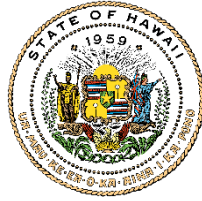


**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
DAWN N. S. CHANG  
Chairperson**

**Before the House Committee on  
WATER & LAND**

**Thursday, February 9, 2023  
9:30 AM**

**State Capitol, VIA VIDEOCONFERENCE, Conference Room 430**

**In consideration of  
HOUSE BILL 894  
RELATING TO WHALES**

House Bill 894 proposes to place certain requirements and speed restrictions on the operation of water vessels in proximity to humpback whales. **The Department of Land and Natural Resources (Department) greatly appreciates the intent of this measure to safeguard humpback whales, but opposes this bill as impractical to enforce.**

Humpback whales, or koholā, are ecologically, economically, and culturally important species in Hawai'i. Ensuring safe operation of vessels around humpback whales is important, both for the wellbeing of the whales themselves, as well as for boater safety and enjoyment. In 2021, the Department—through its Divisions of Aquatic Resources (DAR), Conservation and Resources Enforcement (DOCARE) and Boating and Ocean Recreation (DOBOR)—partnered with the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS), the National Atmospheric and Oceanic Administration (NOAA), the Pacific Whale Foundation, the Lāna'i ferry, and members of the tour boat community to form a “speed limit working group” to identify solutions to prevent accidental injuries to whales and boaters during humpback whale season. This group updated existing “Best Boating Practices” by adding new recommended vessel speed limits under various circumstances.

For example, the recommendation for boats in transit during whale season, November through April, especially in water depths of 100 fathoms or less, is to maintain a speed of 15 knots or less, or minimal planing speed, to reduce the risk of striking a whale. The recommendation for tour operators approaching a whale for viewing at the legal 100-yard distance is to proceed at a recommended max speed of six knots within 400 yards of a whale while making directed approaches and departures. It is also recommended that all boaters post a lookout other than the

**DAWN N.S. CHANG**

CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

**LAURA H.E. KAAKUA**  
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

vessel operator, when transiting in waters 100 fathoms or less during whale season, when possible. The intent is to alert the vessel operator of whale locations.

The recommendations are based on actual strike data provided by HIHWNMS, research in Hawai'i and elsewhere, the variety and type of vessels in Hawaiian waters (e.g., ferry, barges, tour operators, fishers), whale behavior, whale densities in Hawaiian waters, sea state, time of year, and more. The Department and its agency and organization partners created these recommendations, rather than proposed regulations, in part because vessel speed regulations are practically unenforceable. Current radar technology used to measure speed limits on land is not capable of determining vessel speed on open water. Further, the presence of lookouts is not always possible and is not related to distance from a whale.

These best boating practices are currently posted on DOBOR's website.<sup>1</sup> The Department has developed printed educational materials to distribute to tour operators and recreational boaters and is currently working with agency and organization partners on a coordinated outreach campaign. These recommendations represent prudent measures to make waters safer for whales and people. The Department believes the establishment of these measures in regulations is unnecessary and potentially counterproductive at this time.

Mahalo for the opportunity to testimony on this measure.

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<sup>1</sup> See DOBOR website at: <https://dlnr.hawaii.gov/dobor/boating-with-whales/>



COMMITTEE ON WATER & LAND

Rep. Linda Ichiyama, Chair

Rep. Mahina Poepoe, Vice Chair

Rep. Cory M. Chun

Rep. Dee Morikawa

Rep. Sonny Ganaden

Rep. Gregg Takayama

Rep. Mark J. Hashem

Rep. Kanani Souza

NOTICE OF HEARING

DATE: Thursday, February 9, 2023

TIME: 9:30 AM

PLACE: VIA VIDEOCONFERENCE

Conference Room 430

State Capitol

415 South Beretania Street

**TESTIMONY OF OCEAN TOURISM COALITION IN OPPOSITION TO HB894**

The Ocean Tourism Coalition (OTC) represents over 300 ocean tour operators statewide. OTC is writing in strong opposition to HB894. OTC is writing in opposition to HB894, which imposes strict speed restrictions on vessels operating within the waters of the State.

