

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Wednesday, February 17, 2021
10:00 AM
State Capitol, Via Videoconference**

**In consideration of
SENATE BILL 178, SENATE DRAFT 1
RELATING TO DRIVING ON BEACHES**

Senate Bill 178, Senate Draft 1 proposes to establish a two-year beach protection pilot program under which no vehicle would be authorized to drive on the beach in Polihale State Park without a permit, requires all revenue derived from beach driving permits to be expended for maintenance and improvements within Polihale State Park, and require a report to the Legislature. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following comments.**

The Department appreciates the recognition of management deficiencies at Polihale State Park, which contains sensitive cultural and natural resources, as well as acknowledgement of the modern history of illicit and damaging activities by park visitors. The Department took the unprecedented step of closing this park to the general public for several months in 2020 after inappropriate uses involving vehicle access on the beach had reached a crescendo, triggering the need for prompt action for public health and safety due to COVID-19 related protocols.

The beach driving issue is largely one of management capacity rather than policy. State Parks administrative rules (Chapter 13-146-40 Hawaii Administrative Rules) already prohibits driving anywhere other than on park designated roadways, and we have already established a permit system for vehicle access within Ka'ena Point State Park, O'ahu, where similar resource degradation was occurring unabated. However, the Ka'ena Point State Park actions were preceded by extensive community outreach and consultation prior to implementation, and there is a full-time, dedicated position to assist with education and management of the system, as well as other Departmental staff resources to deploy there that are integral to management. There is a significant administrative element with costs associated with staff receiving the online permit

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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AQUATIC RESOURCES
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BUREAU OF CONVEYANCES
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

application and then mailing permits and the associated stickers that identify vehicles with valid permits.

We feel that this bill ultimately conflicts the Department's strong belief that in order to protect the fragile and irreplaceable natural and cultural resources, driving on the beach should be discouraged and restricted to the greatest extent possible. We feel this would best be achieved through education and outreach rather than creating a fee/permit system where we would be dependent on issuing a large number of beach driving permits to derive meaningful revenue.

The Department's Division of Conservation and Resource Enforcement (DOCARE) does not currently possess the resources to enforce a no driving moratorium or a permit system as provided in the measure. Simply put, DOCARE does not have sufficient manpower to address the large numbers of potential violators. There are only 13 officers for the entire Island of Kaua'i that must address the full range of DOCARE enforcement duties, and all of these officers are not working at the same time. Addressing all violators on an extensive multi-mile stretch of beach with current resources is a nearly impossible task. Piecemeal enforcement may create a perception of disparate treatment and create fairness issues, where some people may receive enforcement action, and others may not.

The most viable option is a change in the community as a whole to adopt a voluntary compliance mindset. Without community understanding of the importance of not driving on the beach, and a break from what is thought to be an allowable and customary practice for so long, law enforcement action would likely be challenged and not successful.

The Department is acutely aware of the issues plaguing Polihale State Park, and therefore has budgeted existing CIP funds to initiate a management plan effort for Polihale State Park, and we included CIP requests for park improvements in the current budget request as well as our 6-year CIP plan, with an aim toward creating a set of vehicle and transportation improvements to greatly enhance dune and beach protection measures. It is our hope that these requests will be supported, and that staff capacity can also be increased commensurate with economic recovery moving forward.

Achieving equitable and responsible vehicle access at Polihale State Park requires a combination of these additional resources and enhanced management capacity, public outreach and education to modify current perception and expectations and the ability to enforce whatever model and capacity is finally determined to be the best balance between recreation and stewardship of sensitive cultural and natural resources.

Thank you for the opportunity to comment on this measure.

SB-178-SD-1

Submitted on: 2/12/2021 3:00:32 AM

Testimony for JDC on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
kalei Kinikani	Individual	Oppose	No

Comments:

I oppose this bill because it is focused on west Kauai only. If a pilot must be tested, you put the whole island in the same situation. We the Mana/Kona Ahupua'a would like to know who the other person is, the one who asked R. Kouchi to introduce this bill. Time to look at us kanaka's. Mahalo ia iesu. Amene.

SB-178-SD-1

Submitted on: 2/12/2021 9:42:39 AM

Testimony for JDC on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Justin Guerber	Individual	Oppose	No

Comments:

Hello, my name is Justin Guerber and having grown up on Kauai, I feel strongly opposed to this measure that will restrict access to Polihale beach. While I appreciate the intent to help fund maintenance efforts with the park, I believe this measure is ultimately unfair and will hurt communities on Kauai.

