

applicable under this authority. Note: If, under a separately existing basis an agent or officer has probable cause, as provided by law, to believe that a bag, container, vehicle, or conveyance contains evidence of a violation of Subtitle 5 of Title 12, HRS, or any rule adopted thereunder, examinations and searches may proceed under Section 187A-15, HRS, or any other applicable authority.

- The scope of this administrative inspection authority would be narrowed only to hunting and fishing activities, where fishing includes the take of any aquatic resource currently regulated by law. The original language provided for broad application of natural resources take.
- The administrative inspection authority would be limited to its actual use by DOCARE officers. The original language included use by other police officers in Hawaii.
- Refusal to exhibit items subject to administrative inspection would only result in a civil penalty. The original language provided a criminal penalty.

The Fourth Amendment of the United States (and Hawaii) constitution protects “[t]he right of the people to be secure in their persons, houses, papers and effects, against *unreasonable* searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” The key take away is that it protects against *unreasonable* searches. The United States Supreme Court has said that a warrantless search is reasonable when:

(1) the state has “special needs,” beyond its ordinary interest in the enforcement of criminal statutes, to conduct inspections¹.

- Hawaii has such “special needs” beyond its ordinary interest in the enforcement of criminal statutes, to conduct inspections. More than just enforcing criminal law, Hawaii has a distinct environmental, cultural, sustainable, and economic reason to protect its natural resources via inspections. Article XI, section 1 of our own constitution reads “[f]or the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.” The proposed search scheme grants officers the ability to effectively enforce our laws that protect our natural resources.

(2) the regulations in the particular area could not be effectively enforced if public officials could conduct inspections only when the officials have a reasonable suspicion that a violation has occurred².

¹ See, e.g., *Vernonia*, 515 U.S. at pp.652-653; *Griffin v. Wisconsin*(1987) 483 U.S. 868, 873; *New Jersey v. T.L.O.*(1985) 469 U.S. 325, 351 (conc. opn. of Blackmun, J.).

² See, e.g., *Donovan*, 452 U.S. at pp.602-603; *Burger*, 482 U.S. at p.710.

- When it comes to managing resources, marine resources in particular, some of the most effective regulations to ensure fair and sustainable harvest are those that limit the size and number of fish one may take (size and bag limits). If held solely to the current probable cause standard for criminal enforcement, DOCARE officers would be required to know the existence of facts and circumstances that warrant a reasonable and prudent person to believe a crime is being or has been committed – for example,, that the resources possessed in a container by a fisher were either too small or too many in number, before he/she may inspect them. It is impractical. To effectively ensure compliance with our natural resource regulations, DOCARE officers must be able to inspect without the need for probable cause or a reasonable suspicion that a violation occurred.

(3) the persons or businesses subjected to the inspection are engaged in a particular category of activity that reduces the reasonable expectation of privacy of those engaged in such activities in relation to the searches or seizures at issue, and the discretion of inspecting officials is reasonably constrained by the authorizing statute or regulation³.

- In light of the number and nature of the regulations that apply to fishing and hunting and the type of enforcement procedures that are necessary to enforce such regulations, anglers and hunters who have voluntarily chosen to participate in such highly regulated activities, have a reduced reasonable expectation of privacy under the Fourth Amendment, when engaged in such activity⁴.
- Additionally, the proposed legislation limits the scope of any search to enumerated items.
- The administrative search is required to take place within a reasonable distance from the area where the hunting/fishing occurred.
- And only those individuals who a DOCARE officer reasonably believes are or recently were involved in hunting or fishing (e.g., because they have the equipment or are actually engaged in the activity) are subject to inspection.

The proposed inspection will constitute a brief detention, similar to a traffic stop, of a known resource user and because the intrusion upon privacy occasioned by such a brief stop is much less significant than the intrusion resulting from an arrest or other extended detention of an individual, the ordinary probable cause and warrant requirements of the Fourth Amendment applicable to arrests or similar full-scale seizures of a person do not apply to such brief stops or detentions⁵.

Due process is addressed through the citation and appeal process. Upon receiving a notice of civil violation, an individual will have three options. They may admit and pay, admit and request mitigation of the fine, or deny and request an administrative contested case hearing. Contested case hearings are conducted by a hearings officer, and if desired, results may be appealed to the Circuit Court.

³ See, e.g., *Vernonia*, at p.657; *Skinner*, supra, 489 U.S. at p.627; *Biswell*, 406 U.S. at p.316.

