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SUZANNE D. CASE
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DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS & MEANS
and
JUDICIARY**

**Wednesday, February 26, 2020
1:10 PM
State Capitol, Conference Room 211**

**In consideration of
SENATE BILL 1256, SENATE DRAFT 1
RELATING TO CERTAIN PENALTIES FOR VIOLATIONS OF SUBTITLE 4**

Senate Bill 1256, Draft 1 proposes to (1) amend fines for destroying or harvesting trees or tree products on state forest reserve lands to an amount up to \$10,000 or three times the market value at the time and place of the violation of each tree, whichever is greater, in addition to any costs associated with restoration or replacement of the habitat and damages to public land or natural resources, or any combination thereof; (2) clarifies that any person violating any provision of Part II (Forest Reserves) of Chapter 183, Hawaii Revised Statutes (HRS), or any rule adopted pursuant thereto, other than Section 183-17, HRS, shall be guilty of a petty misdemeanor; (3) clarifies penalties for traffic infractions within forest reserves and sets fine amounts; and (4) repeals the general penalty provisions of Section 183-4, HRS. **The Department of Land and Natural Resources (Department) strongly supports this Administration bill.**

The Department proposes to amend Section 183-5(c), HRS, regarding general administrative penalties for violation of Section 183-17, HRS, to update the fine amounts for destroying or harvesting trees or plants on state forest reserve lands. The current market value of many of Hawaii's forest products, such as koa and 'iliahi, far exceeds the dollar amount of the current established fines, and is thus not an effective deterrent for resource theft or destruction of the public's resources. Amending fines for destroying or harvesting trees would (1) provide a stronger deterrent for illegal harvesting and destruction of natural resources within forest reserves; and (2) make these penalties consistent with those established by other states.

The existing, authorized fines under the statute are over 15 years old, and in many cases are less than the market value of an illegally harvested tree. Similar to theft issues with other agricultural products, theft of forest products is an ongoing and growing problem, especially as market prices

continue to increase dramatically. The Department notes that over the past year there have been attempts to illegally harvest both koa and 'iliahi from state forest reserves. As the value of these resources continue to increase, we anticipate this being an increasing concern across the state. This measure would provide a more robust deterrent, and better protection of the public's natural resources.

Currently, PART II (Forest Reserves) of Chapter 183, HRS, does not allow for criminal penalties, except for timber trespass offenses. There are other types of offenses besides timber trespass, including violations of administrative rules, that warrant the imposition of a stricter penalty. Establishing statutory authority for a criminal penalty to apply to any violation of Forest Reserves, or any rules adopted pursuant thereto, would strengthen the Department's enforcement capabilities, and allow for greater protection of the State's natural resources. This bill ensures a mechanism for pursuing enforcement actions, when warranted, as well as providing a stronger deterrent for unauthorized and illegal use of public resources.

Pursue to the above, the Legislature has been engaged in an ongoing effort to make resolution of minor criminal offenses, including traffic violations, as simple as possible for the average citizen and to ensure that police, prosecutor, and judicial resources are focused on the most serious criminal offenses. This measure thus seeks to clarify penalties for traffic infractions within forest reserves so that they are comparable with the penalties for similar infractions established for the State Park System and sets the fine amounts for violations.

Section 183-4, HRS, authorizes general (civil) penalties for violations of Chapters 183 to 185, HRS; however, civil penalties are already provided in Section 183-5, HRS, and Section 184-5.5, HRS. Further while Chapter 185, HRS, pertaining to land fire protection, does not include a civil penalty, it does provide for criminal penalties under Section 185-7, HRS. Due to the serious risk of harm to people, the environment, wildlife, and habitat, the Department feels that violations of Chapter 185, HRS, should carry only criminal penalties - given the above, Section 183-4, HRS, is proposed for repeal.

Thank you for the opportunity to provide comments

SB-1256-SD-1

Submitted on: 2/24/2020 6:27:43 PM

Testimony for JDC on 2/26/2020 1:10:00 PM

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

Comments:

Dear Honorable Committee Members:

Please support SB1256. Increasing fines and penalties for illegal trafficking should have a deterrent effect.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihej, Maui