While we support measures aimed at protecting humpback whales, we believe that this bill is impractical and unnecessary. There is already a well-established regulation in place that prohibits vessels from approaching humpback whales by any means within 100 yards (90 m) when on or in the water. This regulation applies to all ocean users, year-round, anywhere within Hawaiian waters and out to 200 nautical miles. This rule has proven to be effective in reducing the risk of collisions and minimizing the impact of vessel traffic on whale populations.

Additionally, the strict speed restrictions imposed by this bill would significantly impact the operations of our members, many of whom rely on efficient and timely vessel operations to support their businesses. It is also unclear how this rule would apply in situations where vessels must reach safe harbor in a timely manner for passenger safety (i.e., medical emergencies).

We strongly urge you to consider the impact this bill would have on our industry and to instead explore alternative measures that would better protect humpback whales without hindering the operations of commercial vessels.

Sincerely,

Denver S. Coon

Director

OTC

**HB-894**

Submitted on: 2/7/2023 8:51:52 AM

Testimony for WAL on 2/9/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cathy Goeggel	Individual	Support	Written Testimony Only

Comments:

We are in strong support! Mahalo!

**HB-894**

Submitted on: 2/8/2023 3:40:09 PM

Testimony for WAL on 2/9/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nina Monasevitch	Individual	Support	Written Testimony Only

Comments:

**Strongly Support HB894**

- Globally, vessel strikes are the number two cause of death for all cetaceans and strikes are increasing significantly in Hawai‘i’s waters and are now the number one cause of death in Hawai‘i’s waters
- The HIHWNMS (Sanctuary) waters are the most important mating and birthing grounds for the North Pacific humpback whale population
- 57% of all humpback whale strikes in Hawai‘i are calves or juveniles and 50% of all strikes occur suddenly with no warning, making it impossible (at high speeds) for vessels to take evasive action to avoid collisions
- The research suggests an introduction of a speed limitation of 13 knots for any high-risk area and existing Special Areas of Conservation.
- Boat speed is clearly a factor in the incidence of collisions, with about 80% of all strikes occurring with vessels traveling between 10-30 knots. Collisions resulting in severe injury or death are typically caused by boats traveling at 14 knots or higher
- Vessel speed limits have been documented worldwide to significantly reduce whale strikes as much as 85%
- The best available science, over the past 19 years with a minimum of 300 peer reviewed papers, documents that vessel speed limits are effective at reducing whales strikes and saving whales’ lives
- World wide ocean vessel traffic has increased 300% over the past 20 years and continues to increase
- The Sanctuary’s duty is to protect the humpback whales in their nursery grounds, the whales should have a safe place within Sanctuary waters
- Vessel speed is directly linked to strikes resulting in the killing of whales, turtles, other marine life AND human beings
- The North Pacific humpback whale population has declined by 50 – 80 % over the past several years, many are emaciated and in poor body condition - we should be very motivated to act on all fronts
- Whales provide an important ecosystem service by sustaining productivity, known as ‘the whale pump’
- Whales have important value culturally, spiritually, environmentally, and economically
- The whales were here first and we share the space with them, we have a moral obligation and sense of commitment to be caring and responsible

- Hawai'i's North Pacific humpback whales face compounding, serious threats in addition to vessel strikes, including; net entanglement/fisheries by-catch, prey depletion due to marine temperature changes and overfishing, acoustic disturbance (increasing dramatically from engine noise due to more shipping, recreation, and fishing vessels worldwide), Navy sonar, seismic gas and oil surveys, habitat degradation due to runoff and chemical pollution, plastic and other pollution being swallowed, ocean acidification, climate change, bio-toxins, illegal whaling, harassment from whale watching/tourism activities and radiation from Fukushima
- Implementing vessel speed limits in Sanctuary waters is tangible action that can be taken now to help the whales