⁴ *People v. Maikhiu*, 51 Cal. 4th 1074, 253 P.3d 247 (2011).

⁵ See *United States v. Brignoni-Ponce*(1975) 422 U.S. 881-884.

The Department recognizes the importance of ensuring that the administrative inspection authority this bill provides is used in a manner that is legally compliant and proper, and respectful of individual privacy and Native Hawaiian gathering rights. The Department will not tolerate misuse or abuse of the administrative inspection authority that would be provided by this bill. In recognizing the need to ensure high public confidence, the Department of the Attorney General has extended, and the Department has accepted, an offer to train DOCARE Officers on the proper application of the provisions of this bill should it become law.

Thank you for the opportunity to comment on this measure.



HB1022 HD1 SD1
RELATING TO THE TAKING OF NATURAL RESOURCES
Ke Kōmike ‘Aha Kenekoa o ke Ki‘ina Hana a me nā Kumuwaiwai
Senate Committee on Ways and Means
Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo
Senate Committee on Judiciary

‘Apelila 6, 2021

10:00 a.m.

Lumi 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB1022 HD1 SD1, which seeks to facilitate the enforcement of laws regulating the taking of natural and cultural resources.

OHA appreciates the intent of this measure, to reduce barriers that may inhibit conservation and resources enforcement officers from ensuring compliance with laws protecting our natural and cultural resources and sites. OHA also notes that other jurisdictions have implemented various warrantless inspection and search mechanisms for resource enforcement purposes, in recognition of their significant interest in protecting their respective natural resources. **OHA itself has previously supported similar, non-criminal administrative inspection proposals, based on the concerns raised by rural Native Hawaiian communities regarding the state’s lack of capacity to address illegal fishing activities, and thereby protect their ability to perpetuate their traditional and customary and subsistence gathering practices.**

OHA does note that this measure would allow for warrantless searches of any individual suspected of having engaged in hunting or the taking of aquatic resources, including resources gathered in the exercise of Native Hawaiian traditional and customary practices. Such authority may have an inadvertent but substantial chilling effect on Native Hawaiian cultural practitioners who may feel intimidated by the potential for an unexpected intrusion of privacy by law enforcement, any time they seek to gather resources or visit cultural sites in the course of conducting their constitutionally protected practices. The breadth of the proposed inspection authority may also raise constitutional challenges that would otherwise undermine the intent and effect of this measure.

Accordingly, while OHA appreciates that the original scope of this measure has been narrowed to provide for the inspection of individuals who are a “reasonable

distance" from the area they are suspected of taking natural resources from, OHA does recommend that the Committee consider limiting the inspection authority granted under this measure to areas with place-based management structures in place, such as community-based subsistence fishery management areas or marine life conservation districts, where a heightened regulatory scheme may warrant diminished expectations of privacy.

To further minimize the chilling potential of this measure and mitigate any potential constitutional issues, OHA also respectfully recommends amending HB1022 HD1 SD1 to 1) expressly recognize the rights of Native Hawaiian traditional and customary practitioners in statute; and 2) limit the liability for violations arising out of evidence gathered from warrantless inspections to civil liability, rather than criminal liability, by:

Amending the language on page 8, lines 3-4, to read as follows:

"(c) Any person not engaged in an activity protected by Article XII Section 7 of the state constitution, section 1-1, section 7-1, or any other law, rule, or court opinion which protects the proper and lawful exercise of traditional and customary Native Hawaiian rights for subsistence, religious, and cultural purposes, who violates subsection (b), in addition to any other penalties, shall be subject to administrative fines as follows:"

And adding the following subsection after page 8, line 10, to read as follows:

"(d) Any item, article, natural resource, or other evidence, when obtained through an administrative inspection pursuant to subsection (a) that occurs without probable cause of a violation of law, may be used to pursue any and all authorized civil and administrative penalties authorized by law."

Mahalo nui for the opportunity to testify on this measure.



Testimony Before The
Senate Committee on Ways and Means
Senate Committee on the Judiciary
IN SUPPORT OF HB 1022 HD1 SD1
April 6, 2021, 10:00AM, Room 211

Aloha Chairs, Vice Chairs and Members of the Committees on Ways and Means and the Judiciary,

I am Kevin Chang Executive Director of Kua'āina Ulu 'Auamo (or KUA). KUA works to empower grassroots rural and Native Hawaiian mālama 'āina groups -fishers, farmers, families- to celebrate their places and pass on their traditions to better Hawai'i and achieve 'āina momona— an abundant, productive ecological system that supports community well-being.

