

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
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Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committees on
JUDICIARY
and
WAYS AND MEANS

Tuesday, April 6, 2021
9:55 AM

State Capitol, Via Videoconference, Conference Room 211

In consideration of
HOUSE BILL 1018, HOUSE DRAFT 2
RELATING TO LAY NETS

House Bill 1018, House Draft 2 proposes to authorize the Department of Land and Natural Resources (Department) to adopt rules to establish a lay net permit for the use or possession of lay nets, including reasonable permit fees and provisions for revocation, suspension, and withholding of permits for non-compliance with lay net rules. **The Department supports this Administration bill and offers the following comments.**

The Department regulates lay net fishing through detailed restrictions on net dimensions, mesh size, soak time, time of day, frequency between sets, location, water depth, and inspection requirements. All lay nets are required to be registered with the Department and marked with identification tags and surface buoys. Despite these detailed regulations, which are intended to ensure responsible use of lay nets, the irresponsible use of lay nets continues with adverse impacts to both fishery resources and protected species. In addition, lay net violations are the primary fishery-related infractions that the Department investigates, necessitating other tools and measures, such as a permit system to better regulate this gear type.

On January 26, 2021, the Assistant Regional Administrator for the National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO) Protected Resources Division wrote a letter to the Department expressing concern regarding the “significant threat to Hawai‘i’s protected species posed by unattended lay gill nets, especially federally threatened and endangered sea turtles and monk seals” (see attached). In the Main Hawaiian Islands (MHI), more than 100 turtles have died in lay gill nets since 1990. During that same period, lay gill nets

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

ROBERT K. MASUDA
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M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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BOATING AND OCEAN RECREATION
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

were indicated as a probable or contributing cause of death in dozens more turtle stranding cases. Since 1976, six Hawaiian monk seals have been found dead in lay gill nets, and entanglement in lay gill net was the suspected cause of death in an additional nine monk seal cases during that same period. The actual number of MHI seal and turtle deaths caused by lay gill nets is almost certainly higher than indicated by NMFS data because many deaths are unreported or cannot be attributed to a specific cause. Additionally, many more seals and turtles would have likely died entangled in unattended lay gill nets were it not for the rescue efforts of state and federal agencies and partners. The fact that lay net violations (and their associated impacts on aquatic resources) continue with such frequency suggests that stronger management tools are needed.

The Department supports a permit requirement for the use and possession of lay nets. The current lay net registration system is problematic for two reasons. First, nets are only required to be registered once, and there is no annual renewal requirement. As a result, the Department has no way to track how many registered nets are still in use. A legislatively authorized permit system would allow the Department to issue annual lay net permits to individuals, and to track which individuals use lay nets on a yearly basis. Second, unlike a registration, a permit is revocable. The Department has no way of prohibiting a person from registering new lay nets if they have been convicted of lay net violations. Under a permit system, lay net users have a greater incentive to comply with the law because they could lose their permit if convicted of a violation. A lay net permit would help the Department to crack down on the illegal use of lay nets, including unattended and abandoned lay nets. The Department will make efforts to increase monitoring, education, and enforcement as resources allow.

Thank you for the opportunity to comment on this measure.



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1845 Wasp Blvd., Bldg 176
Honolulu, Hawaii 96818
(808) 725-5000 • Fax: (808) 725-5215

January 26, 2021

Suzanne Case
Chairperson
Hawai'i Department of Land and Natural Resources
1151 Punchbowl Street, Room 130
Honolulu, HI 96813

Dear Suzanne:

I am writing on behalf of the National Marine Fisheries Service to share our concerns regarding the significant threat to Hawai'i's protected species posed by unattended lay gill nets, especially federally threatened and endangered sea turtles and monk seals. Our respective staff and partners respond to numerous stranded sea turtles and monk seals every year in the main Hawaiian Islands (MHI), and many of these strandings involve entanglement in the type of monofilament netting associated with lay gill nets.

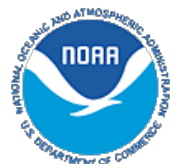
A review of our MHI monk seal data indicates six seals have been found dead in lay gill nets since 1976, and entanglement in lay gill nets is the suspected cause of death in an additional nine monk seal cases during that same period. Of the 15 seal deaths associated with lay gill nets, eight have occurred in just the past four years. For sea turtles, our data indicate more than 100 turtles have died in lay gill nets since 1990. During that same period, lay gill nets were indicated as a probable or contributing cause of death for dozens more stranded turtles.

