

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
WATER AND LAND**

**Friday, February 4, 2022  
1:15 PM**

**State Capitol, Conference Room 229 & Videoconference**

**In consideration of  
SENATE BILL 2924  
RELATING TO FISHERMAN SAFETY**

Senate Bill 2924 proposes to prohibit purposeful harassment with the intent to prevent the taking of fish from persons who are fishing in state waters. **The Department of Land and Natural Resources (Department) supports this bill and provides the following comments.**

State law currently protects fishers from harassment if they are taking fish pursuant to a freshwater game fishing license. The proposed measure would extend these protections to all persons fishing in state waters, including marine waters. The Department supports this measure, which would promote the safety and enjoyment of individuals engaged in fishing activities.

The Department supports the proposed language in subsection (c)(2) which clarifies that it is not a violation to engage in activities pursuant to the Department's Makai Watch program. Makai Watch volunteers participate in two types of activities: observation and incident reporting and awareness raising and outreach. Volunteers are trained to conduct these activities in a manner that does not interfere with fishing activity.

Thank you for the opportunity to comment on this measure.

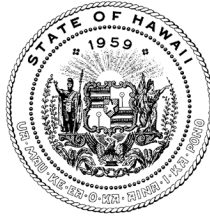
**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**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  
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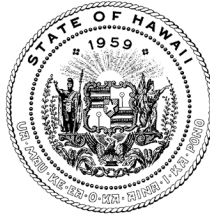
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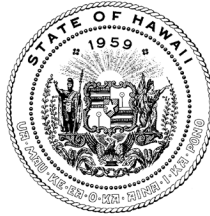
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**SB-2924**

Submitted on: 2/1/2022 8:41:35 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Damien Kenison	Testifying for Kauhako Ohana Association	Oppose	No

Comments:

Aloha no kakou, i am writing in opposition to this bill. I am sure that the senators who supported this measure believed they were protecting fishermen from possible violent or inappropriate confrontations they may experience when fishing in Hawaii State waters. However, this bill will prevent DOCARE and NOAA Fisheries enforcement officers from efficiently enforcing rules, regulations, and laws that have been enacted to protect our marine resources from illegal harvesting. Illegal fishers will use this bill to discourage marine law enforcement officers from checking their vessels for illegal catches. After the FRA's were established in the West Hawaii Fish Management Area I observed an AQ fishermen anchored in our Hookena FRA pretending to kaili or handline for reef fish near Kalahiki. I approached the boat and saw the other fishermen with a scuba tank setting nets below the anchored vessel. If this bill is passed a DOCARE officer would hesitate to investigate a vessel in this situation. The law prohibiting the use of animal chum for opelu fishing has not been enforced and now the cooler inspection bill will enable DOCARE officers to improve their efforts to finally stop the illegal use of chopchop and save our opelu fishery for our keiki and mo'opuna. However, this bill will be exploited to discourage officers from performing their duties and be used in a court of law to "muddy" the issue and prevent the enforcement of the laws protecting our i'a. Fishermen who care for our fisheries and have nothing to hide should welcome DOCARE officers checking for illegal harvesting. We all should appreciate the laws ensuring a sustainable fishery for commercial and subsistence fishermen and their families. Please help DOCARE and NOAA Fisheries appropriately and efficiently enforce the laws that ensure legal and appropriate harvesting practices by not passing this unnecessary and inappropriate measure.

Damien  
Kenison  
Ohana Association  
38, Honaunau, HI, 96726

Kauhako  
PO Box

**SB-2924**

Submitted on: 2/2/2022 3:36:39 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Jenny Yagodich	Testifying for Malama Pūpūkea-Waimea	Comments	No

Comments:

Aloha Chair Inouye and Vice Chair Keith-Agaran,

We offer the following comments on SB2924 Relating to Fisher Safety for your consideration:

Mālama Pūpūkea-Waimea (MPW) is the community non-profit that cares for, educates about, and protects the fragile marine ecosystem of the Pūpūkea Marine Life Conservation District located on the North Shore of O‘ahu.

We are proud to have been the first (and are currently the only) State of Hawai‘i Makai Watch program on O‘ahu, a collaborative statewide program where citizens and NGOs become directly involved with the Department of Land and Natural Resources (DLNR) in the management of marine resources through promoting compliance to rules, education, and monitoring.

SB2924 aims to create a bill for marine fishers that would mimic current protections for *lawful* fishers taking fish *pursuant to a freshwater game fishing license*, however, there is not currently a recreational *marine* fishing license in the State of Hawai‘i.

We believe that SB2924 should be revisited once a recreational marine fishing license is in place.

In addition, the inclusion of Makai Watch into this bill is confusing. Although official Makai Watch communities have direct contact with DLNR/DOCARE, *all* community members across all islands are encouraged to document and report any violations they see (numbers to report violations are on public signage). If the intent of SB2924 is to protect the "safety and enjoyment" of lawful fishers then the inclusion of Makai Watch is not necessary as Makai Watch volunteers do not conduct incident reporting on lawful fishers.

While we, of course, agree that lawful fishers should never be harrassed, due to the ambiguous nature of SB2924, we recommend it be more thoroughly vetted and revisited once questions about intent are answered and a recreational marine fishing license is in place.

Mahalo, Jenny Yagodich, Director of Educational Programs & Makai Watch Coordinator, Mālama Pūpūkea-Waimea



**SB-2924**

Submitted on: 2/2/2022 4:07:10 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Sylvia Dolena	Testifying for Aloha Animal Advocates	Oppose	No

Comments:

I strongly oppose SB2924 because there will no longer be transparency for violations.

This is not about harassment. This is about keep the ocean safe for marine life.

Regards,

Sylvia Dolena

Aloha Animal Advocates



**SB-2924**

Submitted on: 2/2/2022 6:51:47 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Greg Asner	Testifying for Hawaii Marine Education and Research Ctr	Oppose	No

Comments:

This proposed bill will severely impede the ability of communities and individual citizens to report illegal activity to State and Federal authorities. Specifically, both DLNR-DOCARE and NOAA Office of Law Enforcement (OLE) maintain active programs with numerous communities throughout the State of Hawaii to train community members on proper methods for reporting illegal fishing, reef, and ocean activity from shore and vessels. Without community involvement, law enforcement will be severely constrained. This is an issue that could readily rise to State and Federal judicial levels.