KUA employs a community-driven approach that currently supports a network of more than 36 mālama 'āina community groups collectively referred to as E Alu Pū (moving forward together), 40 fishpond projects and practitioners called the Hui Mālama Loko I'a, and a growing hui of Limu practitioners all from across our state.

KUA and the E Alu Pū network were founded by rural Native Hawaiian fishing community efforts concerned with a balanced use of their fisheries based on traditional subsistence resource management, values, and ethics more sensitive to the needs of their wahi (their places). Quite often fishery issues communities work to advance require that an often under resourced and remotely located DOCARE at least have the enforcement capacity this law will help to support.

KUA generally supports HB 1022 HD1 SD1. This bill addresses a lingering issue of concern in the fishing community for some time. It clarifies that police and natural resource enforcement officers have the inspection powers needed to ensure compliance with laws that restrict the improper taking of natural resources. Other states have utilized the same inspection authority to manage and protect natural resources and deterred violations and abuses of the law to great effect. This would also further solidify the ability of our relatively new environmental courts to better ensure justice and adjudicate violations which under current circumstances go unenforced.

Without this power the law as it is leaves Hawaii's precious and valuable natural resources subject to merely voluntary compliance.

Please pass this bill out of your committee and mahalo for this opportunity to testify.

Aloha 'Āina Momona.

**Testimony of The Nature Conservancy
In Support of HB 1022 HD1 SD1 Relating to the Taking of Natural Resources.
Committee on Ways and Means & Committee on Judiciary
Tuesday, April 6, 2021, 10:00 AM
Conference Room 211 Via Teleconference**

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

The Nature Conservancy supports HB 1022 HD1 SD1, establishing inspection and enforcement powers for the State Department of Land & Natural Resources (DLNR), Division of Conservation and Resources Enforcement (DOCARE).

Hawai'i's environment is the engine that drives our economy and a natural, recreational, and cultural treasure that supports our island lifestyle and livelihoods. At the same time, our native forests and nearshore reefs and fisheries are threatened by local stresses from overharvest, sedimentation, and invasive species, as well as impacts from global climate change, including increasing storms, sea levels, and temperatures.

DLNR is charged with protecting our natural environment, with DOCARE enforcing our natural resource protection laws. However, DOCARE officers currently cannot conduct an inspection of anyone taking natural resources unless they have probable cause of a violation or consent. This is an unreasonably high bar when our limited number of officers are working to protect our natural resources from mauka to makai. Other States have and use the same inspection authority included in HB 1022 HD1 SD1 to help enforce laws that protect natural resources and deter poaching. For example, in California wildlife officers are authorized to conduct compliance inspections that would likely require warrants or probable cause in other contexts. Some of these include:

- Authorization to inspect boats, buildings other than dwellings, and containers that may contain fish or wildlife (Fish and Game Code, section 1006)
- Authorization to "enter and examine any...place of business where fish or other fishery products are packed, preserved, manufactured, bought or sold, or to board any fishing boat...or vehicle or receptacle containing fish...and may examine any books and records containing any account of fish caught, bought, canned, packed, stored or sold." (Fish and Game Code, section 7702)

Hawai'i's existing law limits DLNR's ability to protect our natural environment from poaching and other resource law violations. Natural resource users have long called for more enforcement of natural resource violations. HB 1022 HD1 SD1 is an important step toward achieving compliance with and enforcement of Hawai'i's natural resource protection laws.

Mahalo for the opportunity to testify in support of HB 1022 HD1 SD1.

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-1022-SD-1

Submitted on: 4/4/2021 12:42:00 PM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Damien Kenison	Individual	Support	No

Comments:

HB 1022

I am testifying in support of HB 1022 because it will give DOCARE the tools it needs to monitor and enforce the rules and regulations already in place. It makes sense that without the authority to inspect a fisherman's catch DOCARE officers do not have the most important tool that enables them to efficiently protect the marine resources that many of us depend upon for sustenance or economic benefit. Our marine resources are an important part of our economy and rules and regulations are established to ensure sustainability for the benefit of subsistence and commercial fishers as well as the many visitors to our islands who enjoy the abundant marine life inhabiting our coral reefs.

There will be those who claim that this bill will infringe upon the rights of native Hawaiian fishermen but traditional Hawaiian management included kapu, or rules and regulations that protected the resources from being overharvested, as the people depended on the l'a for survival. Those who feel that their Hawaiian ethnicity exempts them from following the laws of this State may have forgotten this part of their cultural identity.

