

Honolulu, Hawaii

MAR 23 2021

RE: H.B. No. 553
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Agriculture and Environment and Water and Land, to which was referred H.B. No. 553, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE PROTECTION OF SHARKS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit knowingly capturing, entangling, or killing a shark in state marine waters, with exceptions, and provide for penalties and fines for violations; and
- (2) Require the Department of Land and Natural Resources to adopt rules to achieve certain objectives relating to sharks.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources; Office of Hawaiian Affairs; Pacific Whale Foundation; The Humane Society of the United States; Friends of Hanauma Bay; For the Fishes; Conservation Council for Hawai'i; Kai Palaoa; Kalanihale; Environmental Caucus of the Democratic Party of Hawai'i; Moana 'Ohana; KAHEA; Sierra Club of Hawai'i; Legacy Reef Foundation; ODA Hawaii; FairWind; Haereticus Environmental Laboratory; Center for Biological Diversity; The Kohala Center; Hawai'i Reef and Ocean Coalition; Aloha Animal Advocates; and twenty individuals. Your



Committees received testimony in opposition to this measure from Lokahi Fishing, LLC and seventeen individuals. Your Committees received comments on this measure from the University of Hawai'i Institute of Marine Biology and one individual.

Your Committees find that sharks are culturally significant and serve critical ecological functions. By controlling fish populations as apex predators, sharks care for the ocean environment that is necessary for the continuation of native Hawaiian traditional and customary practices. Locations with greater apex predator biomass showed a high biomass of herbivorous fish, which helps keep coral reef ecosystems and the ocean healthy. Since 1970, the global abundance of oceanic sharks has declined by seventy-one percent due to an eighteen-fold increase in relative fishing pressure, increasing the risk of global extinction to the point at which three-quarters of the species compromising this functionally important assemblage are threatened with extinction.

Your Committees additionally find that in 2010, Hawaii became the first state to enact a prohibition on shark-finning and the sale of shark fins or fin products. However, existing law does not protect sharks from intentional capture or killing. Your Committees further find that the growing number of interactions between ocean users and sharks has resulted in the consideration of stronger penalties for cruelty against sharks. Some fishers have expressed concerns that they may be charged for the incidental capture of a shark while fishing for other species. To avoid punishing fishers for the incidental take of sharks, an explicit exception may be unnecessary, but such amendment may further render this measure largely unenforceable. Similar explicit exceptions have not been necessary to prevent imposing liability on fishers for the truly incidental take of protected species. Moreover, the extremely limited amount of subsistence shark fishing currently occurring, as noted in the preamble to this measure, weighs against the need to expand subsistence fishing beyond that which may occur as a native Hawaiian traditional and customary practice.

Your Committees have amended this measure by:

- (1) Amending section 1 to reflect its amended purpose to protect sharks for their ecological value, while not



criminalizing the accidental capture and release of sharks that may be captured while fishing for other species as allowed by existing statutes or rules;

- (2) Setting the prosecutorial burden to intentionally and knowingly capturing or entangling any shark within marine state waters;
- (3) Removing the incidental take exception, as fishers who are truly targeting non-protected species and who immediately release incidentally hooked or taken protected species are not held liable for an unlawful take despite the lack of an explicit statutory or regulatory incidental take exception;
- (4) Removing the exception for subsistence fishing of sharks by permit, as incidental capture while fishing for other species may be further addressed by the Department of Land and Natural Resource's rulemaking process;
- (5) Clarifying that the Department of Land and Natural Resources may adopt rules pursuant to chapter 91, Hawaii Revised Statutes, rather than requiring the Department to adopt rules;
- (6) Inserting an effective date of January 1, 2022, to allow for community outreach and education about the importance of protecting sharks and provide information about the potentially forthcoming rulemaking process from the Department of Land and Natural Resources; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

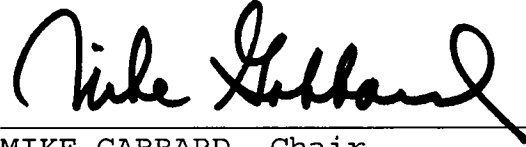
As affirmed by the records of votes of the members of your Committees on Agriculture and Environment and Water and Land that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 553, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 553, H.D. 2, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Agriculture and
Environment and Water and Land,



LORRAINE R. INOUE, Chair




MIKE GABBARD, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

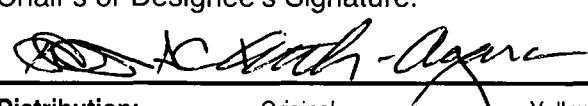
Record of Votes
Committee on Agriculture and Environment
AEN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 553, HD 2	AEN/WTL, JDC/WAM	03/17/2021		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
ACASIO, Laura	✓			
RHOADS, Karl	✓			
FEVELLA, Kurt	✓			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* HB 553, HD 2	Committee Referral: AEN/WTL, JDL/WAM	Date: 3/17/21		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
INOUE, Lorraine R. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
MISALUCHA, Bennette E.	X			
RIVIERE, Gil	X			
FEVELLA, Kurt	X			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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