



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 2538, RELATING TO THE CRIMINAL DESTRUCTION OF TREES.

BEFORE THE:

SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

DATE: Monday, January 31, 2022 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 224 and Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Kory W. Young, Deputy Attorney General

Chair Gabbard and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments.

The purpose of the bill is to make the destruction or damaging of a tree on state or county property punishable as a misdemeanor by adding a new section to chapter 708, Hawaii Revised Statutes.

As written, the intentional or knowing state of mind would only pertain to subsection (1)(a), and subsection (1)(b) would not have a designated state of mind. Subsection (1) should be rewritten to move the intentional or knowing state of mind required to commit the offense from the beginning of paragraph (a) on page 1, line 8, to before the beginning of paragraphs (a) and (b) on page 1, line 7, as follows:

- (1) A person commits the offense of criminal destruction of a tree on state or county property if, by means other than fire, the person intentionally or knowingly:
 - (a) Fells, injures, or destroys a tree growing or standing upon state or county property to the point of it having no value; or
 - (b) Substantially damages the potential value of a tree growing or standing upon state or county property without the consent of the state or county on which the tree stands.

The term "potential value" as used in subsection (1)(b) on page 1, line 11, may require the addition of a definition for this term, in order to clarify how this value is to be assessed. A tree's potential value could refer to the probable value of the tree immediately before it was damaged, or in the case of fruit-bearing or flowering trees, the value of the fruits or flowers the tree potentially would have produced over the course of years had the tree not been damaged. Without clarification regarding how a tree's "potential value" is to be assessed, it is possible this term could be found by a court to be too vague or ambiguous.

The penalty established in subsection (3)(a) would require the State or a county to retain an arborist for every conviction, even in cases where the value of the tree is not disputed. We recommend adding "or by the agreement of the parties" to the end of subsection (3)(a) on page 2, lines 5-66, to read: ". . . replacement value of the tree as determined by an arborist or by the agreement of the parties" This would allow an arborist to be called in cases where the value of the tree is being contested, but would allow the parties to agree to an amount in cases where the value is either undisputed or could otherwise be agreed upon.

Thank you for the opportunity to provide comments on the bill.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
AGRICULTURE & ENVIRONMENT**

**Monday, January 31, 2022
1:00 PM**

State Capitol, Conference Room 224 & Video Conference

**In consideration of
SENATE BILL 2538
RELATING TO THE CRIMINAL DESTRUCTION OF TREES**

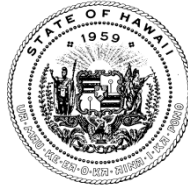
Senate Bill 2538 proposes to establish a criminal statute for the criminal destruction of a tree on state or county property punishable as a misdemeanor. **The Department of Land and Natural Resources (Department) supports this measure provided that its passage does not replace or adversely impact priorities indicated in the Executive Supplemental Budget request.**

The Department recognizes trees are our strongest allies for addressing the climate crisis. In addition to carbon sequestration, trees reduce ambient temperatures and storm water runoff, increase wildlife habitat, and confer human health, psychological and quality of life benefits. New seedlings take years before they realize their full suite of ecological and human health benefits, but existing mature trees provide significant benefits now, underscoring the importance of their protection.

Responding to the damage or destruction of trees offers an opportunity for education about the benefits of trees, which may minimize such activity in the future.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGLALLAN
PATRICK H. MCCAIN
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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HONOLULU, HAWAII 96813-5097

January 31, 2022
1:00 P.M.
State Capitol, Teleconference

S.B. 2538
RELATING TO THE CRIMINAL DESTRUCTION OF TREES

Senate Committee on Agriculture and Environment

The Department of Transportation (DOT) **supports** this bill that would make damaging or destroying a tree on state or county property a criminal misdemeanor offence. We request that the state and counties be exempt from the provisions of this measure to conduct maintenance activities that may require trimming or removal of trees.

Thank you for the opportunity to provide testimony.

SB-2538

Submitted on: 1/30/2022 7:15:25 PM

Testimony for AEN on 1/31/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Testifying for Climate Protectors Hawaii	Support	No

Comments:

Aloha Chair Gabbard, Vice Chair Nishihara, and members of the Agriculture and Environment Committee!

Hearing 1/31/2022 1:00 pm

RELATING TO THE CRIMINAL DESTRUCTION OF TREES.

Mature trees are very important for mitigating the climate emergency by sequestering atmospheric carbon. In addition to damaging State property, destroying a tree also harms everyone by contributing a small amount to climate warming.

Please pass this bill!

Climate Protectors Hawaii (by Ted Bohlen)

SB-2538

Submitted on: 1/31/2022 12:15:32 AM

Testimony for AEN on 1/31/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Andrea Nandoskar	Testifying for Climate Protectors Hawaii	Support	No

Comments:

Strongly support. Please pass this bill! We must protect existing trees for their many gifts to our world including their inherent beauty, documented health benefits and capacity for sequestering carbon, and hold those who harm them accountable.

Mahalo for your consideration!

SB-2538

Submitted on: 1/29/2022 3:19:40 PM

Testimony for AEN on 1/31/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Victoria Anderson	Individual	Support	No

Comments:

Please pass this important bill.