Specific issues include, but are not limited to:

- This bill conflicts with DLNR and NOAA training and government-scale requests for reporting illegal activities in and on Hawaiian (and federal) waters.
- This bill takes the State down a very dangerous road that directly empowers criminal activity.
- Current anti-harrassment laws already adequately protect lawful fishers. This is highly evident in DLNR-DOCARE and NOAA-OLE records.

Very respectfully,

Greg Asner

**SB-2924**

Submitted on: 2/2/2022 8:07:41 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robert Culbertson	Testifying for Marine Activities Section Hawaii Island Group Sierra Club	Oppose	No

Comments:

Aloha Senators!

This Bill SB 2924 appears to be a remake of the SB 1012 from last year.

Sitting through the various DAR "Holomua 30x30" programs, one cannot escape the theme that DAR and DOCARE cannot effectively regulate the various activities that take place in our state waters *without* conscientious and informed citizens acting as its ultimate guardians, witnesses and sometimes intervenors. In fact, the state *sponsored* "**Makai Watch**" program that is currently being augmented and revitalized is key to their planned strategy for achieving conservation and equitable use goals. Certainly, commercial takings are not rights at all but may be conducted (permitted) at sufferance to the common good and should be respected in that way.

Bill SB 2924, in addition to being fundamentally flawed on a purely constitutional basis, is an apparent attempt to further invert the traditional doctrines and mandates of the Department of Land and Natural Resources for a selected few.

DLNR policy seems to be 'evolving' positively in the face of climate change, overfishing and other challenges. This bill would move us backward and in the opposite direction.

Please hold it!

R A Culbertson

Marine Activities Section

Hawaii Island Group Sierra Club



# Environmental Caucus of The Democratic Party of Hawai'i

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February, 2<sup>nd</sup> 2022

Concerning Bill: SB2924

IN OPPOSITION

Related to Fisherman Safety

Dear Chair: Inouye, Vice-Chair: Gilbert S.C. Keith-Agaran and members of the  
Water and Land Committee

The Environmental Caucus of the Democratic Party of Hawaii is against the passage of this bill because, as written, we believe it will interfere with the laws which are trying to protect our reef fish from illegal poachers who work for the Aquarium Industry.

We feel that this bill directly conflicts what DOCARE asks of the public; to report suspected illegal fishing or other marine related violations, including by the submission of photos and videos via their DLNRTip App.

We support local and native traditional fishing practices, but none of those practices were intended to supply the voracious appetite of foreign and mainland collectors for decorative home aquariums. If we do not take every action possible to restrict the Aquarium trade reef harvesting, there will be few or no reef fish left for local and native fisherman to enjoy their traditional fishing practices.

For the current legal reef fishing, we believe that the existing anti-harassment laws already provide adequate protection to lawful fishers, and any person, from intentional interference or harm, or theft of property

Eventually there may have to be complete prohibition against taking wild Hawaiian reef fish for the commercial Aquarium trade. Inevitably, the trade will have to transition into farming reef fish specifically for collectors or otherwise develop a sustainable way to supply the Aquarium trade. Climate change is already killing reef environments for all sea life here and in many other countries. Ocean waters are over absorbing carbon from the air. They are more acidic, water temperatures are rising and changing currents which affect all ocean life and of course our weather.

Perhaps in the future, some congressperson might draft a bill to provide tax incentives to the local commercial aquarium industry which would reward them for shifting into sustainable aquiculture of collectable reef fish. The University of Hawaii does it and sells their raised fish.

Please do not give uncaring profit motivated businesses a way to undermine the limited regulations which currently exist and which are still insufficient to stop the abuses of our reef wild life and the reefs themselves.

Most sincerely,

Martha E Randolph  
DPH Environmental Caucus SCC Representative  
President of Democratic Precinct 4 District 25  
DPH Kupuna Caucus Treasurer



Hawai'i's voice for wildlife  
Kō Hawai'i o nā holoholona lōhiu

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**Friday, February 4, 2022  
1:15pm**

**State Capitol, Conference Room 229, Via Videoconference**

**In consideration of  
SENATE BILL 2924  
RELATING TO FISHERMAN SAFETY**

Conservation Council For Hawaii **STRONGLY OPPOSES SB2924**. SB2924 is in direct conflict with what DOCARE, our severely understaffed under budgeted resource enforcement division, has asked the public to assist with in the reporting of suspected illegal fishing and other marine related violations. DLNRTip App was set up so that photos and videos of potential violations can be shared with DOCARE in an effort to thwart criminal activities in our marine resources. This bill would essentially provide a refuge for ocean goers that are seeking to harm our precious and delicate marine life and ecosystem and must be deferred in its entirety.

Thank you for the opportunity to **STRONGLY OPPOSE SB2924**.

**SB-2924**

Submitted on: 2/3/2022 12:40:43 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Christopher Dean	Testifying for Clean The Pacific	Oppose	Yes

Comments:

This bill is unenforceable and is dangerous. Think of it, this bill could be used by someone to vent their anger against anyone, even you! What if you're just going snorkeling or swimming, or surfing or whatever and you accidentally scare away someone's fish? He could send you to prison! HAHAHA!!!! I seriously hope you're not even considering this. And how are you going to prove someone was harassing a fisherman? Just because he or she said so? There's no collectable evidence, or any way to verify any type of harassment occurred.

Secondly, as the Head of Clean The Pacific, I spend a lot of time removing dangerous plastic debris and jettisoned commercial fishing tackle from our coastlines, I'm also a surfer. That means I spend a lot of time in and around the ocean. If I see someone fishing in illegal areas, or in illegal ways, or catching reef fish for the aquarium industry, I not only have a right to approach that person and ask them what they're doing, I have a DUTY to inquire. Hawaii island has hundreds of miles of remote coastline and believe me, the DAR and other agencies are completely unable to monitor or intervene in possible illegal activities. You need me and all the citizens of Hawaii to be your eyes and ears to protect our fragile coastal ecosystem. Overfishing, plastics and jettisoned fishing tackle, chemical runoff, sewage outflows, over development, tourists and the climate disaster are all wiping out our coral reefs and fish populations. Now is not the time to weaken protection, now is the time to strengthen it!

