required for scientific research involving catching and tagging sharks

We support local fishermen being protected from accidental catch, so long as they release it right away.



TO: Honorable Chair Lee, Vice Chair San Buenaventura and members of the Judiciary Committee

SUBMITTED BY: Inga Gibson, Policy Consultant, For the Fishes; PonoAdvocacy@gmail.com, 808.922.9910

RE: SUPPORT for HB2414 HD1, with amendments; Relating to Shark Protection

For the Fishes respectfully urges your support of HB2414 HD1 which would prohibit the intentional/known capture or killing of sharks in state waters (within 3 nm) except for research purposes, the use of shark parts/products for native Hawaiian cultural purposes and at the discretion of DLNR for any specific, emergency purposes. The bill does NOT apply to those who, in the lawful course of fishing, may accidentally capture and subsequently release a shark.

In 2010, Hawaii became the first state in the world to enact a prohibition on shark-finning and the sale of shark-fins or fin products. This measure would complement our existing law, which has now become a global initiative, by again poising Hawaii to be a leader in shark and marine conservation. While current laws prohibit the possession or sale of shark fins or fin products there is no law preventing the intentional capture or killing of sharks. Most notably, there have been a number of cases in recent years where sharks appear to have been intentionally entangled, injured and harmed and current law does not provide for adequate enforcement or prosecution of such cases.

Research from the University of Hawaii has shown that many species of shark, such as tiger and hammerhead, frequent state waters, especially the marine shelf around Maui, and are faced with numerous threats most notably human interactions and pollution. Further, sharks are apex predators; when they are removed our entire marine ecosystem is negatively impacted.

Fortunately, there is no longer any directed shark fishing (for their meat/fillets) and sharks are not a staple human food source as other fish species are. Below is a list of the 40 species of sharks that may be found in Hawaii waters. DLNR notes that it is difficult to distinguish between certain species of shark, thus this measure applies to all shark species.

Concerns have been raised by a few shark researchers speaking independently of their affiliation with any academic institution. However, by exempting shark researchers from the requirement to obtain special activity permits, the current version of this measure removes any and all oversight or accountability. We are suggesting the below clarifications so that legitimate shark research with proper oversight, may continue to occur:

- Maintain the current language in Section 187A-6 regarding Special Activity Permits; and,
- Delete the proposed (f) (1) exemption and replace with this research exemption language that shark researchers have agreed does not inhibit their research: “Any person who holds a license or permit issued by the department of land and natural resources to conduct research.”

For sharks accidentally taken by fishers, we suggest the following clarification to the proposed (F) (5) exemption, because there would be no reason for a person to keep, possess, or intentionally kill a shark that has been accidentally taken:

- Delete “taken, possessed, or killed” and replace with “accidentally captured and released in the course of lawful fishing”.

For the definition of “harass”, and in order to allow for current shark tours as long as they are not intentionally interacting with sharks, we suggest the following clarification: "Harass means to intentionally touch or approach within 9 meters." This is the same distance required for sea turtle encounters.

Thank you for your consideration of these amendments and the opportunity to testify on this important marine conservation issue

See: <https://dlnr.hawaii.gov/sharks/hawaii-sharks/species-list/>

HAWAII SHARKS

Order Orectolobiformes

Family Rhincodontidae

Whale shark, *Rhincodon typus*, VU

Order Carcharhiniformes

Family Scyliorhinidae

Sponge-headed cat shark, *Apristurus spongiceps*, DD

Family Pseudotriakidae

False cat shark, *Pseudotriakis microdon*, DD

Family Carcharhinidae

Bignose shark, *Carcharhinus altimus*, DD

Gray reef shark, *Carcharhinus amblyrhynchos*, NT

Silky shark, *Carcharhinus falciformes*, NT

Galapagos shark, *Carcharhinus galapagensis*, NT

Blacktip shark, *Carcharhinus limbatus*, NT

Oceanic whitetip, *Carcharhinus longimanus*, VU
Blacktip reef shark, *Carcharhinus melanopterus*, NT
Sandbar shark, *Carcharhinus plumbeus*, VU
Tiger shark, *Galeocerdo cuvier*, NT
Blue shark, *Prionace glauca*, NT
Whitetip reef shark, *Triaenodon obesus*, NT

Family Sphyrnidae

Scalloped hammerhead, *Sphyrna lewini*, EN
Smooth hammerhead, *Sphyrna zygaena*, VU

Order Lamniformes

Family Odontaspidae

Smalltooth sand tiger shark, *Odontaspis ferox*, VU
Bigeye sand tiger shark, *Odontaspis noronhai*, DD

Family Pseudocarchariidae

Crocodile shark, *Pseudocarcharias kamoharai*, NT

Family Megachasmidae

Megamouth shark, *Megachasma pelagios*, DD

Family Alopiidae

Pelagic thresher shark, *Alopias pelagicus*, VU
Bigeye thresher shark, *Alopias superciliosus*, VU

Family Lamnidae

White shark, *Carcharodon carcharias*, VU
Short-finned mako, *Isurus oxyrinchus*, VU
Longfin mako, *Isurus paucus*, VU

Order Hexanchiformes

Family Hexanchidae

Frilled shark, *Chlamydoselachus anguineus*, NT
Bluntnose sixgill shark, *Hexanchus griseus*, NT

Order Squaliformes

Family Echinorhinidae

Prickly shark, *Echinorhinus cookei*, NT

Family Dalatiidae

Combtooth dogfish, *Centroscyllium nigrum*, DD
Kitefin shark, *Dalatias licha*, NT
Blurred smooth lantern shark, *Etmopterus bigelowi*, LC
Blackbelly lantern shark, *Etmopterus lucifer*, LC
Smooth lantern shark, *Etmopterus pussilus*, LC
Hawaiian lantern shark, *Etmopterus villosus*, LC

Pygmy shark, *Euprotomicrus bispinatus*, LC
Cookiecutter shark, *Isistius brasiliensis*, LC
Viper dogfish, *Trigonognathus kabeyai*, DD
Velvet dogfish, *Scymnodon squamulosus*, DD

Family Centrophoridae

Mosaic gulper shark, *Centrophorus tessellatus*, DD
Gulper shark, *Centrophorus granulosus*, VU

Family Squalidae

Shortspine spurdog shark, *Squalus mitsukurii*, DD

JUDtestimony

From: ONE OCEAN CONSERVATION <teamoneocean@gmail.com>
Sent: Saturday, February 22, 2020 3:13 PM
To: JUDtestimony
Subject: Opposition for SB 2414

On behalf of One Ocean Global, please do not pass this bill for the following reasons:

1.Implications for other ocean recreational activities (surfing, Scuba diving, snorkeling spearfishing):How exactly does the department intend to prevent the approach of any shark by any means in an variable uncontrolled environment which countless people have the potential to enter the vicinity of a shark through a variety of means? For example, someone is likely to encounter sharks while snorkeling or scuba diving throughout the islands. Does this mean that scuba divers will not be allowed to dive on shipwrecks for example that species like white tip reef sharks (*Triaenodon obesus*) regularly take shelter in during the day? What about spearfishing in an area where sharks are known to be present or if sharks show up during the activity? Does this mean the department is going to regulate the distance at which spear fishermen can approach a shark or require the spear fisherman to leave the area if a shark appears? Sharks can also be encountered while surfing, does the department intend to limit surfing in areas which sharks have been recently spotted? If one cannot approach a shark by any means that also means they cannot surf within 150ft of a shark if it swims by in the lineup. Does the department really intend to have a presence in all of these different contexts across the numerous islands and diversity of activities where a shark may be present in it's natural environment to enforce the proposed regulations? If so it should be prepared for overwhelming opposition.