The actual number of MHI seal and turtle deaths caused by lay gill nets is almost certainly higher than indicated by our data because many deaths are unreported or cannot be attributed to a specific cause. Additionally, many more seals and turtles would have likely died entangled in unattended lay gill nets were it not for the rescue efforts of our staff and partners.

We note that about a decade has passed since the Department of Land and Natural Resources (DLNR) revised its administrative rules regulating the use of lay gill nets, in part to address concerns regarding interactions with protected species. Additional measures are necessary to reduce the risk that unattended lay gill nets have on sea turtles and monk seals.

We want to be clear that the concerns referred to in this letter are focused on a specific type of net and method, i.e., monofilament lay gill nets that are set and left unattended. We recognize there are other net fishing methods used in the MHI that do not appear to currently cause significant impacts to seals and turtles when used legally and responsibly.

We highly value our collaboration to date with the DLNR regarding the conservation of protected marine species in Hawai'i. We also want to acknowledge our growing partnerships with fishermen and fishing organizations across the state, and we want to express how important



it is that we do our part to maintain and improve these partnerships. We look forward to working together with the DLNR, Hawai'i's fishermen, and other stakeholders to address the serious conservation issue caused by unattended lay gill nets. Please feel free to contact me anytime at: (808) 725-5130, or via email at: ann.garrett@noaa.gov.

Sincerely,

Ann M. Garrett
Assistant Regional Administrator
Protected Resources Division

**Testimony of The Nature Conservancy
In Support of HB 1018, HD2, RELATING TO LAY NETS**

**Committee on Judiciary & Committee on Ways and Means
Tuesday, April 6, 2021, 9:55 AM
Conference Room 211 via Videoconference**

Aloha Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

The Nature Conservancy supports HB 1018, HD2 authorizing the Department of Land and Natural Resources (DLNR) to adopt rules to establish a lay net permit for the use or possession of lay nets, including reasonable permit fees and provisions for revocation, suspension, and withholding of permits for non-compliance with lay net rules.

Despite detailed regulations regarding the use of lay nets, violators continue to have adverse impacts on local fishery resources and protected species, including monk seals and sea turtles. Currently, lay nets only need to be registered once, so DLNR has no way to stop a convicted violator from continuing to use a lay net to fish illegally. Under a permit system, DLNR could revoke the permit of those who currently violate the law with impunity.

Over the past year, we have seen more Hawai'i families turn to our reefs to feed their families. Yet, scientists estimate that Hawai'i's reef fisheries have declined by 75% over the past century, and some of our most important nearshore fisheries have declined as much as 90%. If we are to reverse this downward trend and expect our reefs to continue to provide fish to feed Hawai'i's families, we must provide our fisheries and enforcement agencies with the tools they need to manage our fisheries sustainably. HB 1018, HD2 provides DLNR with the ability to penalize repeat offenders while allowing the majority of pono fishers to continue fishing.

Mahalo for the opportunity to support HB 1018, HD2 and pono fishing in Hawai'i.

The Nature Conservancy of Hawai'i is a non-profit organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to protect forests and coral reefs for their ecological values and for the many benefits they provide to people.

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HB-1018-HD-2

Submitted on: 4/4/2021 5:22:02 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Testifying for Hawai'i Reef and Ocean Coalition	Support	No

Comments:

To: The Honorable Karl Rhoads, Chair, the Honorable Jarrett Keohokalole, Vice Chair, and Members of the Senate Committee on Judiciary, and

The Honorable Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and Members of the Senate Committee on Ways and Means

From Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

RE: HB1018 HD2 RELATING TO LAY NETS

Hearing: Tuesday, April 6, 2021, 9:55 a.m., Rm. 211 and by videoconference

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran, and Members of the Judiciary and Ways and Means Committees:

The HAWAI'I REEF AND OCEAN COALITION – HIROC – was formed in 2017 by coral reef scientists, educators, local Hawai'i environmental organizations, elected officials, and others to address the crisis facing Hawaii's coral reefs, other marine life, and ocean. **The Hawai'i Reef and Ocean Coalition STRONGLY SUPPORTS HB1018 HD2!**

On January 26, 2021, the Assistant Regional Administrator for the National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO) Protected Resources Division wrote a letter to the Department of Land and Natural Resources (DLNR) expressing concern regarding the "significant threat to Hawai'i's protected species posed by unattended lay gill nets, especially federally threatened and endangered sea turtles and monk seals." In the Main Hawaiian Islands (MHI), more than 100 turtles have died in lay gill nets since 1990. During that same period, lay gill nets were indicated as a probable or contributing cause of death in dozens more turtle stranding cases. Since 1976, six Hawaiian monk seals have been found dead in lay gill nets, and entanglement in lay gill nets was the suspected cause of death in an additional nine monk seal cases during that same period. The actual number of MHI seal and turtle deaths caused by lay gill nets is almost certainly higher than indicated by

NMFS data because many deaths are unreported or cannot be attributed to a specific cause. Additionally, many more seals and turtles would have likely died entangled in unattended lay gill nets were it not for the rescue efforts of state and federal agencies and partners. The fact that lay net violations (and their associated impacts on aquatic resources) continue with such frequency suggests that stronger management tools are needed.