This bill is nothing more than an angry attempt to threaten and intimidate the public. It's intent is clear, don't watch what we're doing, or you'll get in trouble. By passing this bill, you won't be eliminating conflict, you'll be increasing it. Don't turn the good, innocent, citizens, who are trying to save the beauty and integrity of Hawaii, into criminals. If anything, you should be taking a closer look at the people who wrote this bill.



February 4, 2022, 115pm, WTL Committee

Dear Chair Inouye and Members of the Senate Committee on Water and Land

**STRONG OPPOSITION TO SB2924; Relating to Fisher Safety-Fisher Harassment**

We urge the Committee to reject this bill in its entirety for the numerous reasons listed below:

- Harassment laws already exist in Hawaii and apply equally on land and water, to all persons. Under HRS 711-1106 illegal harassment is described in a number of ways, and includes striking, shoving or kicking a person with intent to harass, and challenging or taunting in a manner likely to provoke an immediate violent response. Harassment is a petty misdemeanor, which is already a crime.
- This bill attempts to provide protection from public scrutiny that is afforded to no other group, even the police, when operating in plain view, in public areas, such as our beaches and oceans. If anything, activities involving the take of natural resources need more, not less scrutiny, given that they are held in the public trust for all the peoples of Hawaii.
- This bill directly conflicts with what DOCARE and NOAA ask of the public; to report suspected illegal fishing or other marine related violations, including by submitting photos and videos via their DLNRTip App (see attached pics of app)
- The “fisher” provision of this bill was originally introduced in 2015, and resurfaced many times since then, to protect aquarium collectors from public scrutiny following their attack on a diver with a camera, and a separate incident where a diver recorded their anchor causing coral damage. Please see below attached articles and the numerous failed attempts by aquarium collectors to have individuals who documented their activity, charged with harassment of a fisher.
- This bill is likely unconstitutional, violating the First Amendment. This bill is modeled after “hunter harassment” laws enacted across the country in the mid-1990’s, driven by the National Rifle Association and sport-trophy hunting groups, in response to public protests about abuses of wildlife occurring on public lands. These laws continue to be challenged as unconstitutional (see below news article links)

The legislature has rightfully, repeatedly, deferred this bill due to the above-noted concerns, among many others. We hope the Committee will do the same.

Thank you for the opportunity to testify.

Inga Gibson

For the Fishes, 808.922.9910

# DLNR Tip App requesting photo and video documentation:

The image shows a mobile application interface for submitting a tip to the Hawaii DLNR. The app has a dark green header with the DLNR logo and navigation options: "My Tips", "Submit a Tip", "Cancel", "New Anonymous Tip", and "Send".

The main content area is split into two columns. The left column features a teal header with the DLNR logo, followed by a white box containing the text: "Submit anonymous tips to the Hawaii DLNR. In an emergency, please call 911. Only select 'Use my location' if you are at the scene." Below this is a blue button labeled "Submit a Tip".

The right column contains a form with the following fields:

- GROUP/ISLAND:** A dropdown menu with the text "Choose an island".
- SUBJECT:** A text input field with the placeholder "Enter a short tip description".
- LOCATION/ISLAND:** A text input field with the placeholder "Where did you see something?" and a link "Use my location".
- DESCRIPTION:** A text input field with the placeholder "Please indicate the who, what, when, where, why, how of what happened as best as possible".

Below the form fields is a button with a camera icon and the text "Attach a Photo or Video". At the bottom of the form area is a large blue button labeled "Send This Tip".

The bottom navigation bar includes a "Home" icon, a "More" icon, and a "Send This Tip" button. The very bottom of the screen shows standard Android navigation icons: three vertical bars, a circle, a left arrow, three vertical bars, a circle, and a left arrow.



History of national movement by NRA, Sport-hunting interests:

<https://www.hcn.org/issues/30/866>

<https://www.nytimes.com/1995/01/10/us/supreme-court-roundup-justices-reject-challenge-to-law-on-harassing-hunters.html>

Legislative History on HRS 188-71 (L 1995, c 186-2)

Scrape. 513 Judiciary on S.B. No. 288 The purpose of the bill, as received by your Committee, is to prohibit the harassment of, or interference with, hunters and fishermen engaged in lawful activity. Testimony in support of the bill was submitted by the board of land and natural resources, the public defender, the University of Hawaii environmental center, the Hawaii Rifle Association, the Wildlife Conservation Association of Hawaii, and several interested citizens. Your Committee is aware that the bill is similar to legislative proposals which have been introduced in other states in response to highly publicized protest actions by animal rights groups. Your Committee believes that while harassment of this type has not been a widespread problem in Hawaii, there have been instances of it, particularly on Molokai. Your Committee has amended the bill by inserting the termn “intentionally” to make clear, as testified to by the public defendler, that the act of harassment must be an intentional, and not an inadvertent, act. As affirmedd by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 288, S.D. 1, and be placed on the calendar for Third Reading.

SCRep. 1184 Water and Land Use Planning; Ocean Recreation and Marine Resources; and Energy and Environmental Protection on S.B. No. 288 The purpose of this bill is to prohibit the intentional harassment of hunters and fishermen engaged in lawful activity. This bill is similar to legislation considered in other states in response to protest actions by citizen advocacy groups. In Hawaii, certain harassment problems have been reported on Molokai and the Big Island. The Department of Land and Natural Resources, the Hawaii Rifle Assodation, the Wildlife Conservation Association of Hawaii , and two hunters testified in support of this bill. Opposing this measure were the Hawaii Island Humane Society, the Hawaiian Humane Society, and Animal Rights Hawaii. The Environmental Center of the University of Hawaii offered comments. Upon further consideration, your Committees have amended this bill by: (1) Clarifying that the prohibition against interference of hunters shall not apply to any incidental interference arising from lawful activity; HOUSE JOURNAL - STANDING COMMITTEE REPORTS 1480 (2) Adding the requirement that an act of inte1ference must make it impossible for hunters to take the ganw in order to constitute a violation; (3) Narrowing the focus by deleting references to fish ing as well as hunting activities that take place on the water; (4) Limiting the maximum penalty for violations to Chapter 183D to a \$500 fine , thirty days imprisonment , or both; (5) Deleting selected language that specified the grounds for which a peace oflker could require a person to desist from conduct in violation of this bill; (6) Inserting a new section specifying that nothing in this bill shall affect the exercise of a privilege protected by

the First Amendment of the U.S. Constitution and by Article I, section 4, of the State Constitution ; and (7) Making technical , nonsubstantive revisions for the purpose of clarity. As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning; Ocean Recreation and Marine Resources; and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No . 288, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No . 288, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary. Signed by all members of the Committees except Representatives Nekoba, Garcia, Kanoho, Yoshinaga , Anderson and Meyer. (Representative Thielen voted no.)