2.Senseless and unreasonable distance requirements The distance requirements suggested in the amended form of the bill are nonsensical, ill advised and unrealistic. Not even federally protected and arguably more vulnerable species such as monk seals, green sea turtles, have such extreme viewing distance requirements. What is the basis for such a long distance? NOAA and DLNR recommend, for your safety and the animals' protection, that everyone stay at least 10 feet (3 meters) from all sea turtles. If the basis of approach is regulated under the basis of "harassment", what is the rationale for such a large distance? Do sharks exhibit different behavioral cue indicating discomfort of stress in closer proximity than turtles? Is there some physiological stress response is the department referencing to justify the distance? Where is the supporting evidence?

3.Redundant policy: Those in opposition to the current form of this bill have the utmost respect for the members of the legislature and their extremely limited time. The recent amendments made to the bill are illogical, unproductive, repetitive and quite frankly a waste of time. The original intent of the bill was simply to protect sharks and as amended it includes precise language that targets ecotourism. Any concerns regarding commercial shark ecotourism are already addressed in SB 3052 making the recent inclusions of the bill pertaining to shark ecotourism irrelevant and in conflict with regulations proposed in the other bill specifically focused on regulating the industry.

4.Inconsistent definitions of harassment as defined in other contexts/species

See supporting information for reference regarding the MMPA and ESA. The definitions for harassment in the context of other species are more focused on prohibiting specific actions and activities rather than an arbitrary distance requirements. The ocean is an inherently dynamic and variable environment so in this specific context from the perspective from those study and specialize in agonistic territorial displays, social hierarchy and behavior it would make more sense, be more impactful, and consistent with the intent of the bill to change the definition of harass to prohibiting touching (except as necessary for safety) or chasing which are specific instances in which a person is specifically likely to cause disturbance and potential harm to a shark.

5.Grossly unrealistic enforcement obligations for the department - The bill provides exceptions for "Sharks accidentally taken, captured, possessed, harassed, or killed as part of a fisher's catch" which means a shark could harass and kill a shark, put the body on their boat and claim it wasn't intentional. How is the department going to demonstrate and evaluate intent if someone is found with a dead shark in the context of other fishing activities? To stay consistent with the intended protections of the bill it would be much more appropriate to work with the fishermen and establish practical Guidelines for Fishermen if a Shark Interaction Occurs which already exist for wildlife like sea turtles and monk seals. If fishermen are not intentionally fishing for sharks making the prompt release and prohibition of retaining a shark if caught incidentally a legal requirement should not be an issue.

6.Counterproductive results from the original intent of the bill: The original draft of this bill acknowledges sharks "benefit the State economy by helping to draw in tourists." Which would no longer choose to visit the state if they were prohibited from approaching within 150 feet of them guaranteeing they could not even see the animal.

7.Potential to shut down the shark ecotourism industry- The language and word choice of the bill which prohibits the approach of any shark within one hundred fifty feet under on the basis of "harassment" would functionally shut down an entire dive industry across the state costing the state and harbors millions of dollars, causing unemployment of many Kama'aina including many women in marine science and harms programs which support conservation, Hawaiian culture, employs Hawaii residents, and generates significant revenue for the state via tourism, harbor fees, etc. The language that suggests "the department ""may"" issue permits" for activities does not list any kinds that pertain to commercial activity or shark ecotourism, which suggests potential to arbitrarily shut down of

responsible operators and impose undue hardship on an entire industry, and even if listed provides no guarantee that they WILL be given a permit.

8.Minimally invasive operations

Not all operators are considered equal in their activities but there are some that are doing it responsibly. For example, One Ocean Research and Diving surveys different aggregate locations in a systematic way in order to do comparisons for ecological and behavioral assessments per the methodology of their studies. As a responsible operator and research based program they have control sites in order to see how their presence does or does not affect the sharks behavior. They also use minimally invasive research techniques including photo ID to eliminate the need for tagging an animal to be able to readily identify it to assess site fidelity and in water observation/ behavioral analysis in the context of the animals home and natural environment. This allows them to obtain information and collect data without making exemptions for aquariums which have significant mortality rates and physiological as well as mental health issues associated with captivity. The mere presence of a person is not inherently invasive or stressful to a shark. Any claims of interfering with "natural behavior" of sharks must take the full range of human activities and the numerous ways in which we can have a direct or indirect influence on marine life such as sharks. The minimal effect responsible educational, conservation, research and cultural based ecotourism operators have on behavior of sharks is negligible in comparison to the drastic ways in which humans have and continue to impact the marine environment.



LATE

February 23, 2020

To: The Honorable Chris Lee, Chair,
The Honorable Joy San Buenaventura Vice Chair, and Members of the
HOUSE COMMITTEE ON JUDICIARY

Re: **HB 2414, HD1 - relating to Shark Protection**
Hearing: Monday, February 24, 2020, 2:00 p.m. Room 325
Position: **Strong Support**

Aloha, Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The HAWAI'I REEF AND OCEAN COALITION – HIROC – was formed in 2017 by coral reef scientists, educators, local Hawaii environmental organizations, elected officials, and others to address a crisis facing Hawaii's coral reefs and ocean – namely, the pollution of our near-shore environment by sunscreens that are literally killing our marine life. We are currently asking the Legislature to pass a handful of very important bills to save our coral reefs and marine life— they are bills relating to overfishing, sunscreens, plus bills on cesspools, plastic marine debris, the climate crisis and sea-level rise.

HIROC strongly supports this bill, which would prohibit and authorize fines for knowingly harassing or taking sharks, except within reasonable exemptions. Sharks are critical to a healthy marine ecosystem because, as predators, they help to regulate marine life and ensure healthy fish stocks. Sharks help maintain the balance that makes reefs stronger and better able to withstand the multiple stressors that reefs now face.

Please pass this bill to help maintain healthy reefs and marine ecosystems. Thank you for considering this testimony.

Alan B. Burdick, for HIROC, 486-1018

Burdick808@gmail.com

HB-2414-HD-1

Submitted on: 2/21/2020 9:48:03 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Juan Oliphant	Individual	Oppose	Yes

Comments:

Aloha Representatives,

I'm a Haleiwa resident, conservationist, diver, professional underwater photographer, and surfer, and **I'm Not in support of this bill**. Unfortunately, the wording was changed from its original context, and with current text would hinder shark conservation efforts and sustainable economic values of live sharks. "The legislature finds that sharks are economically significant to Hawaii"; **the following wording would not make live sharks economical to the state of Hawaii.**

The wording "**Harass**" is changed to mean the approach, by any means, within **one hundred fifty feet of any shark is not allowed**. If this were allowed, it would stop dive companies around the state of Hawaii to take people diving to popular dive sites. This meaning of

"Harass" would also stop shark dive operations essentially unemploying thousands of people and stopping an enormous sustainable and conservation-based tourism. Diving with sharks in their natural habit does not harm sharks. Fishing sharks harm's sharks. If there is a concern for people diving with sharks, I recommend *Harass to mean to chasing or touching a shark*. A realistic and fair boundary would be 10ft from a shark similar to what is currently enforced with sea turtles.

