
HOUSE RESOLUTION

URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL
PROPERTY TASK FORCE TO DEVELOP A SUI GENERIS LEGAL SYSTEM
TO RECOGNIZE AND PROTECT NATIVE HAWAIIAN CULTURAL
INTELLECTUAL PROPERTY, TRADITIONAL CULTURAL EXPRESSIONS,
AND GENETIC RESOURCES.

1 WHEREAS, the Native Hawaiian people's collective
2 intellectual property rights are based upon the traditional,
3 cultural knowledge developed over thousands of years and passed
4 down from generation to generation; and
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6 WHEREAS, the value of Native Hawaiian cultural expressions
7 and art forms are exhibited in many forms, including the use of
8 ka 'ōlelo Hawai'i, hula, mele, mo'olelo, lei making, kapa making,
9 kākau, weaving, feather work, carving, and wayfinding; and
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11 WHEREAS, the western intellectual property system was
12 developed to protect the rights of creators and inventors
13 against plagiarism and to reward and encourage new inventions
14 and was not developed to protect the rights of indigenous
15 peoples to their collective, traditional knowledge, cultural
16 expressions, and art forms; and
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18 WHEREAS, existing western intellectual property laws
19 recognizing patents, registered trademarks, designs, and
20 copyright often facilitate the theft, misuse, and
21 misappropriation of indigenous knowledge by researchers,
22 authors, scientists, biotechnology corporations, universities,
23 the fashion industry, and others; and
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25 WHEREAS, disputes between indigenous peoples and third-
26 party users of indigenous knowledge resources over ownership and
27 control have steadily increased in the last five years; and
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29 WHEREAS, a non-Hawaiian food chain that originated in
30 Chicago, Aloha Poke Co., issued cease-and-desist letters
31 threatening small poke food businesses in Hawai'i and across the
32 nation from using the words "Aloha" and "Poke", in essence
33 claiming ownership of these cultural expressions; and



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2 WHEREAS, issues relating to indigenous intellectual
3 property rights have been addressed in many international
4 forums, including the World Intellectual Property Organization's
5 Intergovernmental Committee on Intellectual Property and Genetic
6 Resources, Traditional Knowledge and Folklore; the United
7 Nations Commission on Human Rights; the United Nations
8 Declaration on Rights of Indigenous Peoples; in relation to the
9 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and
10 the Convention on Biological Diversity; and

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12 WHEREAS, other indigenous people have developed strategies
13 and sui generis legal frameworks or systems to protect their
14 collective intellectual property rights and knowledge, including
15 the Indian Arts and Crafts Board federally funded through the
16 United States Department of the Interior, the Toi Iho registered
17 trademark for the Maori art and artists funded through a
18 charitable trust, and the Alaska State Council on the Arts
19 Silver Hand Program for Alaska Native artists funded through the
20 state; and

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22 WHEREAS, the Association of Hawaiian Civic Clubs previously
23 adopted Resolution Nos. 02-08, 03-13, and 17-57 to protect
24 Native Hawaiian cultural intellectual property and resources and
25 urge the Legislature to enact legislation, in consultation with
26 Native Hawaiians, that recognizes and protects the Native
27 Hawaiian people's collective intellectual property rights; and

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29 WHEREAS, the laws of the State of Hawai'i recognize the
30 traditional customary rights of Native Hawaiians but do not
31 expressly recognize and protect the collective intellectual
32 property rights of the Native Hawaiian peoples; now, therefore,

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34 BE IT RESOLVED by the House of Representatives of the
35 Thirtieth Legislature of the State of Hawaii, Regular Session of
36 2019, that the Department of Business, Economic Development, and
37 Tourism, State Foundation on Culture and the Arts, Department of
38 Commerce and Consumer Affairs, Department of Land and Natural
39 Resources, University of Hawai'i System, and any other relevant
40 state agency is urged, in collaboration with each other and with
41 the Association of Hawaiian Civic Clubs, Office of Hawaiian
42 Affairs, Council for Native Hawaiian Advancement, PA'I



1 Foundation, Hawai'i Arts Alliance, Maui Arts & Cultural Center,
2 Nā Mea Hawai'i, Native Hawaiian Chamber of Commerce, Native
3 Hawaiian intellectual property lawyers, and other relevant legal
4 scholars, to establish the Native Hawaiian intellectual property
5 task force (task force); and
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7 BE IT FURTHER RESOLVED that the task force is requested to
8 develop a sui generis legal system to recognize and protect
9 Native Hawaiian cultural intellectual property, traditional
10 cultural expressions, and genetic resources; and
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12 BE IT FURTHER RESOLVED that the task force is requested to
13 consult with indigenous communities, as appropriate; and
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15 BE IT FURTHER RESOLVED that the task force is requested to
16 submit its recommendations, including any proposed legislation,
17 to the Legislature no later than twenty days prior to the
18 convening of the Regular Session of 2022; and
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20 BE IT FURTHER RESOLVED that certified copies of this
21 Resolution be transmitted to the members of Hawai'i's
22 congressional delegation; Governor of the State of Hawai'i;
23 Chairperson of the Board of Trustees of the Office of Hawaiian
24 Affairs; Director of Business, Economic Development, and
25 Tourism; Director of Commerce and Consumer Affairs; Chairperson
26 of the Board of Land and Natural Resources; President of the
27 University of Hawai'i System; Executive Director of the State
28 Foundation on Culture and the Arts; Chair of the Senate Standing
29 Committee on Hawaiian Affairs; Chair of the House of
30 Representatives Standing Committee on Water, Land, and Hawaiian
31 Affairs; Mayors of the Counties of Maui, Kaua'i, and Hawai'i and
32 City and County of Honolulu; Executive Director of PA'I
33 Foundation; Chief Executive Officer of the Hawai'i Arts Alliance;
34 President and Chief Executive Officer of the Maui Arts &
35 Cultural Center; Chief Executive Officer of the Council for
36 Native Hawaiian Advancement; Founder of Nā Mea Hawai'i; and
37 Presidents of the Native Hawaiian Chambers of Commerce of O'ahu,
38 Maui, Kaua'i, and Hawai'i island.
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MAR 08 2019