DOCARE is a government agency which is bound by laws established for the protection of our fish according to a mandate requiring fair and respectful treatment of all stakeholders. It is unjust to deprive them of such an essential means to visually inspect a marine vessel and its contents for violations. I have seen aquarium collectors poaching in the Ho'okena Fish Replenishment Area as they pretended to fish with a rod and reel from their boat. Aquarium collectors are prohibited from transiting or anchoring in a FRA with their equipment. Giving DOCARE the ability to search their boat would prevent this from occurring.

Finally, regarding the ban on the use of animal chum for netting opelu along the Kona Coast. That rule is not enforced and has led to the degradation of the koa or opelu aggregating areas here in Kona. There will be those who say that the opelu schools are healthy but 50 years ago a fisherman could paddle out to the koa in front of their village and using vegetable palu (chum) net enough opelu to fill their hatch. Today fishermen using chopchop or animal chum fishing in boats need to traverse the coastline looking for opelu and only netting a large cooler on a good day.

This bill will go a long way to protecting our iÉ¹a adequately and appropriately. It will have a significant impact on promoting marine resource sustainability for future generations. Please consider my manaÉ¹o in support of this bill and vote to pass it.

Mahalo,

Damien Kenison

President-KauhakÅ• Ohana Association

PO Box 38, Honaunau, HI, 96726

808- 987-9149



Mālama Pūpūkea-Waimea
Post Office Box 188
Hale'iwa, HI 96712

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www.pupukeawaimea.org
info@pupukeawaimea.org

April 4, 2021

COMMITTEE ON WAYS & MEANS
COMMITTEE ON JUDICIARY
Re: **HB 1022 HD1 SD1 - RELATING TO THE TAKING OF NATURAL RESOURCES.** Hearing: **Tuesday, April 6, 2021, 10:00 AM**

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of WAM, Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of JUD,

Mālama Pūpūkea-Waimea (MPW) is a Hawai'i non-profit organization founded on the North Shore of O'ahu in 2005. Our mission is "working to replenish and sustain the natural and cultural resources of the Pūpūkea and Waimea ahupua'a for present and future generations through active community stewardship, education, and partnerships." For sixteen years, our stewardship and education efforts have focused on the Pūpūkea Marine Life Conservation District (MLCD), one of only three MLCDs on O'ahu.

We strongly support HB1022 HD1 SD1. The standard of "reasonable belief" is a sufficient safeguard to balance the State's duty to protect natural resources and users' individual civil rights. As indicated in DLNR's testimony, the bill has been **carefully narrowed in scope in collaboration with the AG's office** to provide for administrative not criminal penalties, which still achieves the key conservation goal. On this "inspection" issue, Hawai'i is unfortunately **far behind how other states** support natural resources enforcement, yet our islands deserve the highest level of protection.

MPW has partnered with DOCARE for over ten years as a community "Makai Watch" organization that keeps "eyes and ears" on the ocean around the Pūpūkea MLCD. Our organization has observed, documented, monitored, and reported numerous illegal activities in this marine protected area. Despite limited resources, DOCARE has stepped up to the plate to provide officer coverage, intervention, and enforcement. Officers can often "catch violators in the act" but are helpless to inspect, which is a logical enforcement step to obtain key evidence. It makes no sense. **The cooler inspection authority provides a critical missing tool in the DOCARE enforcement toolkit.**

Please support the bill. Mahalo nui and best regards,

Denise Antolini
President, MPW

HB-1022-SD-1

Submitted on: 4/4/2021 5:46:22 PM

Testimony for WAM on 4/6/2021 10:00:00 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 Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and Members of the Senate Committee on Ways and Means, and

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

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

Hearing: Tuesday, April 6, 2021, 10:00 a.m., Rm. 211 and by videoconference

RE: HB1022 HD1 SD1 RELATING TO THE TAKING OF NATURAL RESOURCES

Aloha Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Members of the Ways and Means and Judiciary 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 HB1022 HD1 SD1!**

Our reefs and oceans are under great stress and need funding for protection! Coral bleaching, polluted runoff, unsustainable fishing, and invasive species are all degrading our reefs and oceans that are critical for protecting our aquatic life and shorelines and maintaining our tourism and recreational economy.