Another concern is this Exemption for nationally qualified educational institutions from the requirement to obtain a special activity permit to conduct scientific and educational research activities on sharks. There should be a 3 party group that oversees their permits. I know of specific research methods that have killed many sharks in the past here in Hawaii, and I can provide evidence of this if needed. DLNR should be the ones to issue the permits.

Mahalos and thank you for your time

Juan Oliphant

HB-2414-HD-1

Submitted on: 2/21/2020 6:43:47 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

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

Comments:

HB-2414-HD-1

Submitted on: 2/21/2020 10:19:32 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ocean Ramsey	Individual	Oppose	Yes

Comments:

It's unfortunate that I have to oppose this new version of the bill but with the new amendments, it is **no longer a conservation bill**, enforceable bill, and stands to do nothing but **actually cause harm to sharks**.

I suggest you change the term harass to a reasonable and enforceable definition of "touch or chase" and not to approach within 3 meters. **The unreasonable current definition would CREATE A PUBLIC SAFETY HAZARD** for those **attempting to retreat and avoid a shark which wouldn't likely be seen 150ft out. Retreating from a shark can be dangerous and is NOT advised unless you want to provoke them to chase you.**

The current version of this bill doesn't consider the fact that people who have grown up respecting manā• as aumakua or ohana could be prosecuted for violation of spending time with them even if they say it is for **cultural reasons** they could still be subject to harassment during the process of investigation as a potential violation.

The current version of this bill could **cause fishermen to be prosecuted** unfairly if a shark swims up to them (which happens all the time.) It would be difficult to prove if the shark was there first and they approached it or if they attracted it (modified its behavior.)

The current version of this bill would **cause the unemployment of many women** in marine science and many **kama'aina** in the dive/snorkel ecotourism industry.

The current version of this bill would **harm Hawaii's economy** shutting down programs that attract millions of people to Hawaii specifically traveling to learn about and dive with sharks.

The current version of this bill would stop public safety programs that teach people about sharks and have helped to save people's lives at a later time because of the knowledge shared and experience gained.

The current version of the bill would shut down free conservation and educational programs in the community that include monthly reef and beach clean ups, daily entanglement surveys, and free presentations in local schools, and supplies for international and national programs which are provided by shark diving programs and have those programs have also been scientifically proven to influence positive conservation actions.

See study :

<https://www.theinertia.com/environment/shark-tourism-can-change-your-mind-about-these-much-maligned-predators/>

I do not support the amendment for the exemption for any research organization (nationally or internationally accredited) from special permit requirements because I know, and have proof, that those programs' current methods do kill manā from time to time. No one should be above the law and the respect for aumakua should be acknowledged and enforced.

HB-2414-HD-1

Submitted on: 2/21/2020 11:34:00 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
leslie farnel	for forgotten felines	Support	No

Comments:

Yes please stop killing sharks. The mass slaughter of our marine life needs to stop now or there will be no ocean left which will result in the total destruction of our planet. Let the amakua live in peace. Stop the stupid shark hunts every time one is seen off the beach. Stop eating them. Stop using them for cosmetics and medicinal hoaxes. Stop selling teeth for jewelry. That's an unrespectful way of treating another living creature. Really people...you disgust me.

HB-2414-HD-1

Submitted on: 2/22/2020 9:16:56 AM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Meyer	Individual	Comments	No

Comments:

Aloha JUD committee members,

My name is Carl Meyer. I have studied sharks in Hawaii and elsewhere around the globe for almost 30 years and published numerous scientific papers based on these studies that focus on the effective conservation and management of sharks.

I strongly support the **exemption of nationally qualified educational institutions from the requirement to obtain a special activity permit to conduct scientific and educational research activities on sharks**. Shark researchers operating under the auspices of nationally qualified educational institutions are already subject to professional oversight via federally-mandated Institutional Animal Care and Use Committees (IACUCs). In order to qualify for an IACUC permit, researchers must justify the use of sharks in their studies, justify the species and numbers used and ensure ethical practices are followed. Requiring an additional special activity permit will hamper bona fide research by adding additional layers of unnecessary bureaucracy.

I was encouraged to see the following amendments in HB2414:

“(5) Expanding the exemptions from the prohibition and fines and penalties proposed to:

(A) Research conducted by nationally qualified educational institutions;

(B) Sharks currently held in captivity;

(6) Exempting nationally qualified educational institutions from the requirement to obtain a special activity permit to conduct scientific and educational research activities on sharks;”

Please retain this language in the bill to protect bona fide shark research that is vital for effective shark conservation and management in Hawaii.

Thank you,

Carl Meyer

HB-2414-HD-1

Submitted on: 2/22/2020 4:05:50 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cameron Grant	Individual	Oppose	No

Comments:

Aloha

I'm writing in opposition to of HB2414 HD1. I believe restricting wildlife interaction inhibits our community to learn and respect marine life. Under the guidance of properly trained companies, which value thorough safety protocol in reference to marine life, it allows a deeper connection to our islands and its inhabitants.

With proper instruction on safety and interaction, I believe we can coexist and learn more about our natural world not only scientifically but recreationally.

I appreciate your time in reviewing this email.

HB-2414-HD-1

Submitted on: 2/22/2020 4:19:50 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kayleigh Nicole Burns	Individual	Oppose	Yes

Comments:

Aloha committee members,

I oppose this bill as it is currently written for the following reasons.

1.Implications for other ocean recreational activities (surfing, Scuba diving, snorkeling spearfishing):How exactly does the department intend to prevent the approach of any shark by any means in an variable uncontrolled environment which countless people have the potential to enter the vicinity of a shark through a variety of means? For example, someone is likely to encounter sharks while snorkeling or scuba diving throughout the islands. Does this mean that scuba divers will not be allowed to dive on shipwrecks for example that species like white tip reef sharks (*Triaenodon obesus*) regularly take shelter in during the day? What about spearfishing in an area where sharks are known to be present or if sharks show up during the activity? Does this mean the department is going to regulate the distance at which spear fishermen can approach a shark or require the spear fisherman to leave the area if a shark appears? Sharks can also be encountered while surfing, does the department intend to limit surfing in areas which sharks have been recently spotted? If one cannot approach a shark by any means that also means they cannot surf within 150ft of a shark if it swims by in the lineup. Does the department really intend to have a presence in all of these different contexts across the numerous islands and diversity of activities where a shark may be present in it's natural environment to enforce the proposed regulations? If so it should be prepared for overwhelming opposition.

2.Senseless and unreasonable distance requirements The distance requirements suggested in the amended form of the bill are nonsensical, ill advised and unrealistic. Not even federally protected and arguably more vulnerable species such as monk seals, green sea turtles, have such extreme viewing distance requirements. What is the basis for such a long distance? NOAA and DLNR recommend, for your safety and the animals' protection, that everyone stay at least 10 feet (3 meters) from all sea turtles. If the basis of approach is regulated under the basis of "harassment", what is the rationale for such a large distance? Do sharks exhibit different behavioral cue indicating discomfort of stress in closer proximity than turtles? Is there some physiological stress

response is the department referencing to justify the distance? Where is the supporting evidence?