SCRep. 1626 Judiciary on S.B. No. 288 The purpose of this bill, as received by your Committee, is to prohibit the intentional harassment of hunters engaged in lawful activity. Your Committee received testimony in support of this bill from the Board of Land and Natural Resources, the National Rifle Association, the Wildlife Conservation Association of Hawaii, and the National Wild Turkey Federation. Your Committee finds that hunters should be protected from intentional harassment when they are engaged in the lawful taking of game. Hunters pay hunting license fees and often expend significant funds to engage in hunting activities. This bill provides assurances to hunters that their ability to lawfully hunt is protected by Hawaii's criminal laws. Your Committee was concerned that some recreational users of lands may inadvertently interfere with hunters. For example, persons who are lawfully bird-watching may, through their actions, affect the behavior of game to be taken. Your Committee emphasizes that a person must intentionally prevent or attempt to prevent the taking of game and that inadvertent interference is not encompassed by this bill. This bill is essentially a criminal statute; mandating a maximum fine of \$500 or thirty days imprisonment, or both, for intentionally preventing or attempting to prevent the lawful taking of game by certain specified actions. Because of the bill's intent to impose criminal sanctions, your Committee finds that most of the subsections in the bill are superfluous and should be eliminated. Consequently, your Committee has amended this bill by deleting subsections (b) through (e), and (g) through (i). Subsection (b) has been deleted because the de minimis defense codified in HRS §702-236 covers situations set forth in that subsection. Moreover, this bill requires an intentional. state of mind to prevent the taking of game. Thus. if a person engages in activity that is not intended to violate the statute, there is no violation. Subsection (c) has been deleted because this bill already requires the hunter to be engaged in lawful activity. Also, if the hunter is hunting on someone else's land, then HRS § 1830-26 deems such activity unlawful, and the owner of the land or a person acting on behalf of the owner can interfere with the taking. Subsections (cl) and (e) have been eliminated because criminal trespass statutes already exist, and if a law enforcement officer observes conduct in violation of this bill, then the person has committed the criminal offense of interference of hunters and can simply be arrested for that offense. Subsections (g) and (h) have been eliminated because these provisions are civil matters and this hill is a criminal statute. Also, a bereaved hunter presently has the option of filing a suit to enjoin a party from engaging in conduct detrimental to the hunter's activities, and also has the ability to file a suit seeking damages for losses relating to another person's unlawful conduct. Further, in a prosecution brought pursuant to this law, a court has the

power to issue a stay away order enjoining the defendant from engaging in similar conduct and has the power to order restitution to the hunter for damages incurred by the hunter. Your Committee also believes that a punitive damages award may be excessive. Subsection (i) has been eliminated because if a defendant desires to raise a first amendment defense as applied to the defendant's case, the ability to do so already exists. No laws can legally supersede or affect the legitimate exercise of one's first amendment rights. Your Committee believes the provision requiring that a defendant's interference with hunters be in a manner which makes it impossible to take game was overly burdensome to the prosecution of such cases. Consequently, your Committee has amended this bill by requiring that the interference be "substantially more difficult or impossible to take the game" . Testimony was presented by the National Rifle Association that hunter harassment has also included situations where access roads to hunting areas have been blockaded, thereby preventing hunters from entering such areas. Your Committee finds that rendering a hunting area inaccessible to hunters should be encompassed by this bill. Consequently, this bill has been amended by adding a subsection making it illegal to obstruct a hunter's access to areas in which the hunter intends to lawfully take game. Your Committee believes that the provision requiring the interference to be substantially more difficult or impossible to take game, safeguards a person against prosecution for insubstantial disruptions of a hunter's access to hunting areas. As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 288, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 288, S.D. 1, H.D. 2.



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## Fish collector drops anchor on live coral, not cited

September 23, 2011 - 11:09pm

BY ERIN MILLER | WEST HAWAII TODAY

Hawaii's Land and Natural Resources' enforcement division refused to cite a Big Island aquarium fish collector for dropping anchor on live coral, despite being presented with photos showing the violation.

The West Hawaii dive instructor who took the photos is now facing harassment charges, creating what a state biologist calls a "chilling effect" on people considering reporting potential violations.



William Walsh, aquatic biologist with the Department of Land and Natural Resources' Division of Aquatic Resources, told West Hawaii Today Friday his office forwarded Brooke Landt's photos to the Division of Conservation and Resources Enforcement in February. DOCARE officers investigated the complaint, which also included an allegation that the fish collector failed to tie his boat to a day use mooring less than 100 yards away, Walsh said. DOCARE reported back to Walsh's division they could not cite the collector, Jim Lovell.

"The officer's justification for not enforcing (it) was they couldn't be sure whether the mooring was legal or not," Walsh said.

Attempts to reach DOCARE Friday were unsuccessful.

DLNR Chairman William Aila issued a written statement Friday saying enforcement officers returned the case to the aquatic resources office. He declined further comment until he and DOCARE staff looked up the case's specifics.

That reasoning is often cited, Walsh said, with DOCARE officers claiming they cannot verify whether day use moorings not specifically named in boating division rules are legal. A number of day use moorings have been added over the years, Walsh said, but not all have been incorporated into the division's rules.

Division of Boating and Ocean Recreation Administrator Ed Underwood said the Malama Kai Foundation, working with his division, maintains an extensive, comprehensive and updated day using mooring list. The administrative rule change process is lengthy, making incorporating each new mooring cumbersome, he added.

Both Walsh and Underwood noted that an anchor dropped in live coral is a clear violation of state law.

