A BILL FOR AN ACT

RELATING TO FISHING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to create and amend 2 fishing provisions that affect the communities of Ha`ena, Kauai 3 and Kahului, Maui. Specifically, part I of this Act establishes 4 a community-based subsistence fishing area for the ahupua'a of Ha`ena to protect the fish stocks and coral reef habitats. Part 5 6 II of this Act extends the effective date of Act 218, Session 7 Laws of Hawaii 2005, to allow the department of land and natural 8 resources time to adopt necessary rules regulating user 9 conflicts in Kahului harbor.

10 PART I

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SECTION 2. The ahupua'a of Ha'ena is the westernmost land in the moku of Halele'a on the northwest coast of Kauai. The public highway ends in this ahupua'a, a land filled with many wahi pana or storied places, sites that are sacred to native Hawaiians and important to the whole state. The ahupua'a of Ha'ena and its offshore waters, since time immemorial, have been an important subsistence fishery resource for native Hawaiians and local families of the ahupua'a. However, the beauty of the 2006-2866 SB2501 CD1 SMA.doc

- 1 land and sea and the proximity to the end of the public highway
- 2 in the ahupua`a of Ha`ena attract hundreds of thousands of
- 3 visitors to the area every year. As a result of this influx of
- 4 visitors and a growing problem of indiscriminate fishing
- 5 practices, there has been an adverse impact to the fish stocks
- 6 and the integrity of the coral reef habitats in the area.
- 7 The legislature finds that a traditionally managed fishery
- 8 wherein the inhabitants of the ahupua`a develop and assist in
- 9 development and enforcement of traditional regulations for the
- 10 maintenance of the fishery is needed for the ahupua'a of Ha'ena.
- 11 The purpose of this Act is to establish a community-based
- 12 subsistence fishing area in the ahupua'a of Ha'ena.
- 13 SECTION 3. Chapter 188, Hawaii Revised Statutes, is
- 14 amended by adding a new section to part II to be appropriately
- 15 designated and to read as follows:
- 16 "\$188- Ha`ena community-based subsistence fishing area;
- 17 restrictions; regulations. (a) There is designated the Ha`ena
- 18 community-based subsistence fishing area on the northwestern
- 19 coast of Kauai, which shall consist of all state waters and
- 20 submerged lands bounded by:
- 21 (1) The shoreline of the Haena district;

1	<u>(2)</u>	A line that follows an imaginary extension of the
2		boundary between Hae`na state park and Na Pali state
3		park that extends seaward for one mile from the
4		shoreline;
5	(3)	An irregular line one mile offshore that is parallel
6		to the contours of the shoreline; and
7	(4)	A line that follows an imaginary extension of the
8		boundary between Hae`na and Wainiha, as specified in
9		the tax map of the county of Kauai, that extends
10		seaward for one mile from the shoreline.
11	(b)	In addition to the provisions of this chapter, the
12	following	uses or activities shall be regulated in the Ha`ena
13	community-	-based subsistence fishing area:
14	(1)	Any activities with a commercial purpose, as defined
15		in section 187A-1;
16	(2)	The issuance of any commercial marine license, as
17		defined in section 187A-1;
18	<u>(3)</u>	The issuance of any aquarium fish permits, pursuant to
19		<u>section 188-31;</u>
20	(4)	Fishing with the use of gill nets;
21	(5)	Fishing with self-contained underwater breathing
22		apparatus and spears; and

1	(6)	Any other use of activity that the department of land
2		and natural resources, in consultation with the
3		inhabitants of the ahupua`a of Ha`ena and other
4		interested parties, deems appropriate.
5	<u>(c)</u>	The department of land and natural resources, as soon
6	as practi	cal, shall consult with as broad a base as possible,
7	group of	inhabitants of the ahupua`a of Ha`ena and other
8	intereste	d parties to establish rules for the Ha`ena
9	community	-based subsistence fishing area, to include but not be
10	limited t	o:
11	(1)	A determination of fishing practices that are
12		customarily and traditionally exercised for purposes
13		of native Hawaiian subsistence, culture, and religion
14		in the fishing area;
15	(2)	A management plan recognizing existing marine
16		activities permitted by the department of land and
17		natural resources and containing a description of
18		specific activities to be conducted in the fishing
19		area, including evaluation and monitoring processes
20		and methods of funding and enforcement;
21	(3)	Limits on the harvest of aquatic life, as those terms
22		are defined in section 187A-1, in the fishing area;

1	(4) The establishment of no harvesting zones within the		
2	fishing area without depriving ahupua`a inhabitants of		
3	access to traditional sources of subsistence; and		
4	(5) A process for the expansion of the fishing area to		
5	include other ahupua`a.		
6	The department of land and natural resources shall adopt		
7	rules pursuant to chapter 91 necessary for the purpose of this		
8	section."		
9	PART II		
10	SECTION 4. The legislature finds that the department of		
11	land and natural resources is in the process of adopting rules		
12	regulating user conflicts in Kahului harbor and upon the		
13	adoption of the rules, the provision of Act 218, Session Laws of		
14	Hawaii 2005, will be unnecessary. The legislature further finds		
15	that the rule making process should be completed prior to June		
16	2007.		
17	The purpose of this part is to extend the effective date of		
18	Act 218, Session Laws of Hawaii 2005, to allow the department of		
19	land and natural resources time to adopt necessary rules prior		
20	to June 2007.		
21	SECTION 5. Act 218, Session Laws of Hawaii 2005, is		

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amended by amending section 3 to read as follows:

- 1 "SECTION 3. This Act shall take effect on [December 31,
- 2 2006.] June 30, 2007; provided that this Act shall be repealed
- 3 upon the effective date of administrative rules adopted by the
- 4 department of land and natural resources regarding user
- 5 conflicts at Kahului harbor; and provided further that upon
- 6 repeal of this Act, section 188-34, Hawaii Revised Statutes,
- 7 shall be reenacted in the form in which it read on the day
- 8 before the effective date of this Act."
- 9 PART III
- 10 SECTION 6. Statutory material to be repealed is bracketed
- 11 and stricken. New statutory material is underscored.
- 12 SECTION 7. This Act shall take effect upon its approval.

SB2501, SD1, HD1, CD1

Report Title:

Fishing Rights and Regulations; Ha`ena, Kauai

Description:

Establishes a community-based subsistence fishing area (Fishing Area) for the ahupua'a of Ha'ena, Kauai, and authorizes DLNR, in consultation with the ahupua inhabitants and interested parties, to regulate uses and activities in the Fishing Area. Extends the effective date of the statutory prohibition against net fishing in Kahului Harbor to 6/30/07 and repeals the statutory prohibition upon the adoption of rules by DLNR regulating user conflicts in the harbor. (CD1)