3.Redundant policy: Those in opposition to the current form of this bill have the utmost respect for the members of the legislature and their extremely limited time. The recent amendments made to the bill are illogical, unproductive, repetitive and quite frankly a waste of time. The original intent of the bill was simply to protect sharks and as amended it includes precise language that targets ecotourism. Any concerns regarding commercial shark ecotourism are already addressed in SB 3052 making the recent inclusions of the bill pertaining to shark ecotourism irrelevant and in conflict with regulations proposed in the other bill specifically focused on regulating the industry.

4.Inconsistent definitions of harassment as defined in other contexts/species
See supporting information for reference regarding the MMPA and ESA. The definitions for harassment in the context of other species are more focused on prohibiting specific actions and activities rather than an arbitrary distance requirements. The ocean is an inherently dynamic and variable environment so in this specific context from the perspective from those study and specialize in agonistic territorial displays, social hierarchy and behavior it would make more sense, be more impactful, and consistent with the intent of the bill to change the definition of harass to prohibiting touching (except as necessary for safety) or chasing which are specific instances in which a person is specifically likely to cause disturbance and potential harm to a shark.

5.Grossly unrealistic enforcement obligations for the department - The bill provides exceptions for “Sharks accidentally taken, captured, possessed, harassed, or killed as part of a fisher's catch” which means a shark could harass and kill a shark, put the body on their boat and claim it wasn't intentional. How is the department going to demonstrate and evaluate intent if someone is found with a dead shark in the context of other fishing activities? To stay consistent with the intended protections of the bill it would be much more appropriate to work with the fishermen and establish practical Guidelines for Fishermen if a Shark Interaction Occurs which already exist for wildlife like sea turtles and monk seals. If fishermen are not intentionally fishing for sharks making the prompt release and prohibition of retaining a shark if caught incidentally a legal requirement should not be an issue.

6.Counterproductive results from the original intent of the bill: The original draft of this bill acknowledges sharks “benefit the State economy by helping to draw in tourists.” Which would no longer choose to visit the state if they were prohibited from approaching within 150 feet of them guaranteeing they could not even see the animal.

7.Potential to shut down the shark ecotourism industry- The language and word choice of the bill which prohibits the approach of any shark within one hundred fifty feet under on the basis of “harassment” would functionally shut down an entire dive industry across the state costing the state and harbors millions of dollars, causing unemployment of many Kama’aina including many women in marine science and harms programs which support conservation, Hawaiian culture, employs Hawaii residents, and generates

significant revenue for the state via tourism, harbor fees, etc. The language that suggests “the department “may” issue permits” for activities does not list any kinds that pertain to commercial activity or shark ecotourism, which suggests potential to arbitrarily shut down of responsible operators and impose undue hardship on an entire industry, and even if listed provides no guarantee that they WILL be given a permit.

8. Minimally invasive operations

Not all operators are considered equal in their activities but there are some that are doing it responsibly. For example, One Ocean Research and Diving surveys different aggregate locations in a systematic way in order to do comparisons for ecological and behavioral assessments per the methodology of their studies. As a responsible operator and research based program they have control sites in order to see how their presence does or does not affect the sharks behavior. They also use minimally invasive research techniques including photo ID to eliminate the need for tagging an animal to be able to readily identify it to assess site fidelity and in water observation/ behavioral analysis in the context of the animals home and natural environment. This allows them to obtain information and collect data without making exemptions for aquariums which have significant mortality rates and physiological as well as mental health issues associated with captivity. The mere presence of a person is not inherently invasive or stressful to a shark. Any claims of interfering with “natural behavior” of sharks must take the full range of human activities and the numerous ways in which we can have a direct or indirect influence on marine life such as sharks. The minimal effect responsible educational, conservation, research and cultural based ecotourism operators have on behavior of sharks is negligible in comparison to the drastic ways in which humans have and continue to impact the marine environment.

Suggested amendment/language changes:

1. Change the definition of “Harass” to “chase or touch.” A reasonable and enforceable approach distance would be 3 meters or 9ft, just like DAR recommends for turtles.
2. Not allow for any scientific or educational invasive research to be exempt from special permitting.
3. Require all sharks killed to be documented and reported on a publicly accessible record for consideration of the treatment and respect for *Mano* as *aumakua*

HB-2414-HD-1

Submitted on: 2/22/2020 10:33:25 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Forrest Thomas	Individual	Oppose	No

Comments:

The bill in its current state is not acceptable in many ways. The biggest reason is the definition of harassment. This needs to be redefined, the way it is written says being within 150ft is harassment. This should be lowered to 10-15ft like the federally protected turtles. Saying being within 150ft of a shark is impossible unless they start shutting down scuba diving sites where white tips visit during most days. There is a bill being introduced at the moment that would put rules and regulations on the shark diving industry. This bill 2414 would not only contradict the other bill, it would effectively shut down the entire shark industry here on Oahu.

HB-2414-HD-1

Submitted on: 2/22/2020 10:47:18 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alexis Araw	Individual	Oppose	No

Comments:

I oppose this Bill

HB-2414-HD-1

Submitted on: 2/23/2020 4:52:03 AM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Taylor Cunningham	Individual	Oppose	Yes

Comments:

As someone who works in ecotourism and knows the value of ecotourism monetarily on the island of Oahu I oppose the new ammendments to the bill. Tough I oppose the current form of this bill I have the utmost respect for the members of the legislature and their extremely limited time. The recent amendments made to the bill are illogical, unproductive, repetitive and quite frankly a waste of time. The original intent of the bill was simply to protect sharks and as amended it includes precise language that targets ecotourism. Any concerns regarding commercial shark ecotourism are already addressed in SB 3052 making the recent inclusions of the bill pertaining to shark ecotourism irrelevant and in conflict with regulations proposed in the other bill specifically focused on regulating the industry.

HB-2414-HD-1

Submitted on: 2/23/2020 8:12:47 AM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Blake Thompson	Individual	Oppose	No

Comments:

This bill is no longer a conservation bill.

The purpose of the bills introductions states that the legislature acknowledges that sharks are economically, environmentally, and culturally important.

However, with the new amendments contradict and stand to damage all of those points.

Amendment 6. (h) that define harassment as 150ft it would make it impossible for any dive or snorkeling company in Hawaii to conduct business without being affected by this unreasonable and unenforceable definition.

Banning people from approaching within 150ft of a shark would impede business operations and shut down some companies, leading to unemployment for many residents, including many women in marine science and diving.

Hundreds of thousands of people come to Hawaii specifically to dive with sharks, shark diving specifically brings hundreds of millions of dollars into local economies around the world (search Palau, Bahamas, Cabo Pulmo, Australia, Mexico, etc.) and is successfully and safely done in Hawaii for over two decades brining in multiple millions of dollars both directly with shark diving but also with normal dive operations as seeing sharks is a highlight for most divers.