"Anchoring elsewhere (more than 100 yards from a day use mooring) is permitted in sand, rock, rubble or other areas in which no live coral exists," Walsh said, referring to the department's administrative rules. "(DOCARE) didn't pursue that."

Walsh noted the fish collecting itself was legal.

Landt, who has been a diving instructor since 2000, was diving off the North Kohala coast in February when she saw a man, later identified as Lovell, collecting fish. It was the first time she'd ever witnessed fish collection. She saw the anchor in the coral and took pictures as she and several other divers swam past.

"We didn't touch anything," Landt said. "We just took pictures. When he saw us, he got extremely angry. He started to grab all his equipment."

Lovell declined to comment Friday.

Landt said she saw Lovell return to his boat, then drive back and forth to collect the anchor and chain,

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Ka Makani conquest (407)

HPA CLAIMS THRILLER OVER KS-HAWAII

dragging the anchor across the coral. He then moved the boat a few hundred yards down shore and dropped anchor again. She sent her pictures to the aquatic resources office in Kona, hoping to see Lovell cited.

She also posted the photos on Facebook. A DOCARE officer came by Kohala Divers, where Landt works, ordered her to take down the photos and told her Lovell wanted to press harassment charges. She didn't hear anything until last week, when she received a summons to go to the Kona Police Station. She did and learned she was being charged with harassment of a fisherman and was ordered to appear in District Court Wednesday. She faces a maximum fine of \$500 and up to 30 days in jail. No one else who took pictures that day was charged, she said.

Landt said she didn't harass Lovell.

"I wonder if I'm going to be made an example of," Landt said, adding that she acted in the way divers and other marine users are instructed to act if they see what they believe to be a marine violation. "It seems like it was kind of discouraging people from reporting (violations)."

Walsh agreed. The charge may have a "chilling effect" on people making such reports. And he noted that the charge doesn't apply to Landt's situation.

The charge, that she harassed Lovell by "placing (her)self in a location in which human presence may affect the behavior of the fish to be taken," according to Hawaii Revised Statutes, refers specifically to anyone with a license to fish in the state's freshwater rivers and reservoirs.

The deputy prosecuting attorney in charge of Landt's arraignment did not respond to a message seeking comment on the case.

[emiller@westhawaii.com](mailto:emiller@westhawaii.com)

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## Comments

[Permalink](#) Submitted by [angkoldoy](#) on September 25, 2011 - 8:59am

Obbyscuba: In Hawaii, all department heads are NOT neutral: They are political appointees. DLNR needs to be headed by an elected, non-partisan candidate with a 6 year term, 2 term limit.

TO all that comment on this article, please reference the specific section of the law you to which you are referring (i.e. HRS 200-4, HAR 13-257-2, etc) so we can be sure you are informing us of the facts and not baffling us with...

[Permalink](#) Submitted by [KalahuiPuaa](#) on September 25, 2011 - 8:46am

We need protection here from the DLNR, before our reef fish get decimated. Time for a kapu.

Sandalwood was practically wiped out before King Kamehameha III put a kapu on cutting it. Will we have to wait until our reef has been hammered like that on Oahu before a kapu is put on commercial aquarium collecting and export?

[Permalink](#) Submitted by [wahineilikea](#) on September 25, 2011 - 7:49am

koralbeauty, the fact that a number of people may be accustomed to breaking any given law is no reason not to prosecute someone who is caught red-handed in the act. The traffic officer that clocks one speeder going 60 in a 45 zone is very unlikely to be moved by that driver's complaint that everyone else was doing it too! In any case, this guy's illegal act of dropping his anchor on the coral is not the entire focus of the story, it's also the lack of follow-up from the DLNR in the face of irrefutable evidence, along with the bizarre act of a DOCARE officer threatening a citizen watchdog over Facebook photos.

[Jim Rizzuto's Big-Fish... \(342\)](#)  
[Big-Fish List](#)

[Senior Night a resounding... \(272\)](#)  
BY JOE FERRARO | WEST HAWAII TODAY

[The right mix -- Roboticist... \(272\)](#)  
THREE HUMANOID ROBOTS WILL  
CHALLENGE IRONMAN COURSE

[In Brief | Big Island and... \(236\)](#)  
Military convoys scheduled this week

[Wauke was indispensable to... \(172\)](#)  
BY DIANA DUFF | SPECIAL TO WEST  
HAWAII TODAY



Polls

I wish more people would "harrass" these aquarium fish collectors, who are not *fishermen* by any stretch of the imagination!

[Permalink](#) Submitted by koralbeauty on September 25, 2011 - 6:33am

Why a fisherman dropping an anchor is even news baffles me. Do you all realize how many people drop anchor around big island reefs daily? the bottom fisherman, the opelu fisherman, the spear fisherman and just because of the type of fishing this guy was doing and the type of person witnessing it we need to publish breaking news? when you have a fisherman and a enviromentalist meeting of course you will have sparks and this is just the begining, I am quite surprise that this photo just came out...only after the West Hawaii Today failed to publish a story of the County Council voting against a aquarium colcting total ban, but they say that is not news...and this is? shame on you WHT for not being fair and balanced, and shame on you all for commenting on Jim Lovell before he and the "paparazii"(which is illegal to get close to a fisherman in the state of hawaii while they are working-FYI, look it up and I find it quite humerous they are self incriminating by publishing these photos all over the web) have their day in court. this is america right, innocent untill proven guilty or shall we all begin to prosecute both members because WHT published it? do you homework people and stop working off emotion and second hand info...or it could be you harassing a fisherman, and DOCare will be serving you with court papers!

[Permalink](#) Submitted by obbyscuba on September 25, 2011 - 2:06am

As long as DLNR is headed by an aquarium fishing license holder things will not change. The governor should replace him and get a truly neutral person in that position.

[Permalink](#) Submitted by dickkopf on September 25, 2011 - 1:11am

@jjlahala:

Negative. That "Jim Lovell" is a NASA Astronaut.

[Permalink](#) Submitted by lehua53 on September 24, 2011 - 7:30pm

What Ms. Miller missed was that DOCARE officers, in partnership with Malama Kai, have been giving trainings on how community members can report violations. I went to one of these at Puako last month. A DOCARE officer went over how to collect evidence (take photos!), how to fill out the reports, and who to call. Everything ms. Brandt did. So am I missing something here? They are teaching community members how to report incidents they observe, then they press harrassment charges against the concerned citizen. Even if the case may not be prosecuted, don't punish our marine stewards. SHAME on you, DOCARE!

