

Honolulu, Hawaii

MAR 22 2007

RE: H.B. No. 1499  
H.D. 2  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian  
Affairs, to which was referred H.B. No. 1499, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO OCEAN RESOURCES,"

begs leave to report as follows:

The purpose of this measure is to protect near shore and reef  
fisheries by authorizing the Department of Land and Natural  
Resources to conduct administrative inspections of bags and  
containers used to transport aquatic life.

Specifically, this measure amends section 187A-15, Hawaii  
Revised Statutes, by:

- (1) Authorizing Division of Conservation and Resources  
Enforcement officers to conduct administrative  
inspections of bags or containers that could be used to  
transport aquatic life;
- (2) Repealing the probable cause requirement to conduct  
examinations or searches of bags or containers that  
could be used to transport aquatic life; and
- (3) Directing the Department of Land and Natural Resources  
to create an administrative inspection scheme to enforce  
its aquatic rules.



Testimony in support of this measure was submitted by the Department of Land and Natural Resources; the Office of Hawaiian Affairs; the Mayor, County of Maui; the Nature Conservancy; Mālama Hawai'i; Earthtrust; the Sierra Club, Hawai'i Chapter; the Greenpeace Foundation; the Ocean Law and Policy Institute of the Pacific Forum CSIS; the Hawaii Audubon Society; the Conservation Council for Hawai'i; and two individuals.

Hawaiian commercial and recreational marine life stocks are depleted, over-utilized, and in danger of irretrievable exhaustion. Although management tools have been enacted, fishery assessment depends on the voluntary cooperation of those who harvest these resources. While most fishers are willingly cooperative, increasing stock scarcity has led to conspicuous instances of obstruction of the efforts by Division of Conservation and Resources Enforcement officers to inspect catch.

Your Committee finds that the existing probable cause provision under section 187A-15, Hawaii Revised Statutes, does provide a degree of constitutional protection while at the same instance, may unduly hinder enforcement officers by preventing them from inspecting containers that may be used to transport fish and other aquatic life. Thus, this greatly weakens the effect of fisheries management measures, such as bag and size limits. While your Committee recognizes the seriousness of repealing the probable cause requirement from section 187A-15, Hawaii Revised Statutes, establishing an administrative inspection scheme will enable Division of Conservation and Resources Enforcement officers to better inspect and enforce the State's fishing laws.

Accordingly, your Committee has amended this measure by:

- (1) Adopting similar language from S.B. No. 663, S.D. 1, that:
  - (A) Adds fishing registrations along with fishing licenses and permits to conform better with the new federal fisheries regulations that mandate the registration of recreational saltwater anglers; and
  - (B) Adds provisions that require owners of fishing licenses, permits, or registrations to physically possess their paperwork when engaged in fishing activities, show their paperwork and allow for an inspection when asked by a Division of Conservation



and Resources Enforcement officer, and agree to comply with all terms, conditions, laws, rules, and regulations applicable to the fishing license, permit, or registration;

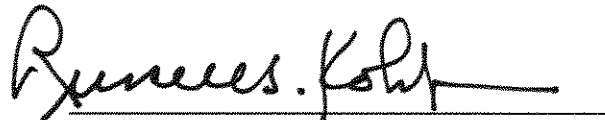
- (2) Changing the effective date of this measure from July 1, 2050, to effective upon approval; and
- (3) Making technical, nonsubstantive provisions for the purposes of consistency and style.

Your Committee recognizes that repealing the probable cause requirement under section 187A-15, Hawaii Revised Statutes, may pose a constitutional issue. Your Committee believes that this issue merits further discussion by the Committee on Judiciary and Labor.

Your Committee believes that this measure, as amended, will provide a valuable tool for Division of Conservation and Resources Enforcement officers who are charged with enforcing the State's natural resource laws, and fulfills the intent of this measure, which is to protect near shore and reef fisheries.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1499, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1499, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary and Labor.

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



RUSSELL S. KOKUBUN, Chair



The Senate  
Twenty-Fourth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Water, Land, Agriculture and Hawaiian Affairs**  
**WAH**

Bill / Resolution No.:* <b>HB 1499 HD2</b>	Committee Referral: <b>WAH, JDL</b>	Date: <b>3/19/07</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	X			
TOKUDA, Jill N. (VC)	X			
FUKUNAGA, Carol	X			
HEE, Clayton	X			
SLOM, Sam	X			
<b>TOTAL</b>	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution:             Original     Yellow     Pink File with Committee Report     Clerk's Office     Drafting Agency				

\*Only one measure per Record of Votes