

JAN 26 2022

A BILL FOR AN ACT

RELATING TO THE PUPUKEA MARINE LIFE CONSERVATION DISTRICT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that prior to the
2 coronavirus disease 2019 (COVID-19) pandemic, tourism levels in
3 Hawaii had increased to more than ten million visitors per year,
4 causing an unprecedented number of visitors to the Pupukea
5 marine life conservation district on Oahu's North Shore. Recent
6 projections indicate that post-pandemic visitor levels are
7 likely to return to, or even exceed, these pre-pandemic levels.

8 The legislature also finds that Hawaii tourism authority
9 surveys indicate that half of all visitors to Oahu visit the
10 North Shore. Further, the protected beaches and bays of the
11 Pupukea marine life conservation district are very popular
12 recreational areas on the North Shore for snorkeling, swimming,
13 and diving. Two of the most visited locations on the North
14 Shore for snorkeling are Shark's Cove and the adjacent Kapoo
15 Tidepools, a rich nursery for over fifty species of marine life
16 that replenish the entire Pupukea marine life conservation
17 district and adjacent areas. The legislature acknowledges that



1 unabated levels of human use in certain areas of the Pupukea
2 marine life conservation district, including Shark's Cove and
3 the Kapoo Tidepools, are threatening the health and abundance of
4 the marine life in these sensitive areas, as well as limiting
5 the use and enjoyment of the area by residents.

6 During the winter season, portions of the Pupukea marine
7 life conservation district are protected by dangerous high surf
8 conditions. However, the shallow Kapoo Tidepools are surrounded
9 by a rock wall, almost always accessible from the shore, and
10 attract numerous recreational users. During closures of other
11 marine areas due to high surf or restrictions on access to these
12 areas, the three-acre Kapoo Tidepools may attract thousands of
13 visitors each day. At any given time throughout the day,
14 regardless of the day of the week, up to one hundred visitors
15 walk, swim, or snorkel in the Kapoo Tidepools without any rest
16 or kapu period. The legislature notes that during the COVID-19
17 pandemic, high levels of usage of the Kapoo Tidepools and
18 Shark's Cove have continued virtually unabated and these
19 locations continue to be crowded almost every day.

20 The legislature believes that allowing unlimited human
21 access to sensitive marine areas like the Kapoo Tidepools and



1 Shark's Cove is contrary to Native Hawaiian cultural traditions
2 of adaptive management, including kapu, or closures, to ensure
3 abundance in perpetuity.

4 Established in 1983 and expanded in 2003, the Pupukea
5 marine life conservation district is one of only three state-
6 designated marine life conservation districts on the island of
7 Oahu; the other two marine life conservation districts are
8 Hanauma Bay and Waikiki. Like Hanauma Bay, Pupukea is a one
9 hundred-acre marine reserve that is supposed to receive the
10 highest level of protection for its marine and recreational
11 resources.

12 Based on carrying capacity studies conducted by the Hawaii
13 Institute of Marine Biology in 2018-2019 and 2019-2020, a number
14 of measures were adopted to restrict human access to Haunauma
15 Bay to protect marine life. Haunama Bay is now effectively
16 managed by the city and county of Honolulu using a twice weekly
17 closure requirement, a reservation system, differential parking
18 fees for residents and non-residents, a \$25 entry fee for non-
19 residents more than thirteen years of age, mandatory education
20 for visitors, a ban on commercial operations, and closure of the
21 bay after 4:00 pm.



1 According to the city and county of Honolulu, Hanauma Bay
2 nature preserve, "one of the most spectacular natural resources
3 in Hawaii, is reaping the benefits of over a decade of moves to
4 re-establish its pristine marine ecosystem. Recognizing the
5 damage done by years of neglect and abuse by allowing some three
6 million visitors annually, the City and County of Honolulu in
7 1990 laid out a plan to restore Hanauma to a clean, healthy
8 state by reducing the number of visitors, establishing an
9 education program, and instituting supportive restrictions."

