

STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai'i to the Committee on Judiciary**

February 25, 2022

S.B. No. 2065 SD1: RELATING TO FISHING

Chair Rhoads, Vice-Chair Keohokalole, and Members of the Committee:

The Office of the Public Defender respectfully opposes S.B. 2065 SD1.

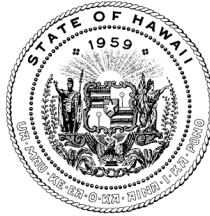
This measure seeks to amend HRS § 188-23 by making it unlawful to possess “unmanned aerial vehicles” (hereinafter “drones”) for the purpose of taking aquatic life. The purpose behind the amendment is not clearly laid out in the proposed bill, but it can be assumed that one of the main purposes is to protect fish stocks and the marine environment. As the law currently stands, HRS § 188-23 prohibits the use of explosives, electrofishing, and poisonous substances to take aquatic life. The use of “unmanned aerial vehicles” or drones, hardly seems on par with those methods.

The ocean is one of our most precious resources here in the State of Hawaii. It is common knowledge that explosives and poisonous substances such as Clorox bleach do permanent harm to marine ecosystems and habitat by destroying coral reefs, plankton, and marine organisms that rely on the coral reefs for reproduction and protection. It makes sense to criminalize these destructive practices given that our marine resources already face threats due to over-fishing, pollution, and other environmental factors. On the other hand, the use of “unmanned aerial vehicles” for fishing is hardly in the same category as those practices which are set forth in HRS § 188-23.

Furthermore, the use of drones would most likely be limited to use by sport fisherman and outdoor enthusiasts, rather than by commercial fisherman. Thus, outlawing its use would have little to no effect on preserving fish stocks. Even if drones were to be used commercially for spotting large schools of fish, the use of nets, traps, or other devices would still be required to capture those fish. There are already laws in place which regulate the use of nets and traps. Thus, criminalizing the use of drones in the same way as explosives and pollutants seems unjust, overly harsh, and would fail to achieve any of the objectives sought by HRS § 188-23. For these reasons, we respectfully oppose S.B. No. 2065 SD1.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Friday, February 25, 2022
9:45 AM
State Capitol, Via Videoconference**

**In consideration of
SENATE BILL 2065, SENATE DRAFT 1
RELATING TO FISHING**

Senate Bill 2065, Senate Draft 1 proposes to prohibit the possession or use of unmanned aerial vehicles in state waters for purposes of fishing. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments and suggested amendments.**

The Department is responsible for managing and administering the aquatic and terrestrial wildlife resources of the State. The Department recognizes that as technology evolves, so too must the laws and rules that govern the use of technology. In recent years, the innovation of unmanned aerial vehicles has become a new tool within the fishing community. Drones allow shore fishers to deploy baited hooks farther offshore and more efficiently than traditional shore fishing methods. This has resulted in increased interactions with protected species, such as monk seals and turtles, as well as increased user conflicts with boaters, swimmers, divers, surfers, kayakers, and other offshore ocean users. This also impacts human health and safety—people have reported becoming caught by lines in places shore casting cannot reach, boaters have reported concerns with braided line becoming entangled in propellers. Similarly, the use of drones has vastly expanded the footprint of fishing-related tackle becoming debris in the ocean. Drone use is on the rise, and we expect these impacts to also increase. The Department supports the Legislature’s recognition that unmanned aerial vehicles should be regulated to ensure they are used in a safe and responsible way.

The bill, as drafted, would prohibit the possession or use of unmanned aerial vehicles for the purpose of taking aquatic life. The Department notes that there are different applications for using unmanned aerial vehicles “for the purpose of taking aquatic life.” Unmanned aerial

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
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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

vehicles can be used to deploy fishing gear offshore, and they can be used to visually locate schools of fish or suitable fishing grounds. The Department recommends that the bill be amended to clarify whether the use of an unmanned aerial vehicle solely as a visual aid would be allowed.

Finally, the Department notes that the bill proposes to add unmanned aerial vehicles to the list of harmful and destructive fishing gears and methods listed in Section 188-23, Hawaii Revised Statutes (HRS). The penalty for a violation of this section is a class C felony. The Department does not believe the use of an unmanned aerial vehicle for fishing warrants a felony penalty and recommends that the bill be amended to remove the unmanned aerial vehicle prohibition from Section 188-23. The Legislature could create a new section in Chapter 188, HRS, to prohibit the possession or use of unmanned aerial vehicles for fishing. A violation would be a petty misdemeanor with fines as set forth in Section 188-70, HRS.

Thank you for the opportunity to comment on this measure.