The DLNR regulates lay net fishing through detailed restrictions on net dimensions, mesh size, soak time, time of day, frequency between sets, location, water depth, and inspection requirements. All lay nets are required to be registered with DLNR and marked with identification tags and surface buoys.

Despite these detailed administrative rules, which are intended to ensure responsible use of lay nets, irresponsible use of lay nets continues with adverse impacts to fishery resources and protected species. **This measure would enhance DLNR's ability to enforce lay net rules by allowing DLNR to revoke, suspend, or withhold a permit for non-compliance.**

DLNR indicates that the current lay net registration system is problematic for two reasons. First, nets are only required to be registered once, and there is no annual renewal requirement. As a result, the Department has no way to track how many registered nets are still in use. A legislatively authorized permit system would allow the Department to issue annual lay net permits to individuals, and to track which individuals use lay nets on a yearly basis. Second, unlike a registration, a permit is revocable. The Department has no way of prohibiting a person from registering new lay nets if they have been convicted of lay net violations. Under a permit system, lay net users have a greater incentive to comply with the law because they could lose their permit if convicted of a violation.

If lay nets are not to be banned outright, this bill allowing DLNR to revoke, suspend, or withhold a permit for non-compliance would at least help the Department to crack down on the illegal use of lay nets, including unattended and abandoned lay nets, which are a large portion of marine debris in Hawaiian waters and on Hawaii's beaches.

Please pass this bill to enhance DLNR's protection of marine resources! Mahalo!

Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

HB-1018-HD-2

Submitted on: 4/5/2021 3:55:46 AM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Dean	Testifying for Clean The Pacific	Support	No

Comments:

Clean The Pacific supports this legislation. Although the overwhelming majority of nets that I remove the the coastline are from large scale commercial fishing operations, I feel that the oceans are under such tremendous stress, that we have to do everything we can to take care of what's left. I'm sorry that we're having to resort to this kind of legislation and I understand that it's a burden on families who rely on this type of fishing as a source of protein, but our exploding human population has brought us to this point. We need to be proactive if we're going to save our oceans, because there is no reactive with extinction.



April 5, 2021

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

April 6, 2021, 9:55 a.m.

VIA VIDEOCONFERENCE

Conference Room 211

State Capitol

415 South Beretania Street

Re: TESTIMONY IN SUPPORT OF HOUSE BILL 1018 - RELATING TO LAY NETS.

Aloha Chair Dela Cruz, Chair Rhoads and Members of the Committees,

Please accept these comments submitted by the Center for Biological Diversity (Center) in **strong support of House Bill 1018, House Draft 2**, which would authorize the Department of Land and Natural Resources (DLNR) to adopt rules to establish a lay net permit for the use or possession of lay nets, including reasonable permit fees and provisions for revocation, suspension, and withholding of permits for non-compliance with lay net rules.

The Center is a non-profit 501(c)(3) membership corporation dedicated to the protection of native, threatened, and endangered species and the habitats they depend on to survive. Through science, policy, and environmental law, the Center is actively involved in marine species and habitat protection issues throughout Hawai'i. The Center has more than 88,000 members throughout the United States, including Hawai'i, with a direct interest in conserving our fragile marine ecosystems and the species that depend on them for survival.

The irresponsible use of lay nets left unattended in our waters is having adverse impacts on both protected species and our fisheries. As noted by DLNR, lay net violations are the primary

fishery-related infractions that DLNR investigates, necessitating other tools and measures, such as a permit system to better regulate this gear type.

Additionally, there is great concern among the science and legal community, as well as the federal regulatory agencies, regarding the significant threat to Hawai'i's protected species posed by unattended lay gill nets, especially federally threatened and endangered sea turtles and monk seals. In the Main Hawaiian Islands, more than 100 turtles have died in lay gill nets since 1990. During that same period, lay gill nets were indicated as a probable or contributing cause of death in dozens more turtle stranding cases. Since 1976, six Hawaiian monk seals have been found dead in lay gill nets, and entanglement in lay gill net was the suspected cause of death in an additional nine monk seal cases during that same period. The actual number of seal and turtle deaths caused by lay gill nets is likely higher than indicated by this limited data because many deaths are unreported or cannot be attributed to a specific cause. Furthermore, many more seals and turtles would have likely died entangled in unattended lay gill nets were it not for the rescue efforts of state and federal agencies and partners.

