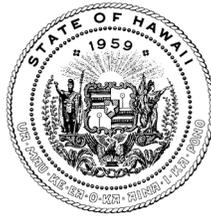


DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
POST OFFICE BOX 621  
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**Testimony of**  
**SUZANNE D. CASE**  
**Chairperson**

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

**Wednesday, February 3, 2021**  
**1:00 P.M.**  
**State Capitol, Conference Room 229**

**In consideration of**  
**SENATE BILL 578**  
**RELATING TO COMMERCIAL SHARK TOURS**

Senate Bill 578 proposes to prohibit commercial shark tour operations from operating without a permit; and require the Department of Land and Natural Resources (Department) to adopt rules to regulate commercial shark tours. **The Department appreciates the intent of this measure and offers the following comments.**

The Department's Division of Boating and Ocean (DOBOR) has jurisdiction over vessel operation and ocean recreation activities in state ocean waters, extending three nautical miles from shore. All commercial vessels not under the jurisdiction of the Department of Transportation are required to obtain a commercial use permit (CUP) from DOBOR in order to operate commercially in state ocean waters. CUP applicants are required to specify the activity or activities they will be conducting as well as the area or areas where they plan to operate, subject to approval from the Department. DOBOR's CUPs include various terms and conditions that operators agree to before being issued the CUP. These CUP terms and conditions allow DOBOR to quickly revise the language to adapt to a change in the activity if the need arises.

DOBOR CUPs for Haleiwa Ocean Waters include within their terms and conditions that any shark tours be conducted only outside of the three-nautical-mile state waters boundary. Therefore, all operators conducting shark tours operate in federal waters past the three-nautical-mile boundary and outside of state jurisdiction. Operators obtain a DOBOR CUP if loading and unloading passengers at a state facility for any commercial purpose, and not all shark tour operators specifically list their permitted activity as "shark tours," instead categorizing the activity as "marine life observation" or a variation thereof. DOBOR estimates that 16 companies operate shark tours of some kind based on the type of activity specified in the corresponding CUP.

**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

Regarding §188- (a)(7)(C) on page 3, the Department notes that chumming or any other use of an attractant is prohibited in state waters and would already be prohibited as part of CUP terms and conditions. Additionally, the Hawai'i Institute of Marine Biology is not a regulatory agency and would not be authorized to approve or regulate any use of bait or attractant.

The Department believes that for operators that may decide to operate shark tours in state waters, the restrictions contemplated by this measure are better implemented through CUP terms and conditions, and this measure therefore would not be necessary. However, if the Committee decides to pass this measure, the Department believes that at least the "code of conduct" and "best management practices" should be removed from the measure, by removing the entirety of §188- (a)(7) on page 3-4 and §188- (a)(8) on page 4, and implemented through the terms and conditions of a CUP.

Thank you for the opportunity to comment on this measure.

**SB-578**

Submitted on: 2/1/2021 12:27:49 PM

Testimony for WTL on 2/3/2021 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Maxx Phillips	Testifying for Center for Biological Diversity	Support	No

Comments:

Teestimony in strong support

**SB-578**

Submitted on: 2/1/2021 11:35:32 PM

Testimony for WTL on 2/3/2021 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ted Bohlen	Testifying for Hawaii Reef and Ocean Coalition	Support	No

Comments:

To: Senate Committee on Water and Land

Honorable Senator Lorraine Inouye, Chair

Honorable Senator Gilbert Keith-Agaran, Vice Chair

Re: SB578 – RELATING TO COMMERCIAL SHARK TOURS.

Hearing: Wednesday, February 3, 2021, 1 p.m. via videoconference

From: Hawaii Reef and Ocean Coalition (by Ted Bohlen)

Position: SUPPORT

Aloha, Chair Inouye, Vice Chair Keith-Agaran, and Members of the Committee:

The HAWAI'I REEF AND OCEAN COALITION – HIROC – was formed in 2017 by coral reef scientists, educators, local Hawaii environmental organizations, elected officials, and others to address the crisis facing Hawaii's coral reefs and ocean species.

We are currently asking the Legislature to pass a handful of very important bills to save our coral reefs and other marine life – they are bills relating to aquatic species, plastic marine debris, the climate crisis and sea level rise, sunscreens, and cesspools.

HIROC supports this bill, which would prohibit commercial shark tour operations from operating without a permit. The bill would also require the Department of Land and Natural Resources to adopt rules to regulate commercial shark tours, including adherence to a code of conduct.

Many shark species are threatened with extinction. The journal Nature reported on January 27, 2021, that, since 1970, the global abundance of oceanic sharks and rays has declined by 71% owing to an 18-fold increase in relative fishing pressure. This depletion has increased the global extinction risk to the point at which three-quarters of

the species comprising this functionally important assemblage are threatened with extinction. Strict prohibitions and precautionary science-based catch limits are urgently needed to avert population collapse, avoid the disruption of ecological functions and promote species recovery.

Sharks are critical to a healthy marine ecosystem because, as apex predators, they help to regulate marine life and ensure healthy fish stocks. Sharks help maintain the balance that makes coral reefs stronger and better able to withstand the multiple stressors that reefs now face. HIROC is concerned that commercial shark tours, especially run by unpermitted and untrained operators, are disrupting the natural ecosystems of these threatened species. This bill would help to reduce the risks to sharks and natural ecosystems.

