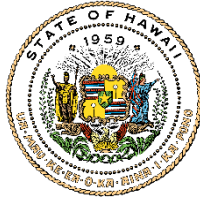


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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BOATING AND OCEAN RECREATION
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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

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
WATER & LAND

Thursday, March 16, 2023
10:00 AM

State Capitol, VIA VIDEOCONFERENCE, Conference Room 430

In consideration of
SENATE BILL 1264, SENATE DRAFT 2
RELATING TO COMMERCIAL FISHING

Senate Bill 1264, Senate Draft 2 proposes to authorize the Department of Land and Natural Resources (Department) to establish limited entry commercial fisheries for fisheries that are not subject to federal fisheries regulations as defined in Section 187A-5.5, Hawaii Revised Statutes (HRS), where appropriate or necessary to ensure certain commercial fisheries throughout the State remain healthy and sustainable while balancing the important economic role of commercial fisheries in the State. **The Department supports this bill.**

Pursuant to Section 187A-2, HRS, the Department is mandated to manage and administer the aquatic life and aquatic resources of the State. Successful aquatic resource management includes ensuring abundance while also allowing sustainable levels of take. Hawai'i's commercial and noncommercial fisheries require different management strategies. The Department currently uses management tools such as size limits, bag limits, closed seasons, gear restrictions, place-based rules, and permitting to regulate the State's commercial fisheries. However, to date the Department does not possess the authority to cap, or otherwise limit the number of entrants into a given commercial fishery thereby creating what is referred to as a limited entry fishery. Limited entry fisheries are common throughout the world, though in Hawai'i the federally managed Hawaii longline fishery remains the only example with a fixed cap of 164 permits.

Limiting participants is not necessary in all commercial fisheries, but it can be critical to effective management in certain circumstances. When the total amount of sustainable take allocated to a given commercial fishery is low or decreasing, limiting entrants can ensure that

those possessing permits maintain an adequate and profitable share of the total harvest. Additionally, limiting entry can also prevent non-commercial fishers from purchasing a Commercial Marine License (currently \$100 for residents) for the sole purpose of gaining access to higher commercial bag limits. In short, the ability to place a maximum number of entrants into a commercial fishery can both provide the Department with more management capability and protect the interests of dedicated commercial fishers.

The Department supports the amendment in Senate Draft 2, which narrows the Department's authority to establish limited entry fisheries to apply only to fisheries that are not subject to federal fisheries regulations as defined in Section 187A-5.5, HRS. Senate Bill 1264, Senate Draft 2 will support the Department's continued management of Hawai'i's fisheries by authorizing the Department to implement a limited entry commercial fishery in certain circumstances where it is appropriate or necessary.

Mahalo for the opportunity to provide testimony in support of this measure.



March 14, 2023

Rep. Linda Ichiyama, Chair
Rep. Mahina Poepoe, Vice Chair
COMMITTEE ON WATER & LAND

DATE: Thursday, March 16, 2023
TIME: 10:00 a.m.

Regarding: SB 1264, SD2 RELATING TO COMMERCIAL FISHING

Comment only

HFACT is a not-for-profit, IRS 501c(5) organization, that advocates for small boat commercial, non-commercial, and recreational fishermen throughout Hawaii. HFACT board members sit on a number of federal fisheries management and endangered species advisory committees as well as state marine and coastal zone advisory committees; and, HFACT is thoroughly familiar with and participates in ocean and marine resource management in Hawaii and the central Pacific.

HFACT wishes to provide comment on SB1264, SD2. While HFACT supports the intent of the bill as a means to allow commercial fishing in fisheries that require necessary management, the term “limited entry” has been interpreted by segments of Hawaii’s fishing community to mean different things. As of the date of this hearing, there are factions of the fishing community that strongly oppose limited entry as a fishery resource management tool, and there are segments of Hawaii’s fishing community that strongly support limited entry. This leads HFACT to the conclusion that limited entry as a concept requires further discussion among fishers and with the Hawaii division of aquatic resources.