**Department of Land and Natural Resources
Hawaii State Aha Moku
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

Testimony of
Hawaii State Aha Moku

Before the Senate Committees on
Judiciary

Friday, February 25, 2022
9:45 a.m.
Videoconference

In **SUPPORT** of
Senate Bill 2065 SD1
Relating to Fishing

Senate Bill 2065 prohibits the possession or use of unmanned aerial vehicles in state waters for purposes of fishing.

The Hawaii State Aha Moku System encompasses the eight main Hawaiian Islands and supports the traditional and generational knowledge of the people who are connected to each of the 46 moku and 606 ahupua'a. The system was brought forward from the 9th century, a time where sustainability and protection of resources ensured existence. It was a time where the focus of the people of the land was on survival. The Hawaii State Legislature saw the wisdom and the need to incorporate Native Hawaiian traditional and customary rights and practices into the fabric of state policy in 2012 through the passage of Act 288, SLH 2012 – the Hawaii State Aha Moku Act.

Today, the State of Hawaii is facing the same issues in ensuring the continued existence of its traditional subsistence fishing practices. While it is understood that Hawaii State waters and its resources must be shared with all, it is important to not forget that native Hawaiian fishing and gathering practices and rights are protected by Hawaii State law. Unmanned aerial vehicles used for purposes of fishing would either purposely or inadvertently pinpoint fishing ko 'a, gathering places of endangered limu, opihi and other marine coastal and deep-water species that have been preserved and maintained for generations by traditional Hawaiian *lawai'a*, fishers and gatherers in areas not easily accessible on every island.

Unfortunately, our marine and coastal species are slowly becoming devastated by an overpopulated ocean of commercial and recreational fishing, tourism and ocean traffic. This cannot be helped because Hawaii is a jewel of the Pacific and its appeal cannot be denied. However, we can help to balance the ocean environment and its uses in Hawaii by prohibiting the possession or use of unmanned aerial vehicles in state waters for purposes of fishing.

We **SUPPORT** the passage of SB 2065 SD1. Thank you for the opportunity to testify on this measure.

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SB-2065-SD-1

Submitted on: 2/23/2022 7:31:52 PM

Testimony for JDC on 2/25/2022 9:45:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Testifying for Hawai'i Reef and Ocean Coalition	Support	No

Comments:

To: The Honorable Karl Rhoads, Chair,

The Honorable Jarrett Keohokalole, Vice Chair, and Members of the
Senate Committee on Judiciary

From: Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

Re: Hearing **SB2065 SD1– RELATING TO FISHING**

Friday February 25, 2022, 9:45 a.m., by videoconference

Position: **STRONG SUPPORT!**

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on
Judiciary:

The Hawaii Reef and Ocean Coalition (HIROC) was formed in 2017 with coral scientists,
educators, legislators, filmmakers and advocacy groups to protect coral reefs and marine life.

Hawai'i Reef and Ocean Coalition STRONGLY SUPPORTS THIS BILL. Unattended gear dropped from unmanned aerial vehicles (such as drones) can entangle coral reefs and protected marine life, including monk seals and turtles. Plus, it is not pono, sportsmanlike or ethical.

Please PASS this bill!

Mahalo!

Hawai'i Reef and Ocean Coalition (by Ted Bohlen)



February 25, 2022, 945am

To: Chair Rhoads and Senate Judiciary Committee members

Re: SUPPORT SB2065 SD1; Relating to Unmanned Aerial Vehicles (drones)

For the Fishes, dedicated to the protection of coral reef wildlife, supports SB2065, to prohibit the possession and use of unmanned aerial vehicles (drones) for fishing, in the jurisdiction of state waters, given the consequential effects of unattended gear carried by drones that has shown to entangle and kill our reefs and marine life.

Nearly a dozen states have already enacted laws or administrative rules prohibiting this unsportsmanlike and unethical activity, that violates core hunting and fishing principles of fair chase and tracking of wildlife, among others principles. Drone "fishing" is akin to an earlier technological fad, where hunters could "point, click and shoot" game, also known as "remote-controlled hunting" from the comfort of their computer, and that was similarly banned in many states.

Drones used for fishing can extend 500 meters from the shoreline or a stationary boat/kayak, carrying hooks, line bait and even plastic jugs (to capture/entangle sharks). This gear all too often ends up lost or abandoned. This unattended and abandoned fishing gear then ends up entangling reefs and injuring or killing our reef wildlife. Fishing line has also caused injury to surfers, swimmers and ocean users who unknowingly end up encountering such unattended and derelict gear in the water.

The SD1, as drafted, proposes a Class C felony and prohibits possession of drones. We would not object to lessening criminal penalties to a misdemeanor, and to carry strong fines, but do not support the issuance of permits if those permits would allow for the use of drones to pursue marine wildlife with the intent to capture or take the marine life, or carry any gear into/across the ocean.