The fact that lay net violations, and their associated impacts on aquatic resources and protected species, continue with such frequency demonstrates clearly that stronger state laws are necessary.

Mahalo for this opportunity to provide testimony in **strong support of House Bill 1018, House Draft 2.**

/s/ Maxx Phillips

Maxx Phillips, Esq.

Hawai'i Director and Staff Attorney

Center for Biological Diversity

1188 Bishop Street, Suite 2412

Honolulu, Hawai'i 96813

(808) 284-0007

MPhillips@biologicaldiversity.org



April 6, 2021

JDC/WAM Committees

TO: Honorable Chairs Rhoads and Dela Cruz and Members of the Senate Judiciary and Ways & Means Committees

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

RE: SUPPORT FOR HB1018 HD 2 Relating to Lay nets

For the Fishes respectfully urges your support for HB1018. Lay or gill nets cause tremendous death and injury to non-target marine wildlife if not monitored closely. Critically endangered monk seals, turtles, sharks and other protected marine animals are often the victims of these indiscriminate nets. The animals captured may suffer for hours or days before succumbing to death via starvation, drowning or other injury. Two monk seals were recently found dead on Kauai, captured in unattended, abandoned gill nets.

While we would support a complete prohibition on their use, since they are so indiscriminate, we understand that the Department feels they can regulate such gear via a limited permitting process, which would also lead to strict identification of nets and hold non-permittees accountable for any prohibited use.

Thank you for the opportunity to testify in support of this measure.

HB-1018-HD-2

Submitted on: 4/3/2021 4:03:23 AM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gregg Gruwell	Individual	Support	No

Comments:

I strongly support this bill. Despite regulation, these nets are frequently misused resulting in death and injury of wildlife and protected species.

Please vote yes!

Mahalo - Gregg Gruwell, Kamuela

HB-1018-HD-2

Submitted on: 4/4/2021 6:09:21 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

SUPPORT

HB-1018-HD-2

Submitted on: 4/4/2021 8:14:18 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Diane Ware	Individual	Support	No

Comments:

Dear Chair And Committee Members,

I agree with DLNR reasons to support and encourage you to forward this bill to protect ocean wildlife.

Mahalo,

Diane Ware, Volcano

HB-1018-HD-2

Submitted on: 4/4/2021 9:15:15 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Yagodich	Individual	Support	No

Comments:

Aloha,

We strongly SUPPORT HB1018 HD2 which would authorize DLNR to adopt rules to establish a lay net permit for the use or possession of lay nets, including reasonable permit fees and provisions for revocation, suspension, and withholding of permits for noncompliance with lay net rules. This bill would help provide DOCARE with the tools they need to better manage our fisheries.

Mahalo

LATE

HB-1018-HD-2

Submitted on: 4/6/2021 9:42:51 AM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Megan Lamson	Testifying for Hawai'i Wildlife Fund	Support	No

Comments:

Aloha kākou,

E kalamai for the late testimony but this bill is very IMPORTANT for protecting native wildlife! Non-registered and non-compliant lay (gill) nets are responsible for many of the tragic losses in life for protected species like the Hawaiian monk seal, and Hawaiian honu (green) and honu'ea or 'ea (hawksbill) sea turtles. NOAA stranding records show over 100 sea turtles and 6 monk seal deaths due to lay nets that are totally preventable interactions with pono fishing practices and regulations, which would be allowable with the passing of this bill.

Hawai'i Wildlife Fund (HWF) is in full support of HB HB1018 HD2 and we hope this passes in today's JDC/WAM committee hearing. A similar measure was passed specific to West Hawai'i many years back and has been a GREAT success, showing that such regulations and permits work to mitigate potential threats.. Please use your vote and your voice to PASS this bill that would help DLNR better manage Hawai'i's aquatic resources!

HWF is a local conservation organization that is dedicated to the protection of native wildlife in Hawai'i nei through research, restoration, education, and advocacy efforts since 1996. Thank you for your time and consideration with this important matter.

Me ka mahalo,

Megan Lamson, M.S.

Hawai'i Wildlife Fund (wildhawaii.org)

Board President & Hawai'i (Island) Program Director

Kealahou, Hawai'i