This bill would authorize DLNR's Division of Conservation and Resources Enforcement (DOCARE) to better enforce laws relating to natural resources by authorizing temporary detention and inspection upon reasonable belief of violation relating to hunting or fishing. It would also provide for penalties for refusal to comply with inspection requests. This authority would be limited to administrative/civil enforcement, not criminal.

HIROC believes this bill would help prevent unsustainable fishing and maintain our reef and ocean health. Please pass this bill with an effective date upon approval!

Mahalo!

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

HB-1022-SD-1

Submitted on: 4/5/2021 4:05:28 AM

Testimony for WAM on 4/6/2021 10:00:00 AM

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

Comments:

I support this bill. It's not enough to have a law, they must be enforced. In my encounters with rangers and State and Federal enforcement officers, they have been very respectful and I applaud their efforts to protect and maintain a healthy and beautiful ecosystem. Not only am I not offended by their inspection of my belongings, I'm happy they're looking.



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, 10:00 a.m.

VIA VIDEOCONFERENCE

Conference Room 211

State Capitol

415 South Beretania Street

Re: TESTIMONY IN STRONG SUPPORT OF HOUSE BILL 1022 HD1 SD1 - RELATING TO THE TAKING OF NATURAL RESOURCES.

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 1022, House Draft 1, Senate Draft 1**, which would clarify that any conservation and resources enforcement officer of the Department of Land and Natural Resources (DLNR) may, in the performance of their official duties, stop and temporarily detain any person whom the officer reasonably believes is, or recently has been engaged in hunting or fishing for a natural resource inspection and establishes penalties.

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 endangered, threatened, and native 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 ensuring the conservation of fragile ecosystems and species that depend on them for survival.

This bill would enable DLNR's Division of Conservation and Resources Enforcement (DOCARE) officers to conduct inspections to ensure compliance with laws and rules, and allow for the speedy return of resources found to be in violation to their natural habitat so that they can be conserved.

This bill is needed to protect Hawai'i's limited natural resources. Currently DOCARE officers cannot inspect coolers improperly leaving Hawai'i's precious and valuable natural resources subject to mere voluntary compliance.

Mahalo for this opportunity to provide testimony in **strong support of House Bill 1022, House Draft 1, Senate Draft 1.**

/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

LATE

HB-1022-SD-1

Submitted on: 4/5/2021 9:37:13 PM
Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Doora Shin	Testifying for Surfrider Foundation	Support	No

Comments:

Aloha,

Surfrider Foundation stands in support of HB1022. Giving DLNR this enforcement power is an important way to protect our ecosystems, reefs, and oceans from being overexploited and irresponsibly fished.

Mahalo,
Doora Shin
O'ahu Chapter Coordinator
Surfrider Foundation

HB-1022-SD-1

Submitted on: 4/1/2021 5:06:05 PM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Comments	No

Comments:

Comments

How will the DLNR officer determine whether the person is practicing their traditional and customary rights prior to stopping or questioning them? A person, so engaged should not have to submit to an interrogation. The DLNR officer should immediately stop any further interrogation if the person states they are practicing . A person should not have to prove their livelihood or family sustenance practices.

HB-1022-SD-1

Submitted on: 4/3/2021 6:32:51 PM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Crystal Dombrow	Individual	Support	No

Comments:

This bill is needed for enforcement of existing fishing regulations.

HB-1022-SD-1

Submitted on: 4/3/2021 7:45:57 PM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
C. Pang	Individual	Oppose	No

Comments:

Aloha Senator Rhoads and members of the Senate Judiciary Committee:

I am strongly opposed to HB1022 and urge you to defer it. I believe HB1022 to be too vague and without standards. Specifically, empowering each DLNR officer to stop and detain people based on his/her own "reasonable belief" of a person having been hunting or fishing is too broad and undefined, thus opening Pandora's box. Not every person transporting dogs in a cage in the bed of a pickup has been pig hunting. Not everyone towing a boat has been fishing. Not every pickup with a fish box in its bed is transporting fish. On a weekend at Heeia Kea, should all boaters be liable to be stopped and detained even though many have just been picnicking on the Sand Bar, not fishing?

There should be objective standards for every officer to follow, not leaving each officer out on a limb to determine according to his/her own reasonable belief, beliefs which are likely different from officer to officer. Without standards, how is an officer justified in stopping and detaining a pickup simply because there are dogs or a fish box in its bed, or because it's towing a boat? Without objective standards, what is reasonable to one might be unreasonable to others, hence the possibility of violation of the U.S. Constitution's Fourth Amendment.