The movement of sharks can also be very unpredictable, so its impossible to control if a shark will swim by on any given dive and since drift dives are a normal dive flowing with a current, its not possible to swim away/stay away from a shark at least 150ft, attempting to do so would create a safety hazard if people had to swim away from a reef or into deeper water to maintain space.

Visibility is not 150ft underwater so its impossible to know if a shark is in the area because they dont breathe air there is no way to tell from the surface. Sharks do not breath air like mammals and turtles, therefore its impossible for people to avoid approaching them by any means knowingly unless they saw it while they were in water but you cant even see 150ft away so by time you realize there is a shark you would already be in violation.

If a fisherman is fishing and a shark comes up to them or is seen in the area you will affect them from being able to fish in that spot, which could hinder their ability to provide food for their ohana or make a living.

Sharks do not breath air like mammals and turtles, therefore its impossible for people to avoid approaching them by any means knowingly unless they saw it while they were in water but you cant even see 150ft away so by time you realize there is a shark you would already be in violation.

From a shark behavior standpoint you should realize if you support this bill with the current amendments you're encouraging a safety hazard as people may attempt to swim away from a shark to maintain distance, swimming away from a shark is like running away from a dog, they are more likely to chase, its better to stand your ground and if anything swim at them.

The programs like One Ocean Diving are research and conservation based safety programs. They teach people what to do and not do to avoid an adverse interaction. We've helped people to avoid shark bites and there is a record low number of incidents in the State of Hawaii since this program has reached hundreds of thousands of people for nearly a decade with a perfect safety record. This bill would ban those educational public safety programs which have helped people to better understand and coexist with sharks. The program has literally helped to save lives when people surfing or swimming at a later time or different location were able to implement the knowledge learned to save another person. Hundreds of thousands people travel to Hawaii specifically to learn about what to do if approached by a shark, if this bill passes the state will lose out on multiple millions of dollars from sustainable shark ecotourism and diving and create a public safety hazard as Kama'aina and visitors who have become used to joining the One Ocean program venture out on their own without a professional safety diver. This bill would cause the unemployment of many marine scientists and professionals in the dive industry (mostly women.)

If you really want to support conservation you should support programs like this that are scientifically proven to encourage conservation actions. See article on the study here: <https://www.theinertia.com/environment/shark-tourism-can-change-your-mind-about-these-much-maligned-predators/>

Current long term NON-INVASIVE research, such as photo identification and environmental impact studies would be affected by this bill if its limited to nationally qualified educational exemptions.

We do not support amendment section (2)

“(2) Exempt nationally qualified educational institutions from the requirement to obtain a special activity permit to conduct scientific and educational research activities on sharks.”; provided that no permit shall be required by a nationally qualified educational institution to conduct scientific or educational research activities on sharks. “

No one should be above the law to the point of a complete exemption and the same permit process should apply to everyone including local nationally qualified institutionsSpecial permit applications can document and limit the impact of research and allow the public to be aware of the studies being conducted on Manā• for their own safety and so there can be concern and respect for the treatment of aumakua.

Suggested amendment/language changes:

1. Change the definition of “Harass” to “chase or touch.” A reasonable and enforceable approach distance would be 3 meters or 9ft, just like DAR recommends for turtles.
2. Not allow for any scientific or educational invasive research to be exempt from special permitting.
3. Require all sharks killed to be documented and reported on a publicly accessible record.

HB-2414-HD-1

Submitted on: 2/23/2020 9:40:37 AM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Francis	Individual	Oppose	Yes

Comments:

1.Implications for other ocean recreational activities (surfing, Scuba diving, snorkeling spearfishing):How exactly does the department intend to prevent the approach of any shark by any means in an variable uncontrolled environment which countless people have the potential to enter the vicinity of a shark through a variety of means? For example, someone is likely to encounter sharks while snorkeling or scuba diving throughout the islands. Does this mean that scuba divers will not be allowed to dive on shipwrecks for example that species like white tip reef sharks (Triaenodon obesus) regularly take shelter in during the day? What about spearfishing in an area where sharks are known to be present or if sharks show up during the activity? Does this mean the department is going to regulate the distance at which spear fishermen can approach a shark or require the spear fisherman to leave the area if a shark appears? Sharks can also be encountered while surfing, does the department intend to limit surfing in areas which sharks have been recently spotted? If one cannot approach a shark by any means that also means they cannot surf within 150ft of a shark if it swims by in the lineup. Does the department really intend to have a presence in all of these different contexts across the numerous islands and diversity of activities where a shark may be present in it's natural environment to enforce the proposed regulations? If so it should be prepared for overwhelming opposition.

2.Senseless and unreasonable distance requirements The distance requirements suggested in the amended form of the bill are nonsensical, ill advised and unrealistic. Not even federally protected and arguably more vulnerable species such as monk seals, green sea turtles, have such extreme viewing distance requirements. What is the basis for such a long distance? NOAA and DLNR recommend, for your safety and the animals' protection, that everyone stay at least 10 feet (3 meters) from all sea turtles. If the basis of approach is regulated under the basis of "harassment", what is the rationale for such a large distance? Do sharks exhibit different behavioral cue indicating discomfort of stress in closer proximity than turtles? Is there some physiological stress response is the department referencing to justify the distance? Where is the supporting evidence?

3.Redundant policy: Those in opposition to the current form of this bill have the utmost respect for the members of the legislature and their extremely limited time. The recent amendments made to the bill are illogical, unproductive, repetitive and quite frankly a waste of time. The original intent of the bill was simply to protect sharks and as amended it includes precise language that targets ecotourism. Any concerns regarding commercial shark ecotourism are already addressed in SB 3052 making the recent inclusions of the bill pertaining to shark ecotourism irrelevant and in conflict with regulations proposed in the other bill specifically focused on regulating the industry.

4.Inconsistent definitions of harassment as defined in other contexts/species
See supporting information for reference regarding the MMPA and ESA. The definitions for harassment in the context of other species are more focused on prohibiting specific actions and activities rather than an arbitrary distance requirements. The ocean is an inherently dynamic and variable environment so in this specific context from the perspective from those study and specialize in agonistic territorial displays, social hierarchy and behavior it would make more sense, be more impactful, and consistent with the intent of the bill to change the definition of harass to prohibiting touching (except as necessary for safety) or chasing which are specific instances in which a person is specifically likely to cause disturbance and potential harm to a shark.

5.Grossly unrealistic enforcement obligations for the department - The bill provides exceptions for “Sharks accidentally taken, captured, possessed, harassed, or killed as part of a fisher’s catch” which means a shark could harass and kill a shark, put the body on their boat and claim it wasn’t intentional. How is the department going to demonstrate and evaluate intent if someone is found with a dead shark in the context of other fishing activities? To stay consistent with the intended protections of the bill it would be much more appropriate to work with the fishermen and establish practical Guidelines for Fishermen if a Shark Interaction Occurs which already exist for wildlife like sea turtles and monk seals. If fishermen are not intentionally fishing for sharks making the prompt release and prohibition of retaining a shark if caught incidentally a legal requirement should not be an issue.

6.Counterproductive results from the original intent of the bill: The original draft of this bill acknowledges sharks “benefit the State economy by helping to draw in tourists.” Which would no longer choose to visit the state if they were prohibited from approaching within 150 feet of them guaranteeing they could not even see the animal.