HFACT agrees with the legislative intent of SB1264, SD2, that is “to establish limited entry systems for certain commercial fisheries will enable the department to strike a balance between allowing the continued commercial harvest of fishery resources and establishing reasonable harvest limits to ensure sustainable fishing.” As is stated in the legislative intent, HFACT agrees that limited entry mechanisms have an economic purpose (that is, allowing continued commercial harvest), and also an ecological purpose (that is, the establishment of reasonable harvest limits). The economic purpose of protecting established commercial fishers is strongly supported by the entire fishing community; however, some fishers are concerned with the use of limited entry as a method to establish harvest limits. Harvest limits need to be science based and require a stock assessment of the health of the fish stocks in question. It is this part of the bill that has elicited concern from a segment of the fishing community.

Hawai'i Fishermen's Alliance for Conservation and Tradition, Inc.
75-796 Hiona Street, Holualoa HI 96725

Importantly, some segments, specifically the aquarium collection fishery and the herbivore fishery, who may be first to be affected by the passage of this bill is in favor of this bill. Also, it should be noted that Hawaii's largest fishery, the longline fishery, although federally managed, is a limited entry fishery.

HFACT has reservations regarding SB1264, SD2 and offers the following suggestions:

At 189-2(d):

The department ~~may~~ is authorized to establish limited entry commercial fisheries that are not subject to federal fisheries regulations as defined in section 187A—5.5. ~~when appropriate or necessary to ensure sustainable fisheries.~~

To alleviate the fears regarding limited entry from some fishers, the following is suggested to be added to the bill:

There is established a commercial fisheries Limited Entry permit system working group within the division of aquatic resources of the department of land and natural resources.

(a) The working group shall consist of:

(1) A representative of the department of land and natural resources, to be selected by the chairperson of the board of land and natural resources;

(2) A representative of the department of the attorney general, to be selected by the attorney general;

(3) A representative of Hawaii Fishermen's Alliance for Conservation and Tradition, who shall be invited by the chairperson of the board of land and natural resources; and

(4) Two current holders of a commercial marine license, who shall be invited by the chairperson of the board of land and natural resources.

(b) The working group shall examine the following matters:

(1) The issuance of the initial Limited Entry permits for a subject fishery;

(2) The renewal of Limited Entry permits;

(3) The issuance of Limited Entry permits to new applicants if and when permits are available, and,

(4) The factors to be considered when a fishery is limited in the number of commercial permits that can be issued.

(b) Should Limited Entry permits for a commercial fishery be deemed necessary by the department, initial permits shall be issued by the following methods and in the following order until all permits allowed by law or determined by the department to be a reasonable number have been issued:

(1) Seniority based on an applicant's number of years engaged in the commercial fishery for which a limited entry permit is sought, proven by records including but not limited to commercial marine license fish catch reports gross receipts, and tax records;

(i) Fisheries participants who were not legally required to submit commercial marine license fish catch reports shall substitute written attestation by the vessel owner on which they participated in the fishery or proven gross receipts and tax records.

(2) Seniority based on the date and time a limited entry permit application was submitted;

(3) Unsealed public auction; and

(4) Lottery.

(c) When deemed necessary, Limited Entry Permit system shall be applied to small commercial fisheries only, defined as those commercial fisheries with fewer than an average of 100 commercial marine license holders who have reported catch any time during the prior to 5 years of the initiation of the Limited Entry permit system.

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Some members of Hawaii's fisheries fear that limited entry is the equivalent of catch shares (or individual fishing quotas) or will lead to implementation of catch shares. HFACT opposes fishery management by catch shares and individual fishing quotas.

While HFACT understands that limited entry is a technical and specific term of art referring to fishery management programs that use economic models to determine, on the basis of biological and economic inputs, how the fishery stocks can be maintained with the optimal level of capital and labor. And that the purpose is both to reduce exploitation of the fishery stocks and to avoid economic waste in a fishery. The use of the term "limited entry", interpreted colloquially, in this SB1264 SD2 evokes a strong and vehement concern with many fishers.