Thank you for the opportunity to testify in support of this bill.

Inga Gibson

For the Fishes

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SB-2065-SD-1

Submitted on: 2/23/2022 9:51:08 AM

Testimony for JDC on 2/25/2022 9:45:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
marino carreira	Individual	Support	No

Comments:

Good day

I'm hoping this ban becomes law!

I have attached several links.

It is illegal in Texas already- see link

<https://outdoortroop.com/is-drone-fishing-legal-in-texas-a-complete-guide-to-the-laws/>

The major concerns is very dangerous to boaters! These drone fishermen use floating buoys hundreds and hundreds yards out and when it is frequently broken off the floating buoys or jugs have hundreds of yards of fishing braid that can entangle sea life and boaters propellers. I have seen so many of these floating around and you never know where or how much line is attached! I have also found them broken off floating with dead fish and turtles still attached and hooked!

On top of that it is extremely harmful to fish stocks. They deplete the fish stocks way faster than shore fishing as they can reach areas way outside keeping any of the fish from coming into feed. These areas would typically be very hard to fish from shore unless using a drone. It will put way more pressure on fish stocks!

<https://www.news24.com/amp/news24/columnists/guestcolumn/opinion-scotty-kyle-drone-fishing-illegal-and-unsustainable-as-more-fish-lost-than-landed-20211118>

Most, if not all drone fishermen are not following legal FAA rules! They are not suppose to fly at night, they are suppose to register them(which no one does) and not fly in special areas like mokuliea which they do all the time.

They must be regulated!

Here is a link showing the FAA rules with drones and none of these fishermen follow them. They are already breaking federal law and nothing stops them!

Faa laws drones flying at night:

<https://www.ecfr.gov/current/title-14/chapter-I/subchapter-F/part-107#107.29>

Good day

I seen the star advertiser article about drone fishing and it mentioned your office having interest in banning drone fishing. I as well as many other ocean users support banning or regulating drone fishing. It's a major issue.

Most of the below issues are unique to drone fishing and not shore fishing as shore fishing uses different line, within a casting distance and not suspending above the water with a floating jug super far out from shore....

Some of the issues:

There currently is no droning allowed on any state parks and kaena state park area yet plenty of drone fishermen go there and drone and Dlnr lacks any type of enforcement to tackle the issue . There are signs posted but they don't have manpower to crackdown.

The lines are set so far out that surfers, divers, boats, etc don't even know the line is out and tangle the boat motor or themselves in the sharp braided line. Your talking 300-800 yards off shore! That's a lot of ocean real estate- Almost like long line fishing from shore. Braid line is very sharp! When under tension it can cut you line a tight sharp wire.

Major safety issue with boating - boaters can't see their line floating below the surface and it tangles the propeller leaving the boat dead in the water. They have to be towed back in or jump in the water and try and cut away the thin braid lines. It has gotten so bad that an fishing shop in Ewa started making stickers saying to pick up your jugs.... See below photo

When lines are left for long periods of time or if the angler cuts their line on the reef, the floating jug with bait is still left in da ocean and many people have found dead sharks, uluas, and even turtles hooked. Because the bait is support by a jug, the fish can dive down and end up dying. It's a hazard to ocean life when left Abandoned which many are. Just drive any day of the week on the Waianae and nanakuli coast- you will see tons of jugs floating outside left abandoned!

Due to the amount of line being far out and the fact that droners use braid line, when they break their rig, there is tons of line(hundreds of yards) left on the ocean reef. Unlike monofilament line, braided line doesn't breakdown!

Also many people it's an over fishing issue as well- they can target more fish off shore using the drone and jug method.

Many people the drones should be banned. Problem with a partial ban or regulated style law would be enforcement- for instance if there was a law about distance (say no lines further than 300 yards) who can enforce that? Or no use of jugs suspending the bait due to being a marine and boating hazard- how can you enforce that as the jugs are so hard to see from shore. Right now Dlnr can't enforce the drone ban in Jamaica state park!

Almost like lay netting- because it's far out and you can't even know if a small shark turtle or fish bite the bait- it dies on the jug not to be reeled in the next morning!

almost all fishing tournaments ban the use of drones as a form of cheating .

Many people feel drone fishing which should be banned as it creates a lot of hazards- see photos attached of other people posting about these issues as well as photos.....

Please pass this and make law!

Thank you

SB-2065-SD-1

Submitted on: 2/23/2022 2:57:23 PM

Testimony for JDC on 2/25/2022 9:45:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Victoria Anderson	Individual	Support	No

Comments:

Please pass this important bill.