10 Unlike Hanauma Bay, there are no plans to restrict access
11 to the Pupukea marine life conservation district and the
12 associated Waimea and Pupukea beach parks or protect these areas
13 from human access. The sensitive Kapoo Tidepools and Shark's
14 Cove areas of the Pupukea marine life conservation district have
15 unlimited public access from multiple locations along the
16 shoreline and adjacent beach parks, every day of the week, all
17 year long. Although there are rules restricting the taking of
18 marine life from the Pupukea marine life conservation district,
19 there are no rules restricting the number of visitors to the
20 area other than nighttime closures of parking spaces and comfort
21 stations in the adjacent beach parks.



1 The results of unlimited human access to the sensitive
2 areas of the Pupukea marine life conservation district appear to
3 include the trampling of marine life, damage to the marine
4 habitat, damage to coral, the spooking of fish, interference
5 with marine life cycles, increased harassment and touching of
6 marine life, increased poaching, turbidity from stirred up
7 sediment, pollution from sunscreen, water degradation from human
8 waste, erosion from foot pathways, disrespect for natural
9 geographic features, and disregard for cultural norms.

10 The legislature recognizes that various nonprofit
11 organizations, in collaboration with the department of land and
12 natural resources, have spent nearly two decades developing a
13 range of educational, scientific, and cultural programs. The
14 legislature also recognizes that a collaborative management plan
15 process by the department of land and natural resources and the
16 neighboring community is now underway. Nevertheless, the
17 legislature notes that a study of carrying capacity of areas in
18 the Pupukea marine life conservation district has never been
19 conducted.

20 The legislature further believes that, as tourism has not
21 yet reached pre-pandemic levels, now is the ideal time to



1 proactively study the vulnerability of certain areas of the
2 Pupukea marine life conservation district to high levels of
3 human use and determine appropriate measures to reduce those
4 impacts for the long-term.

5 Accordingly, the purpose of this Act is to establish a
6 three-year pilot program to assess the carrying capacity of
7 certain areas in the Pupukea marine life conservation district
8 in light of threats to marine life threatened from human use;
9 monitor, document, and assess the effectiveness of mandatory and
10 voluntary kapu, or closures, of high traffic areas in the
11 Pupukea marine life conservation district and other restrictions
12 on access to these areas, including the imposition of fees; and
13 propose long-term management options to reduce the impact of
14 humans on the health and abundance of marine life in the
15 sensitive areas of the Pupukea marine life conservation
16 district.

17 SECTION 2. (a) The department of land and natural
18 resources shall establish and conduct the Pupukea marine life
19 conservation district carrying capacity pilot program to:

- 20 (1) Assess the carrying capacity of certain areas in the
21 Pupukea marine life conservation district;



(2) Monitor, document, and assess the effectiveness of:

(A) Mandatory kapu, or closures, of high traffic areas in the Pupukea marine life conservation district;

(B) Voluntary kapu, or closures, of high traffic areas in the Pupukea marine life conservation district; and

(C) Other restrictions on access to high traffic areas in the Pupukea marine life conservation district, including the imposition of fees; and

(3) Propose long-term management options to reduce the impact of humans on the health and abundance of marine life in the sensitive areas of the Pupukea marine life conservation district.

(b) In establishing and conducting the Pupukea marine life conservation district carrying capacity pilot program, the department of land and natural resources shall consult with the city and county of Honolulu; university of Hawaii, including the institute of marine biology; and nonprofit community organizations in the ahupuaa of Pupukea and Waimea.



(c) The Pupukea marine life conservation district carrying capacity pilot program shall cease to exist on July 1, 2025.

(d) The department of land and natural resources shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than January 1, 2026.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2022-2023 for the department of land and natural resources to establish and conduct the Pupukea marine life conservation district carrying capacity pilot program pursuant to this Act.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2022.

INTRODUCED BY:



S.B. NO. 3330

Report Title:

DLNR; Pupukea Marine Life Conservation District; Pilot Program;
Carrying Capacity; Appropriation

Description:

Requires the Department of Land and Natural Resources to establish and conduct the Pupukea marine life conservation district carrying capacity pilot program. Appropriates moneys.

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