[Permalink](#) Submitted by jjlahala on September 24, 2011 - 2:23pm

Is this the same Jim Lovell who owns JTL Timing? There's only one in the phone book. If so, then people should lobby race directors to use someone else. He makes a good amount of money timing such races as Kai Opu'a's Queen Lilioukalani and Xterra. No need to take the little fishies in an unethical manner.

If not, then JTL, sorry. If so, shame on you. SHAME!

[Permalink](#) Submitted by goodbyebluemonday on September 24, 2011 - 12:19pm

Another example of a terribly broken and backward system that rewards law breakers and penalizes citizen stewards. This is a pattern of behavior exhibited on numerous occasions by DOCARE, and not a singular event. The continued refusal of DOCARE to pursue and prosecute violators, even those with long lists of multiple violations, is shameful and reflects how little our state does to protect its number one resource.

[Permalink](#) Submitted by angkoldoy on September 24, 2011 - 11:51am

Administrators in DLNR's many divisions are rarely lawyers: They are lay people interpreting law. Read the laws and regulations and do the interpretations yourself. I believe the writer of the article did try to discount some of the interpretations of the law:1) "The administrative rule change process is lengthy, making incorporating each new mooring cumbersome." which indicates that any particular day use mooring in question may have been on Malama Kai's list, but not yet incorporated in the rules ; 2) "refers specifically to anyone with a license to fish in the state's freshwater rivers and reservoirs." which indicates that that law doesn't apply to harassment of fishers in the ocean. With the advent of the WWW, we as readers can research the laws ourselves and make our own conclusions. For

instance, the much acclaimed prohibitions to "trop fishing" in 9 areas in west Hawaii does not exist in the Hawaii Admin Rules. You can research this stuff yourselves, don't rely on gossip or someone's interpretation... except lawyers.

Permalink Submitted by wahineilikea on September 24, 2011 - 11:12am

It's time to totally do away with the activity of aquarium fish collecting in Hawaii waters. If you want to sell aquarium fish, then buy some big tanks and raise them yourself - don't steal them from the rest of us! To fish in coastal waters to feed your family is one thing, to take huge numbers of reef fish to satisfy the unsustainable demands of salt wayer aquarium owners around the world is quite another.

But even under the current legality of aqaurium fish collecting, this story is a total outrage. This case does belong in the Hawaii Supreme Court, and Aila and DNLR/DOCARE need to really feel the heat on this one. I mean, come on! A DOCARE officer ordering Ms. Landt to take the photos down from Facebook? I intend to distribute those photos far and wide - Facebook and beyond.

Permalink Submitted by konacoffee on September 24, 2011 - 9:39am

FAcebook discussions happen here:

<http://www.facebook.com/FortheFishes>

Permalink Submitted by konacoffee on September 24, 2011 - 9:38am

William Aila, Abercrombies new head of the DLNR keeps his aquarium collecting license active. Read Robert Winters letter to WHT here for more: [http://www.forthefishes.org/uploads/Feb\\_LTE\\_s.pdf](http://www.forthefishes.org/uploads/Feb_LTE_s.pdf)



Permalink Submitted by Tizzy on September 24, 2011 - 9:08am

The Hawaii DLNR is headed by an aquarium fishing license holder? Is this true? No conflict of interest there.

Besides the Sierra Club, what other powerful marine focused environmental advocate should be notified about this story?

Has the native Hawaiian community commented on story? What is their position?

Where can I find this conversation on Facebook and Twitter?

Thanks in advance to any and all who try to answer these questions for me.

Permalink Submitted by konacoffee on September 24, 2011 - 6:19am

Please get the backing of the Sierra Club and drag this case all the way to the State Supreme Court. DOCARE had to at least give a warning to Mr Lovell after confronting him with the pictures. Instead they send the message to all other collectors and boaters that it is OK to drop anchors in corals.

Is this the new policy of the DLNR, now headed by an aquarium fishing license holder? Or does he not even want to try to give this despicable activity a better image?

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## Good Catch Blog

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### New Hawaii Aquarium Bill Prohibits Harassment of Fishers in a Marine Environment

Posted on 24 January 2015 by Ret Talbot



House Bill 511 will likely be the second aquarium fish bill introduced to the State of Hawaii's 28th Legislature. The Bill, which will be introduced by Representatives Cindy Evans, Nicole Lowen, Mark Nakashima, Richard Onishi and Joy San Buenaventura, would prohibit the harassment of persons marine fishing and aquarium fishing. The Bill also specifically addresses the enforcement of harassment "as a duty of a conservation and resources enforcement officer." The first aquarium bill of 2015—SB 322,

which would prohibit the sale of aquatic life for aquarium purposes—was [introduced yesterday](#) in the Senate.

HB 511 would amend the Hawaii Revised Statutes to read:

*No person shall intentionally prevent or attempt to prevent the lawful taking of fish by a person permitted pursuant to section 188-31, licensed pursuant to section 188-50, or fishing in marine waters within the State's jurisdiction by:*

- 1. Placing the person's self in a location in which human presence may affect the behavior of fish to be taken or the feasibility of taking such fish;*
- 2. Creating a visual, aural, olfactory, or physical stimulus to affect the behavior of fish to be taken;*
- 3. Affecting the condition or placement of personal property intended for use in the taking; or*
- 4. Obstructing the person's access to areas in which the person intends to lawfully take fish.*

Conflict between anti-aquarium fishery activists and aquarium fishers is par for the course in Hawaii—especially on Big Island, which is home to the State's largest's aquarium fishery. In the past few years, that conflict has escalated, culminating in an [underwater confrontation](#) last May between divers acting in association with the Sea Shepherd Conservation Society and aquarium fishers. While Sea Shepherd staff and other anti-fishery activists defend their actions, calling them "documentation" or "observation," aquarium fishers maintain it often amounts to harassment. As one fisherman told me, "It interferes with our legal, permitted livelihood, and that shouldn't be allowed."