7.Potential to shut down the shark ecotourism industry- The language and word choice of the bill which prohibits the approach of any shark within one hundred fifty feet under on the basis of “harassment” would functionally shut down an entire dive industry across the state costing the state and harbors millions of dollars, causing unemployment of many Kama’aina including many women in marine science and harms programs which support conservation, Hawaiian culture, employs Hawaii residents, and generates significant revenue for the state via tourism, harbor fees, etc. The language that suggests “the department “may” issue permits” for activities does not list any kinds that pertain to commercial activity or shark ecotourism, which suggests potential to arbitrarily

shut down of responsible operators and impose undue hardship on an entire industry, and even if listed provides no guarantee that they WILL be given a permit.

8. Minimally invasive operations

Not all operators are considered equal in their activities but there are some that are doing it responsibly. For example, One Ocean Research and Diving surveys different aggregate locations in a systematic way in order to do comparisons for ecological and behavioral assessments per the methodology of their studies. As a responsible operator and research based program they have control sites in order to see how their presence does or does not affect the sharks behavior. They also use minimally invasive research techniques including photo ID to eliminate the need for tagging an animal to be able to readily identify it to assess site fidelity and in water observation/ behavioral analysis in the context of the animals home and natural environment. This allows them to obtain information and collect data without making exemptions for aquariums which have significant mortality rates and physiological as well as mental health issues associated with captivity. The mere presence of a person is not inherently invasive or stressful to a shark. Any claims of interfering with "natural behavior" of sharks must take the full range of human activities and the numerous ways in which we can have a direct or indirect influence on marine life such as sharks. The minimal effect responsible educational, conservation, research and cultural based ecotourism operators have on behavior of sharks is negligible in comparison to the drastic ways in which humans have and continue to impact the marine environment.

HB-2414-HD-1

Submitted on: 2/23/2020 9:42:48 AM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Iomas	Individual	Oppose	Yes

Comments:

1. Implications for other ocean recreational activities (surfing, Scuba diving, snorkeling spearfishing): How exactly does the department intend to prevent the approach of any shark by any means in a variable uncontrolled environment which countless people have the potential to enter the vicinity of a shark through a variety of means? For example, someone is likely to encounter sharks while snorkeling or scuba diving throughout the islands. Does this mean that scuba divers will not be allowed to dive on shipwrecks for example that species like white tip reef sharks (*Triaenodon obesus*) regularly take shelter in during the day? What about spearfishing in an area where sharks are known to be present or if sharks show up during the activity? Does this mean the department is going to regulate the distance at which spear fishermen can approach a shark or require the spear fisherman to leave the area if a shark appears? Sharks can also be encountered while surfing, does the department intend to limit surfing in areas which sharks have been recently spotted? If one cannot approach a shark by any means that also means they cannot surf within 150ft of a shark if it swims by in the lineup. Does the department really intend to have a presence in all of these different contexts across the numerous islands and diversity of activities where a shark may be present in its natural environment to enforce the proposed regulations? If so it should be prepared for overwhelming opposition.

2. Senseless and unreasonable distance requirements The distance requirements suggested in the amended form of the bill are nonsensical, ill advised and unrealistic. Not even federally protected and arguably more vulnerable species such as monk seals, green sea turtles, have such extreme viewing distance requirements. What is the basis for such a long distance? NOAA and DLNR recommend, for your safety and the animals' protection, that everyone stay at least 10 feet (3 meters) from all sea turtles. If the basis of approach is regulated under the basis of "harassment", what is the rationale for such a large distance? Do sharks exhibit different behavioral cue indicating discomfort of stress in closer proximity than turtles? Is there some physiological stress response is the department referencing to justify the distance? Where is the supporting evidence?

3. Redundant policy: Those in opposition to the current form of this bill have the utmost respect for the members of the legislature and their extremely limited time. The recent

amendments made to the bill are illogical, unproductive, repetitive and quite frankly a waste of time. The original intent of the bill was simply to protect sharks and as amended it includes precise language that targets ecotourism. Any concerns regarding commercial shark ecotourism are already addressed in SB 3052 making the recent inclusions of the bill pertaining to shark ecotourism irrelevant and in conflict with regulations proposed in the other bill specifically focused on regulating the industry.

4. Inconsistent definitions of harassment as defined in other contexts/species
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5. Grossly unrealistic enforcement obligations for the department - The bill provides exceptions for "Sharks accidentally taken, captured, possessed, harassed, or killed as part of a fisher's catch" which means a shark could harass and kill a shark, put the body on their boat and claim it wasn't intentional. How is the department going to demonstrate and evaluate intent if someone is found with a dead shark in the context of other fishing activities? To stay consistent with the intended protections of the bill it would be much more appropriate to work with the fishermen and establish practical Guidelines for Fishermen if a Shark Interaction Occurs which already exist for wildlife like sea turtles and monk seals. If fishermen are not intentionally fishing for sharks making the prompt release and prohibition of retaining a shark if caught incidentally a legal requirement should not be an issue.

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7. Potential to shut down the shark ecotourism industry- The language and word choice of the bill which prohibits the approach of any shark within one hundred fifty feet under on the basis of "harassment" would functionally shut down an entire dive industry across the state costing the state and harbors millions of dollars, causing unemployment of many Kama'aina including many women in marine science and harms programs which support conservation, Hawaiian culture, employs Hawaii residents, and generates significant revenue for the state via tourism, harbor fees, etc. The language that suggests "the department ""may"" issue permits" for activities does not list any kinds that pertain to commercial activity or shark ecotourism, which suggests potential to arbitrarily shut down of responsible operators and impose undue hardship on an entire industry, and even if listed provides no guarantee that they WILL be given a permit.

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HB-2414-HD-1

Submitted on: 2/23/2020 9:46:37 AM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andriana Fragola	Individual	Oppose	Yes

Comments:

1.Implications for other ocean recreational activities (surfing, Scuba diving, snorkeling spearfishing):How exactly does the department intend to prevent the approach of any shark by any means in an variable uncontrolled environment which countless people have the potential to enter the vicinity of a shark through a variety of means? For example, someone is likely to encounter sharks while snorkeling or scuba diving throughout the islands. Does this mean that scuba divers will not be allowed to dive on shipwrecks for example that species like white tip reef sharks (*Triaenodon obesus*) regularly take shelter in during the day? What about spearfishing in an area where sharks are known to be present or if sharks show up during the activity? Does this mean the department is going to regulate the distance at which spear fishermen can approach a shark or require the spear fisherman to leave the area if a shark appears? Sharks can also be encountered while surfing, does the department intend to limit surfing in areas which sharks have been recently spotted? If one cannot approach a shark by any means that also means they cannot surf within 150ft of a shark if it swims by in the lineup. Does the department really intend to have a presence in all of these different contexts across the numerous islands and diversity of activities where a shark may be present in it's natural environment to enforce the proposed regulations? If so it should be prepared for overwhelming opposition.