Limited entry has been used as a management regime in numerous fisheries for over 60 years, but successful implementation by government jurisdictions and acceptance by fishers has been mixed. Successful implementation can take years to implement. As a consultant to the Oregon Department of Agriculture and the Coos Bay Trawlers Association from 1995 to 2004, I was involved in the implementation of limited entry fishery as part of the Oregon Rockfish Rationalization Program (a part of the Pacific Coast Groundfish Fishery Management Plan). It took over 9 years to complete the retention of fishers of record to balance the number of fishing vessels to the available biomass of 43 species of rockfish. Based on this type of timeline, additional discussion of the definition and potential impacts of limited entry permits should be seriously considered.

HFACT agrees with the above technical definition of limited entry, as a term of art, but due to confusion in Hawaii, HFACT recommends that this SB1264 SD2 replace “limited entry” with the term “retained license program”. The retained license program would be defined, more narrowly, as a fishery management tool where currently active commercial fishers of a fishery, such as aquarium fish collection or herbivore fishery, can continue to harvest fish (within the limits of daily or annual catch limits) but that issuance of new licenses would cease until the fishery is deemed to be sustainable. “Currently active commercial fishers” can easily be identified as fishers of record as registered in the commercial marine license system. The criteria of how many years a fisher must have been in the fishery to be a protected fisher of record can be determined at the discretion of the Division of Aquatic Resources.

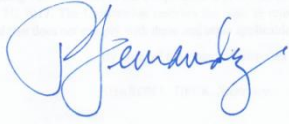
The retained license program should be separately developed with each fishery that it affects. The Division of Aquatic Resources should convene scoping and planning sessions with the fishery participants to assure that the program is applied fairly to the fishery. At no time should the Division have authority to use a limited entry regime for the entire commercial marine license community.

Another suggestion, that does not require the passage of this bill, would be to create a separate category of commercial marine license, based on criteria that would be determined by the division of aquatic resources. Under the current mandate under Section 189-2, there is no restriction of having multiple commercial marine license categories. By selectively creating criteria, experienced, for example aquarium fish collection fishers, can qualify for a specialty license while others who are not studied or experienced in the art of aquarium fish collection are excluded. The result would be an inclusionary/exclusionary license.

Because of perceived connotation of the colloquial term “limited entry” and the complexity of implementing limited entry without specifically defining “limited entry”, HFACT finds that additional intersession discussions are highly desirable.

HFACT thanks the chair, vice-chair, and committee members for this opportunity to provide comment and to assist in providing food to the people of Hawaii and to assist in the conservation of Hawaii's natural resources.

Sincerely and Aloha,



Phil Fernandez
President

SB-1264-SD-2

Submitted on: 3/15/2023 11:43:05 AM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Randy Cates	Individual	Support	Remotely Via Zoom

Comments:

I am in full support of SB 1264 SD2, this measure will ensure that commercial fishers who support and represent those who are no longer able to gather in the ocean still have access to the resource, they are the ones who's voice is never heard from. This measure is to protect those fishers who have the knowledge and experience to ensure this resource is available to hawaii's elderly, we need to protect this knowledge. Limited entry permits are a vital tool in some cases for fisheries management.

Randy Cates

SB-1264-SD-2

Submitted on: 3/16/2023 10:02:18 AM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
james pirtle	Individual	Oppose	Written Testimony Only

Comments:

I opose this bill. The legislature is not lawfully elected thus does not have the authority to enact laws and bills. All actions are treason against the United States of America.

SB-1264-SD-2

Submitted on: 3/16/2023 1:11:38 PM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Duke H.Au Hoon	Individual	Oppose	Written Testimony Only

Comments:

By State & Federal Law in Hawaii Supreme Court Decision (sc Case No. 15373) , protects my gathering rights as a indigenous, Native , aboriginal people of these lands. Hawaiian Kingdom, Kingdom of Hawai'i , The US Governing body as no jurisdiction in Hawaiian kingdom. No legal treaty between the US and the Hawaiian kingdom.

I oppose SB1264 & all other versions of this adopted bill ! The chair Linda Ichiyama of community Water & Land dosent speak for the indigenous, Aboriginal native Hawaiian people.