Enforcing permit-only access to one of the most beautiful and regularly accessed places on our island will, in effect, restrict its use to the people with wealth and means to pay the fee and plan their trips well in advance. For those with lower income and wealth, the fee could be a barrier to entry. As we've seen with every other permitted spaces on Kauai, permits are usually reserved early and often by tourists and people with the ability to plan their trips well in advance. This leaves those with rotating schedules (usually low-income earners) with no legal option for obtaining permits without buying them without knowing whether they will be able to use them - in effect tacting as a regressive tax on lower income families.

With access restricted to Polihale, the west side businesses will also see a decline in customers. A lot of small businesses rely on people passing though on their way up to Kokee and Polihale. We should be finding ways to drive more customers to these businesses, not less, especially considering it's hard enough these days.

On a more personal note, driving out to Polihale beach has been a long-time tradition for families and getting together with friends. Pitching a pop-up on the beach and spending the day on the sand is something that almost every person from Kauai can remember fondly. By restricting access in this way, you will be taking this tradition away from the future children of Kauai.

Thank you for considering my testimony for SB178 SD1, and please consider alternative methods for fuding Polihale park maintenance.

SB-178-SD-1

Submitted on: 2/12/2021 8:24:38 PM

Testimony for JDC on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Wright	Individual	Oppose	No

Comments:

Hello. My name is Kim Wright and I oppose this bill because I do not think it's fair to only allow people with permits to drive on the beach at Polihale. Since the state has changed how residents are able to get permits they are near impossible to get. This limits Polihale to only those who are able to get permits because it's very difficult to enjoy the beach and the ocean without being able to drive on the sand. It's a long way to the water from the parking lot and on that side of the island is very hot. Please do not pass this bill, it will take away the ability to visit one of my favorite places on the island.



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Testimony Presented Before the
SENATE COMMITTEE ON JUDICIARY
Wednesday, February 17, 2021
10:00 AM
State Capitol (via videoconference)

By Andrew Wycklendt, President
Hawaii Shore and Beach Preservation Association

In consideration of
SENATE BILL 178 SD1 RELATING TO DRIVING ON BEACHES

Senate Bill 178 proposes to establish a two-year beach protection pilot program under which no vehicles are authorized to drive on the beach in Polihale State Park without a permit.

The Hawaii Shore and Beach Preservation Association (HSBPA)* supports Senate Bill 178 and provides the following recommendations:

1. Designate, map, and educate permit holders on acceptable beach driving routes and practices in collaboration with community stakeholders and appropriate regulatory offices.
2. Assess the legality of the measure, since current statute prohibits operating a motorized vehicle in the coastal zone.

It is our understanding that driving on beaches in State Parks is already prohibited, pursuant to HAR §13-221-26. Unfortunately, this is often not enforced due to lack of resources, funding, and personnel. Driving on the beach at Polihale has grown in popularity and gotten out of control, causing harm to natural resources and, at times, a safety hazard to the beach goer.

Sand dunes are an important part of a beach system. They keep the beach healthy with a steady supply of sand and provide important habitat for native flora and fauna. Some vehicles at Polihale beach have been observed driving through and over the dunes in a recreational manner, rather than simply accessing the shoreline. This inappropriate recreational use results in deflated and degraded dunes with reduced ecosystem function. We feel that educating permit holders on acceptable beach driving practices will reduce degradation caused by recreational use and will promote appropriate shoreline access.

In addition, the dunes in Polihale contain iwi kupuna - they were literally burial grounds for Indigenous Hawaiians from that area. Driving over these unmarked burial grounds may cause the exposure of iwi kupuna that would otherwise be left alone. We feel that designating and mapping acceptable driving routes will help mitigate this risk.

Lastly, there is much we don't know about the macroinvertebrate (e.g. crabs, worms, insects, etc.) assemblages living in the dry sandy beaches of Hawaii, as well as their function. We do know from studies

elsewhere that driving on beaches can compact sand and affect macroinvertebrates. Based on this, we believe in all abundance of caution that the existing prohibition on driving on the beach should be enforced, and that the pilot program for a permit system contained in this bill is a step in the right direction.

*The Hawaii Shore and Beach Preservation Association (HSBPA, <https://asbpa.org/hawaii/>), formed in 2014 is an organization of private sector, academic, and government professionals, students and local community members dedicated to the preservation and restoration of Hawaii's beaches and coastal environments. The HSBPA aims to bring together various members of the coastal community to foster dialogue and cooperation on beach and coastal resource conservation, management, and regulation; supporting professional development of chapter members; and providing education to students and community members on Hawaii's beaches and coastal environments.

Thank you for considering our testimony on the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Wycklendt". The signature is fluid and cursive, with a prominent flourish at the end.

Andrew Wycklendt
President, Hawaii Shore and Beach Preservation Association