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7. Potential to shut down the shark ecotourism industry- The language and word choice of the bill which prohibits the approach of any shark within one hundred fifty feet under on the basis of "harassment" would functionally shut down an entire dive industry across the state costing the state and harbors millions of dollars, causing unemployment of many Kama'aina including many women in marine science and harms programs which support conservation, Hawaiian culture, employs Hawaii residents, and generates significant revenue for the state via tourism, harbor fees, etc. The language that suggests "the department ""may"" issue permits" for activities does not list any kinds that pertain to commercial activity or shark ecotourism, which suggests potential to arbitrarily shut down of responsible operators and impose undue hardship on an entire industry, and even if listed provides no guarantee that they WILL be given a permit.

8. Minimally invasive operations

Not all operators are considered equal in their activities but there are some that are doing it responsibly. For example, One Ocean Research and Diving surveys different aggregate locations in a systematic way in order to do comparisons for ecological and behavioral assessments per the methodology of their studies. As a responsible operator and research based program they have control sites in order to see how their presence does or does not affect the sharks behavior. They also use minimally invasive research techniques including photo ID to eliminate the need for tagging an animal to be able to readily identify it to assess site fidelity and in water observation/ behavioral analysis in the context of the animals home and natural environment. This allows them to obtain information and collect data without making exemptions for aquariums which have significant mortality rates and physiological as well as mental health issues associated with captivity. The mere presence of a person is not inherently invasive or stressful to a shark. Any claims of interfering with “natural behavior” of sharks must take the full range of human activities and the numerous ways in which we can have a direct or indirect influence on marine life such as sharks. The minimal effect responsible educational, conservation, research and cultural based ecotourism operators have on behavior of sharks is negligible in comparison to the drastic ways in which humans have and continue to impact the marine environment.

JUDtestimony

From: Cam and Kay Grant <seasfaraway@gmail.com>
Sent: Saturday, February 22, 2020 4:08 PM
To: JUDtestimony
Subject: Opposition of HB2414 HD1

Aloha,

I am writing as a new business owner of ocean operations in Kailua-Kona. We oppose this bill as it is impossible for us as ocean exploration guides to determine where there are and aren't sharks in the ocean until they approach close enough. Though we do not purposely look for sharks, sharks at times can come by. We do have properly trained guides to handle such situations but it could potentially put us at risk as a company of being in violation of a bill impossible to comply with. We also strongly believe that the manō are Hawaiian aumakua and should be respected but in an educational manner. When people are able to see sharks for what they are in the wild it turns unnecessary fear into fascination. Please modify this bill with new amendments with a closer more reasonable distance to keep from sharks and we can get behind this bill.

Mahalo,

Faraway Seas LLC team

HB-2414-HD-1

Submitted on: 2/23/2020 1:21:46 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Justin Friesen	Individual	Oppose	Yes

Comments:

I oppose this bill because I believe that the language makes the bill unreasonable and unrealistic to enforce. The current language of the bill would ban not just education and conservation based shark tourism, but restrict many other ocean activities throughout Hawaiian waters.

It is imperative that we can still access our oceans and their wildlife in a respectful manner. This bill would make it impossible for our local students and residents to be able to experience sharks in their natural habitat. How can we teach anyone about the importance of species conservation if we are not able to even experience them in their natural habitat in a respectful and non invasive manner? Please consider these revisions:

- Change the definition of "Harass" to "chase or touch." A reasonable and enforceable approach distance would be 3 meters or 9ft, just like DAR recommends for turtles.
- Not allow for any scientific or educational invasive research to be exempt from special permitting.
- Require all sharks killed to be documented and reported on a publicly accessible record for consideration of the treatment and respect for Mano as aumakua

Mahalo for your time and consideration on this matter,

Justin Friesen

JUDtestimony

From: Kayleigh Grant <kayleighngrant@gmail.com>
Sent: Saturday, February 22, 2020 4:15 PM
To: JUDtestimony
Subject: Opposing HB2414 HD1

Aloha members of the committee,

My name is Kayleigh Grant and I have a bachelors degree in eco tourism, a marine options program certification from University of Hawaii, a Padi dive master certification, emergency first responder instructor certification, a free diving certification and I am the longest standing safety diver for One Ocean Diving. I have worked at this company for over 5 years and my extensive training alone took one year to complete. I am well versed in shark behavior, biology, and ecology and this bill (HB2414 HD1) as it is currently written is going to take jobs away from nearly 40 women in the marine science field. I have seen countless interns, employees, volunteers, and guests of One Ocean Diving interested in the sciences gain the knowledge and skills necessary to achieve career and educational goals. It is imperative that women have the opportunity to thrive in a mostly male dominated industry.

I have now had the opportunity to travel around the globe studying sharks as well as participating in shark tourism and there is no better company than one ocean diving with a strong focus on safety and education. We have taken hundreds of thousands of individuals diving with sharks and still after a decade maintain a perfect safety record.

I have seen, over the 5 years of working offshore of Haleiwa, sharks and other marine life entangled, ingested, harmed, injured, and dead by human impacts. At one ocean diving we work tirelessly to remove debris from the ocean and remove entangled animals, specifically sharks.

Adding safety requirements is a great idea but this bill needs some necessary language changes!

Suggested amendment/language changes:

1. Change the definition of "Harass" to "chase or touch." A reasonable and enforceable approach distance would be 3 meters or 9ft, just like DAR recommends for turtles.
2. Not allow for any scientific or educational invasive research to be exempt from special permitting.
3. Require all sharks killed to be documented and reported on a publicly accessible record for consideration of the treatment and respect for Mano as aumakua.

Please actually protect Hawaiian manō by requiring sharks being killed to be documented.

Mahalo and Aloha,

Kayleigh Grant
PADI Divemaster
One Ocean Diving
Water Inspired Conservationist
Mobile: (215) 208-5432
IG: @mermaid_kayleigh

FB: Kayleigh Nicole Grant

Mahalo and Aloha,

**Kayleigh Grant
PADI Divemaster
One Ocean Diving
Water Inspired Conservationist
Mobile: (215) 208-5432
IG: @mermaid_kayleigh
FB: Kayleigh Nicole Grant**

JUDtestimony

From: Shiloh Oliberos <shiloh231@hotmail.com>
Sent: Saturday, February 22, 2020 3:35 PM
To: JUDtestimony
Subject: Oppose Bill HB2414

Summary of Arguments

1. Implications for other ocean recreational activities (surfing, Scuba diving, snorkeling spearfishing): How exactly does the department intend to prevent the approach of any shark by any means in an uncontrolled environment which countless people have the potential to enter the vicinity of a shark through a variety of means? For example, someone is likely to encounter sharks while snorkeling or scuba diving throughout the islands. Does this mean that scuba divers will not be allowed to dive on shipwrecks for example that species like white tip reef sharks (*Triaenodon obesus*) regularly take shelter in during the day? What about spearfishing in an area where sharks are known to be present or if sharks show up during the activity? Does this mean the department is going to regulate the distance at which spear fishermen can approach a shark or require the spear fisherman to leave the area if a shark appears? Sharks can also be encountered while surfing, does the department intend to limit surfing in areas which sharks have been recently spotted? If one cannot approach a shark by any means that also means they cannot surf within 150ft of a shark if it swims by in the lineup. Does the department really intend to have a presence in all of these different contexts across the numerous islands and diversity of activities where a shark may be present in its natural environment to enforce the proposed regulations? If so it should be prepared for overwhelming opposition.