Please pass this bill. Mahalo!

Hawaii Reef and Ocean Coalition (by Ted Bohlen)



# Environmental Caucus of The Democratic Party of Hawai'i

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February 2, 2021

To: Senate Committee on Water and Land  
Honorable Lorraine R. Inouye, Chair  
Honorable Gilbert S.C. Keith-Agaran, Vice Chair

Re: SB 578 – RELATING TO COMMERCIAL SHARK TOURS

Hearing: Wednesday, February 3, 2021, 1:00 p.m. via videoconference

Position: **SUPPORT**

Aloha, Chair Inouye, Vice Chair Keith-Agaran, and Members of the Committee:

The Environmental Caucus of the Democratic Party of Hawai'i and its Natural Resources Committee are in support of this bill, which would prevent commercial shark tour operations from operating without a permit. The bill would also require the Department of Land and Natural Resources to adopt rules to regulate commercial shark tours, including establishing and enforcing a code of conduct.

Many shark species are threatened with extinction, and sharks in Hawaii waters are no exception. Sharks are critical to maintaining a healthy marine ecosystem because, as apex predators, they help to regulate marine life and maintain healthy fish stocks. The presence of sharks on the reefs helps to make them stronger and better able to withstand the multiple stressors, such as heat and pollutants, that reefs are currently facing in ever more severe ways. We believe that this bill will help by reining in commercial shark tours, especially those that are currently operated by unpermitted and untrained operators. Those tours are disrupting the natural ecosystems of these threatened species.

For these reasons, we ask you to pass this bill. Thank you for the opportunity to testify.

Alan B. Burdick, Co-Chair  
Environmental Caucus, and Co-Chair  
Natural Resources Committee of the Environmental Caucus  
[Burdick808@gmail.com](mailto:Burdick808@gmail.com) 927-1500

**SB-578**

Submitted on: 2/1/2021 7:22:43 PM

Testimony for WTL on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Meyer	Individual	Support	No

Comments:

My name is Carl Meyer. I have studied sharks in Hawaii and elsewhere around the globe for almost 30 years. I previously published a peer-reviewed scientific paper specifically characterizing the shark ecotourism activities occurring in waters off Haleiwa.

**Meyer CG**, Dale JJ, Papastamatiou YP, Whitney NM, Holland KN. 2009. Seasonal cycles and long-term trends in abundance and species composition of sharks associated with cage diving ecotourism activities in Hawaii. ***Environmental Conservation*** 36: 104–111

I strongly support sensible regulation of the shark ecotourism industry in Hawaii. Other jurisdictions around the world including South Africa and Australia have implemented legally permitted shark ecotourism with clearly defined industry codes of conduct and adaptive management with ongoing scientific assessments. There is no a priori reason why this should not be done in Hawaii.

Shark ecotourism provides people with opportunities to encounter sharks in their natural habitats and learn about their biology. When correctly managed this is a safe and sustainable industry because revenue is generated from live sharks and the volume and locations of these activities are restricted to minimize potential ecological impacts.

In normal times, local shark ecotourism activities are immensely popular bringing hundreds of visitors to Haleiwa each day to see sharks. These visitors also visit Haleiwa town to patronize local restaurants and buy souvenirs. This provides much-needed economic opportunity for the local community including jobs within the shark ecotourism industry itself.

The popularity of shark ecotourism has resulted in a burgeoning number of these activities off Haleiwa, particularly the cageless excursions where people snorkel in open water with sharks. When I published the characterization of the industry in 2009, there were just two companies operating cage-diving tours off Haleiwa. Now there are at least 14 companies, most of whom offer cageless snorkeling with sharks. There is no regulation of these activities beyond basic coastguard boating requirements which are minimal for vessels carrying up to 6 passengers. There are no limits on how many of these activities can occur or where they can occur. There is no requirement for any

training in shark biology or advanced first aid, and no standardized industry code of conduct prescribing how these activities are carried out. These deficiencies increase the risk of unwanted ecological impacts and serious accidents. In 2019, 3 people were bitten by sharks during the same cageless snorkeling tour. First-person witness statements from this incident can be viewed on archived media pages:

<https://www.kitv.com/story/41068652/three-people-suffer-from-apparent-shark-bites-at-haleiwa-boat-harbor>

The injuries suffered in this incident were mild to moderate but demonstrate the clear potential for serious injuries to occur when shark ecotourism activities occur outside a cage. At minimum companies operating these kinds of activities should be required to have personnel with advanced first aid training and appropriate trauma kits onboard every vessel.

Other important considerations include capping the total number of operators, defining the areas of operation, capping the amount of attractants used, setting a ratio of tour guides:customers for in-water activities, ensuring guides have formal training in basic shark biology and ecology, and requiring a commercial permit for these operations.

The bill introduced by Senator Riviere systematically addresses the key concerns surrounding shark ecotourism in Hawaii and provides a carefully considered framework for sensible regulation of this industry.

I strongly support this bill and urge you to pass it.