

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 1176
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 1176 entitled:

"A BILL FOR AN ACT RELATING TO THE TAKING OF NATURAL RESOURCES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that any police officer or agent of the Department of Land and Natural Resources (DLNR) upon whom the Board of Land and Natural Resources (Board) has conferred police powers may, upon reasonable belief, in the performance of their primary duties, inspect certain items for compliance with protection and conservation of natural resources regulations; and
- (2) Establish penalties for refusal to comply with inspection requests made by any police officer or agent of DLNR upon whom the Board has conferred police powers.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, The Nature Conservancy, Kua'āina Ulu 'Auamo, Moana Ohana, and four individuals. Your Committee received testimony in opposition to this measure from Coral Fish Hawaii, Big Island Fisheries Alliance, and seven individuals. Your Committee received comments



on this measure from the Department of the Attorney General, Office of Hawaiian Affairs, and Hui Maka'ainana O Makana.

Your Committee finds that although consent to inspection is a condition for granting a game mammal hunting license in public hunting areas, because unlicensed hunters have not given prior consent to inspection, voluntary compliance must be given to inspect their bags for any illegal taking of wildlife, game, or other natural resources. Your Committee further finds that there is no consent to inspection requirement for non-commercial marine fishing licenses. By lowering the standard for these inspections from upon probable cause to upon reasonable belief, this measure will provide DLNR with adequate authority to conduct field inspections for compliance with rules and regulations concerning the taking of natural and cultural resources. Your Committee also finds that this measure clarifies the general conditions under which these inspections would occur. According to testimony received by your Committee, not only is the context, manner, and scope of this administration measure meant to be limited to a civil prosecution and penalty, but its enforcement is limited to its use by DLNR's Conservation and Resources Enforcement Officers in situations related to hunting and fishing activities.

According to testimony received by your Committee, DLNR has accepted the Department of the Attorney General's offer to train Conservation and Resources Enforcement Officers on the proper application of the provisions of this amended measure.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the proposed inspection authority applies to the Conservation and Resources Enforcement Officers of the DLNR upon whom the Board has conferred police powers;
- (2) Narrowing the scope of the authority to apply to illegal takings of natural resources related to hunting and fishing activities;
- (3) Prohibiting the inspecting officer from inspecting clothing and receptacles or containers that could not be reasonably used to carry game or aquatic life;



- (4) Outlining the conditions under which the brief inspection shall be conducted;
- (5) Removing language that referenced criminal prosecution and penalties;
- (6) Amending the administrative penalties to mirror the administrative penalties for violations relating to aquatic resources under section 187A-12.5, Hawaii Revised Statutes;
- (7) Inserting a purpose section to reflect the measure's amended purpose; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1176, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1176, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUE, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 1176	Committee Referral: WTL, JDC	Date: 2-12-2021
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The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
KEITH-AGARAN, Gilbert S.C. (VC)	✓			
MISALUCHA, Bennette E.	✓			
RIVIERE, Gil	✓			
FEVELLA, Kurt			✓	
TOTAL	4		1	

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:
Bennette E. Misalucha

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*Only one measure per Record of Votes