2. Senseless and unreasonable distance requirements The distance requirements suggested in the amended form of the bill are nonsensical, ill advised and unrealistic. Not even federally protected and arguably more vulnerable species such as monk seals, green sea turtles, have such extreme viewing distance requirements. What is the basis for such a long distance? NOAA and DLNR recommend, for your safety and the animals' protection, that everyone stay at least 10 feet (3 meters) from all sea turtles. If the basis of approach is regulated under the basis of "harassment", what is the rationale for such a large distance? Do sharks exhibit different behavioral cue indicating discomfort of stress in closer proximity than turtles? Is there some physiological stress response is the department referencing to justify the distance? Where is the supporting evidence?

3. Redundant policy: Those in opposition to the current form of this bill have the utmost respect for the members of the legislature and their extremely limited time. The recent amendments made to the bill are illogical, unproductive, repetitive and quite frankly a waste of time. The original intent of the bill was simply to protect sharks and as amended it includes precise language that targets ecotourism. Any concerns regarding commercial shark ecotourism are already addressed in SB 3052 making the recent inclusions of the bill pertaining to shark ecotourism irrelevant and in conflict with regulations proposed in the other bill specifically focused on regulating the industry.

4. Inconsistent definitions of harassment as defined in other contexts/species
See supporting information for reference regarding the MMPA and ESA. The definitions for harassment in the context of other species are more focused on prohibiting specific actions and activities rather than an arbitrary distance requirements. The ocean is an inherently dynamic and variable environment so in this specific context from the perspective from those study and specialize in agonistic territorial displays, social hierarchy and behavior it would make more sense, be more impactful, and consistent with the intent of the bill to change the definition of harass to prohibiting touching (except as necessary for safety) or chasing which are specific instances in which a person is specifically likely to cause disturbance and potential harm to a shark.

5. Grossly unrealistic enforcement obligations for the department - The bill provides exceptions for “Sharks accidentally taken, captured, possessed, harassed, or killed as part of a fisher's catch” which means a shark could harass and kill a shark, put the body on their boat and claim it wasn't intentional. How is the department going to demonstrate and evaluate intent if someone is found with a dead shark in the context of other fishing activities? To stay consistent with the intended protections of the bill it would be much more appropriate to work with the fishermen and establish practical Guidelines for Fishermen if a Shark Interaction Occurs which already exist for wildlife like sea turtles and monk seals. If fishermen are not intentionally fishing for sharks making the prompt release and prohibition of retaining a shark if caught incidentally a legal requirement should not be an issue.

6. Counterproductive results from the original intent of the bill: The original draft of this bill acknowledges sharks “benefit the State economy by helping to draw in tourists.” Which would no longer choose to visit the state if they were prohibited from approaching within 150 feet of them guaranteeing they could not even see the animal.

7. Potential to shut down the shark ecotourism industry- The language and word choice of the bill which prohibits the approach of any shark within one hundred fifty feet under on the basis of “harassment” would functionally shut down an entire dive industry across the state costing the state and harbors millions of dollars, causing unemployment of many Kama'aina including many women in marine science and harms programs which support conservation, Hawaiian culture, employs Hawaii residents, and generates significant revenue for the state via tourism, harbor fees, etc. The language that suggests “the department “may” issue permits” for activities does not list any kinds that pertain to commercial activity or shark ecotourism, which suggests potential to arbitrarily shut down of responsible operators and impose undue hardship on an entire industry, and even if listed provides no guarantee that they WILL be given a permit.

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Not all operators are considered equal in their activities but there are some that are doing it responsibly. For example, One Ocean Research and Diving surveys different aggregate locations in a systematic way in order to do comparisons for ecological and behavioral assessments per the methodology of their studies. As a responsible operator and research based program they have control sites in order to see how their presence does or does not affect the sharks behavior. They also use minimally invasive research techniques including photo ID to eliminate the need for tagging an animal to be able to readily identify it to assess site fidelity and in water observation/ behavioral analysis in the context of the animals home and natural environment. This allows them to obtain information and collect data without making exemptions for aquariums which have significant mortality rates and physiological as well as mental health issues associated with captivity. The mere presence of a person is not inherently invasive or stressful to a shark. Any claims of interfering with “natural behavior” of sharks must take the full range of human activities and the numerous ways in which we can have a direct or indirect influence on marine life such as sharks. The minimal effect responsible educational, conservation, research and cultural based ecotourism operators have on behavior of sharks is negligible in comparison to the drastic ways in which humans have and continue to impact the marine environment.

Sent from my iPhone

LATE

HB-2414-HD-1

Submitted on: 2/23/2020 7:02:54 PM
Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Nakachi	Moana Ohana	Support	No

Comments:

Ammend the following please:

Page 4, line 15-16. Delete taken, possessed, or killed and replace with "accidentally captured and released in the course of lawful fishing". If a shark was accidentally captured there would be no reason for a person to keep (possess or intentionally kill) that shark.

Page 5, line 5. Change definition of harrassment to "intentionally touch or approach within 9 meters" (same distance as turtles). This would allow for current shark tours as long as they are not intentionally interacting with sharks.

Page 5, delete line 19-21. This removes any and all oversight or accountability for shark researchers. We understand your wanting to address Dr Hollands concerns but this language actually weakens the already loose permitting requirements. We recommend using the same research exemption language from the shark fin statute as Dr Holland testified that bill/language did not inhibit his research. Exemption: **"any person who holds a license or permit issued by the department of land and natural resources to conduct research"**

LATE

HB-2414-HD-1

Submitted on: 2/23/2020 6:10:52 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chiara Salomoni	Individual	Oppose	No

Comments:

i Oppose to this bill unless few changes are made.

The bill as is would kill not only the connection most have with these animals that the world took so long to appreciate, but would also make it impossible for shark ecotourism in Hawaii to survive leaving so many jobless and cutting a huge chunk off tourism revenue for this state. People would simply choose to vacation elsewhere.

Hawaii is today one of the world wide leaders when it comes to shark conservation and non invasive research. Few changes to this bill would insure these effort to survive. This is so important because even though we see a caring reality here in Hawaii and the US, the case is not the same for the rest of the world and constant conservation efforts are needed if we want to stand a chance in changing people's approach on sharks and shark fishing/finning (legal and illegal).

Furthermore this bill written as is would hurt the fishing community. Since sharks don't come to the surface to breath it's impossible to figure out their whereabouts from the surface or from the water, considering 150ft is a very optimistic hope for visibility.

here are the suggested amendments

1.Change the definition of "Harass" to "chase or touch." A reasonable and enforceable approach distance would be 3 meters or 9ft, just like DAR recommends for turtles.

2. Not allow for any scientific or educational invasive research to be exempt from special permitting.

3. Require all sharks killed to be documented and reported on a publicly accessible record for consideration of the treatment and respect for Mano as aumakua

thank you

Chiara

LATE

HB-2414-HD-1

Submitted on: 2/23/2020 6:53:50 PM

Testimony for JUD on 2/24/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB2414. Sharks are a keystone species and by protecting them you protect the marine ecosystem, which can be credited for generating our tourism dollars in large part.

Thank you for the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei, Maui