I urge you to defer HB1022.

Mahalo,
Courtland Pang

HB-1022-SD-1

Submitted on: 4/5/2021 9:06:40 AM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John N. Kittinger	Individual	Support	No

Comments:

Testimony to the Hawaii State Senate Committees on Ways and Means and the Judiciary

April 6, 2021

Hawaii State Capitol – Via Teleconference

RE: HB 1022, HD1, Relating to the Taking of Natural Resources

Aloha Chair Dela Cruz, Chair Rhoads, Vice-Chair Keohokalole, Vice-Chair Keith-Agaran, and members of the Committees,

Thank you for the opportunity to submit testimony in support of House Bill 1022, HD1, SD1.

I am writing with supportive testimony for this bill. This bill establishes important inspection and enforcement powers for the state Department of Land & Natural Resources (DLNR).

Our state depends on healthy marine and terrestrial ecosystems; they're what feed us, protect our shorelines, support our cultural practices, and maintain our billion-dollar visitor and recreation industry. Under current laws and procedure, officers of the Department's Division of Conservation and Resources Enforcement (DOCARE) may not perform an inspection of a person engaged in taking natural resources unless they have probable cause of a violation or consent. This is an unreasonably high bar when our limited number of officers are working to protect the resources that belong to all of us and to future generations. Other states already have and use the type of inspection authority that HB 1022 would provide to DOCARE officers to help enforce laws to protect our natural resources and deter poaching.

Existing law leaves Hawaii's valuable natural resources subject to merely voluntary compliance. The state's fishers, hunters, hikers, divers, and other natural resource users have long called for more enforcement of natural resources regulations. The inspection and enforcement authority reflected in this bill are important steps toward achieving compliance with Hawaii law.

Thank you for the opportunity to testify on HB 1022 HD 1, SD1.

Sincerely,

John N. (Jack) Kittinger, PhD

HB-1022-SD-1

Submitted on: 4/5/2021 11:47:52 AM

Testimony for WAM on 4/6/2021 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Perrine	Individual	Support	No

Comments:

This measure is necessary to enforce laws protecting our natural resources against over-harvesting.

LATE

HB-1022-SD-1

Submitted on: 4/5/2021 3:32:48 PM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rebecca Pang	Individual	Support	No

Comments:

I support this bill.

HB-1022-SD-1

Submitted on: 4/5/2021 7:11:36 PM

Testimony for WAM on 4/6/2021 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Kate Dolbier	Individual	Support	No

Comments:

I Kate Dolbier, a student at Hawaii Pacific University, support bill HB1022 HD1 SD1.

HB-1022-SD-1

Submitted on: 4/5/2021 10:09:16 PM

Testimony for WAM on 4/6/2021 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Mehana Vaughan	Individual	Support	No

Comments:

Aloha mai kākou,

Mahalo for hearing HB 1022, allowing DOCARE officers, in the performance of their official duties, stop and temporarily detain any person whom the officer reasonably believes is, or recently has been engaged in hunting or fishing for a natural resource. It establishes penalties for refusal to comply with inspection requests. This bill has been years in the making, in efforts to strengthen conservation enforcement, particularly for coastal resources. Resources such as octopus, lobster, opihi and many species of fish which have catch limits will be protected by this bill which makes it possible for officers to inspect catch to see if fishermen and women are overharvesting. Without enforcement, our state's natural resources are vulnerable to overharvest and poaching, such as taking too many of a given species, harvesting out of season, or not observing size limits. These rules and laws have been created to help populations reproduce and when they are abused, populations of key species are at risk. This law is key to strengthening enforcement, as without the ability to inspect harvests, it is hard for officers to identify violators, penalize or even educate to prevent future violations. The successful effort to introduce civil penalties, instead of just criminal ones, to natural resource violations was important to enhancing enforcement efforts. This bill provides another key step forward in protecting Hawai'i's resources for future generations.

Mahalo me ke aloha for supporting this bill.

Mehana Blaich Vaughan

Kālauea, Kaua'i

Associate Professor of Natural Resource Management (watershed and coastal resources)

UH Mānoa (testifying as a private individual)

LATE

HB-1022-SD-1

Submitted on: 4/6/2021 6:38:12 PM
Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maui OFR	Individual	Support	No

Comments:

May fish spp. are struggling to keep up with fisheries - this is true in Hawaii and all over the world. the Maui DLNR don't have many resources, and it would be great to help them any way we can to keep our fisheries and reefs as healthy as possible.