In several cases, aquarium fishers have attempted to bring charges of harassment against anti-trade activists, but those cases are usually dropped because, according to state law, there is no regulation in place specifically against harassment of a fisher in the marine environment. While there is a provision for bringing harassment charges against an individual interfering with freshwater fishing, at this time, marine fishers have no such explicit protection. "There are still ways charges may be brought," a source well-versed in state law told me last spring, "but it's not as cut and dry as if a similar thing happened in freshwater."

HB 511 could change that.

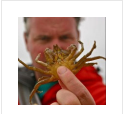
## Enforcement

In addition to explicitly prohibiting the harassment of a fisher in the marine environment, HB 511 addresses how the new law would be enforced. In previous cases where harassment has been claimed by aquarium fishers, there has been some question as to who has enforcement jurisdiction. HB 511 directs “the conservation and resources enforcement officers” to “Enforce the laws relating to harassment, specifically, criminal harassment pursuant to section 711-1106, hunter harassment pursuant to section 183D-27.5, and harassment of fishermen pursuant to section 188-71.”

HB 511 would not “affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.” The Bill would become effective immediately upon its approval.

## What’s Next?

It is common for a number of bills relating to the aquarium fishery to be introduced each year in the Hawaii Legislature. In addition to HB 511 and [SB 322](#), Representative Cindy Evans’s office confirmed she will be “introducing a bill that would enact a moratorium on aquarium fishing.” The cutoff date for bills to be introduced is 29 January. After a bill is introduced it will be referred to a committee or jointly referred to multiple committees. Stay informed about the status of these bills and how interested parties can submit testimony by subscribing to [The Good Catch Blog](#), liking [The Good Catch Blog Facebook page](#) or signing-up for the [CORAL Magazine](#) electronic newsletter and subscribing to the digital or print magazine.



### About Ret Talbot

Ret Talbot is a freelance writer who covers fisheries at the intersection of science and sustainability. His work has appeared in publications such as National Geographic, Mongabay, Discover Magazine, Ocean Geographic and Coral Magazine. He lives on the coast of Maine with his wife, scientific illustrator Karen Talbot.

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## 9 Responses to *New Hawaii Aquarium Bill Prohibits Harassment of Fishers in a Marine Environment*

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**SB-2924**

Submitted on: 2/2/2022 8:35:52 AM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Maki Morinoue	Individual	Oppose	No

Comments:

Aloha

I am testifying to say I strongly Oppose this Bill. Fisher harassment; prohibits photographing or videotaping any fishing activity within 100 feet (originally introduced to protect aquarium collectors after they attacked a diver). Rightfully, no other industry, even the police, are protected from such public scrutiny when in public areas.

We have lost 1,000 of extremely vital herbavores to illegal poaching that further tips our food resources into jepurdy. We need eyes and ears in our water and without proof there are no cases. As we need to hold police officers accountable we need community watch to protect illegal activity in our waters as our coral reef has many stressing points and on the edge of collapse.

Please vote NO.

Mahalo

Maki Morinoue

Holualoa

96725

**SB-2924**

Submitted on: 2/2/2022 9:30:04 AM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Cathy Goeggel	Individual	Oppose	No

Comments:

SB2924 would have constitutional implications. "Makai Watch" sounds like a leftover from the Third Reich. This bill should not advance.

**SB-2924**

Submitted on: 2/2/2022 1:41:20 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Bianca Isaki	Individual	Oppose	Yes

Comments:

Aloha Senators,

I'm writing to oppose SB2924. It is unclear that fishers need further protection specifically from persons videoing or taking pictures of potentially illegal fishing behavior. Section Two indicates that members of the public CANNOT: "Take photographs or video recording of a person engaged in the taking of fish or related activities" when they are not "over one hundred feet away from the person." The second clause should be removed entirely because nothing meaningful about species identity, size, or the identity of the offender can be viewed from 100 feet.

Yours,

Bianca Isaki

**SB-2924**

Submitted on: 2/2/2022 2:13:26 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Keith Neal	Individual	Oppose	No

Comments:

I strongly oppose this bill.

The state agency, DOCARE asks of the public to report suspected illegal fishing or other marine related violations and submit photos and videos via their DLNRTip App. This bill is in conflict with DOCARE policy/practice.

The bill sets a dangerous precedent to interfere with the public's right to report illegal activity when in public view, such as beaches and oceans.

I ask the committee to table this bill in its entirety. SB2924 is a bad bill.

**SB-2924**

Submitted on: 2/3/2022 12:03:52 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Suzanne Frazer	Individual	Oppose	No

Comments:

This bill directly conflicts with what DOCARE asks of the public; to report suspected illegal fishing or other marine related violations, including by submitting photos and videos via their DLNRTip App

- this sets a dangerous precedent. No other groups, not even the police, are protected from public scrutiny when operating in plain view in public areas, such as our beaches and oceans.

- existing anti-harrassment laws already provide adequate protection to lawful fishers, and any person, from intentional interference or harm, or theft of property.

Please defer this bill. Thank you.

**SB-2924**

Submitted on: 2/3/2022 12:27:56 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Rene Umberger	Individual	Oppose	Yes

Comments:

Aloha Chair Inouye, Vice-chair Keith-Agaran and committee members. I strongly oppose this bill. Harassment laws already exist in Hawaii and apply equally on land and water. Under HRS 711-1106 illegal harassment is described in a number of ways, and includes striking, shoving or kicking a person with intent to harass, and challenging or taunting in a manner likely to provoke an immediate violent response. Harassment is a petty misdemeanor, which is a crime.

This bill would essentially criminalize affecting/potentially affecting the behavior of fish. It would effectively serve to block public scrutiny of the aquarium trade's destructive and often illegal activities. This is no doubt why they had a hand in helping to draft it, as they are well aware that photo and video documentation of some aquarium collection activities have led to criminal investigations and convictions.

Additionally, DLNR has asked for, and received, photo documentation by snorkelers and divers of coral damage from aquarium collection boat anchors and chains. But under SB2924, if a collector were less than 100 ft. away as the photos were being taken, that collector could claim harassment. This is not hypothetical as it has occurred at least twice (once in 2011 and again in 2014). In the second instance, the collector falsely claiming harassment was ultimately convicted, himself, of terroristic threatening.

Hawaii's shoreline and reefs belong to the public -- everyone with equal access, exercising their constitutional rights. No group deserves the special treatment created by this measure. I urge you to hold SB2924.





**LATE**

*Dedicated to the conservation of coastal and marine environments,  
emphasizing stewardship of the natural resources of Hanauma Bay*

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF HEARING

DATE:	Friday, February 4, 2022
TIME:	1:15 p.m.
PLACE:	Conference Room 229 & Videoconference

**RE: STRONG OPPOSITION TO SB2924 RELATING TO FISHERMAN SAFETY**

Aloha Chair Inouye, Vice Chair Keith-Agaran, and WTL Committee Members,

**Friends of Hanauma Bay appreciates the opportunity to testify in STRONG OPPOSITION TO SB2924, and asks that it be deferred in its entirety.**

We oppose this bill for the following reasons:

- SB2924 directly conflicts with what DOCARE asks of the public: report suspected illegal fishing or other marine related violations, including by submitting photos and videos via their DLNRTip App;
- SB2924 sets a dangerous precedent. No other groups, not even the police, are protected from public scrutiny when operating in plain view in public areas, such as our beaches and oceans;
- existing anti-harrassment laws already provide adequate protection to lawful fishers and any person, from intentional interference or harm, or theft of property;
- SB2924 was originally drafted to protect aquarium collectors from public scrutiny following their attack on a diver with a camera, and a separate incident where a diver recorded their anchor causing coral damage; and



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emphasizing stewardship of the natural resources of Hanauma Bay*

SB2924 provides cover to those who would do harm to our precious marine life and reefs, which are held in the public trust.

**Please defer SB2924 in its entirety.**

With Aloha,

Lisa Bishop

President

**SB-2924**

Submitted on: 2/3/2022 3:41:15 PM

Testimony for WTL on 2/4/2022 1:15:00 PM



Submitted By	Organization	Testifier Position	Remote Testimony Requested
Diane Ware	Individual	Oppose	No

Comments:

Dear Chair Inouye and Members Water and land Comittee,

I strongly oppose this measure and urge you to defer it. It is an unconstitutional infringement of first amendment rights and would protect those committing illegal acts underwater such as coral, and aquatic life extraction or damage. There have been numerous cases prosecuted recently for coral damage and wildlife trafficking of reef fishes. Photos and videos of crimes on land are ubiquitous and have proven a valuable resource for evidence in criminal actions.

Furthermore this bill directly conflicts with what DOCARE asks of the public; to report suspected illegal fishing or other marine related violations, including by submitting photos and videos via their DLNRTip App. And this also sets a dangerous precedent. No other groups, not even the police, are protected from public scrutiny when operating in plain view in public areas, such as our beaches and oceans- existing anti-harrassment laws already provide adequate protection to lawful fishers, and any person, from intentional interference or harm, or theft of property.

This bill provides cover to those who would do harm to our precious marine life and reefs, held in the public trust.

I urge this commmittee to defer this bill in its entirety.

Aloha pono,

Diane Ware

99-7815 Kapoha pl

Volcano HI 96785

**SB-2924**

Submitted on: 2/3/2022 4:47:04 PM

Testimony for WTL on 2/4/2022 1:15:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
William K. Chang	Individual	Support	No

Comments:

I support Bill SB2924 Relating to Fisherman Safety



**LATE**

Testimony Before The  
Senate Committee on Water and Land  
**COMMENTS ON SB 2924**  
Friday, February 4, 2022, 1:15PM, Room 229

My name is Kevin Chang and I am the Executive Director of [Kua'āina Ulu 'Auamo \(or KUA\)](#). KUA works to empower grassroots rural and Native Hawaiian mālama 'āina groups 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 statewide network of 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 group of over 60 Limu practitioners and supporters called the Limu Hui. A number of the communities we serve, and KUA itself have played a role in the development of the Makai Watch program and supported DOCARE's growth and capacity to better work with citizens, especially our practitioners in rural and Native Hawaiian communities.

**KUA has comments and concerns about SB 2924.**

We are concerned the bills vagueness and existing laws on harassment that should apply to all citizens creates a number of problems not to mention the chilling affect it could have on reasonable citizen desires to support or collaborate with their government. This bill could put a chill on the kind of public support and cooperation DOCARE and DLNR -in programs like Makai Watch and their TIP App- hope to engender in working with community.

As an example, the following suggested clauses have problems due to vagueness and enforceability:

- 1) "Placing the person's self in a location in which human presence may affect the behavior of fish to be taken or the feasibility of taking such fish;" and
- 2) "Creating a visual, aural, olfactory, or physical stimulus to affect the behavior of fish to be taken."

#1 could easily compromise non-fishers for presence in the area of a fisher because they "may affect" a fisher's ability to catch a fish. #2 compounds this should they accidentally fart – an aural olfactory stimulant- and scatter the fish. What would be the purpose of making fishers a specially protected class? It sounds as if anyone, say walking up to a fisher to ask about their catch (a common shoreline activity as niele as some might be) and disturbs fish behavior in the presence of a fisher is walking into a gray zone of criminal stigma or liability.

Mahalo for this opportunity.

Aloha 'Āina Momona.



# **FISHING TALES**

**LATE**

with  
*Mike  
Sakamoto*

Testimony to the Senate Committee on Water & Land  
Friday, February 4, 2022, 1:15 PM  
Via Videoconference

Testimony in support of SB 2924, Relating to Fisherman Safety

To: The Honorable Lorraine Inouye, Chair  
The Honorable Gilbert Keith-Agaran, Vice-Chair  
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of Fishing Tales with Mike Sakamoto, a company that was founded by my father in 1985.

We are in support of SB 2924, which would prohibit purposeful harassment with the intent to prevent the taking of fish from persons who are fishing in state waters.

Food security and sustainability have long been a concern to our island state. Although we are surrounded by the ocean, many don't view the fishing industry, specifically fishers, as crucial to our survival. Seafood is a huge part of many of the different cultures that make up Hawaii, and locally caught, fresh seafood is something that is often taken for granted. Unfortunately, there have been many recent instances where fishers are harassed for fishing legally, in public areas. While fishers as a community would prefer that legislation not be necessary, this bill would allow a layer of protection against a specific target.

Thank you for the opportunity to testify.