



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:
S.B. NO. 3032, RELATING TO BEACHES.

BEFORE THE:
SENATE COMMITTEE ON WATER, LAND, CULTURE AND THE ARTS

DATE: Friday, February 6, 2026 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Alyssa-Marie Y. Kau, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

This bill clarifies that, for purposes of laws prohibiting the removal of sand from public beaches, the term "person" subject to administrative, civil, or criminal penalties, expressly includes both licensed and unlicensed contractors.

The proposed placement of the expanded definition of "person" within sections 171-6.4 and 171-31.6, Hawaii Revised Statutes (HRS), and section 205A-32, HRS, raises concerns because these provisions are within statutory chapters that govern numerous land-use and administrative matters. Chapter 171, HRS, governs the management, disposition, and enforcement of matters involving public lands, while chapter 205A, HRS, establishes the State's coastal zone management framework and associated land-use controls. Revising the definition in these locations may create unintended consequences by inadvertently affecting the scope, interpretation, or enforcement of other administrative or land-use offenses prosecuted under these chapters, beyond the specific conduct this bill is intended to address.

To address this concern, we recommend amending the bill to narrow the placement of the definitional wording to the operative penalty sections. Doing so would promote statutory clarity, preserve existing enforcement structures under chapters 171 and 205A, HRS, and reduce the risk of unintended interpretive consequences. To

effectuate these changes, we recommend deleting sections 2 to 4 from page 1, line 14, through page 6, line 3, and inserting the following new sections 2 and 3:

SECTION 2. Section 171-58.5, Hawaii Revised Statutes, is amended to read as follows:

"§171-58.5 Prohibitions. ~~[The]~~ (a) Any person is prohibited from mining or taking of sand, dead coral or coral rubble, rocks, soil, or other marine deposits seaward from the shoreline with the following exceptions:

- (1) The inadvertent taking from seaward of the shoreline of these materials, such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags;
- (2) For the replenishment or protection of public shoreline areas and adjacent public lands seaward of the shoreline, or construction or maintenance of state approved lagoons, harbors, launching ramps, or navigational channels with a permit authorized under chapter 183C;
- (3) The clearing of these materials from existing drainage pipes and canals and from the mouths of streams including clearing for the purposes under section 46-11.5; provided that the sand removed shall be placed on adjacent areas unless this placement would result in significant turbidity;
- (4) The cleaning of areas seaward of the shoreline for state or county maintenance purposes including the purposes under section 46-12; provided that the sand removed shall be placed on adjacent areas unless the placement would result in significant turbidity;
- (5) The exercise of traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii State Constitution; or
- (6) For the response to a public emergency or a state or local disaster.

(b) For purposes of this section only, the term "person" includes any individual, firm, partnership, corporation, association, or other legal entity, including licensed and unlicensed contractors."

SECTION 3. Section 205A-44, Hawaii Revised Statutes, is amended to read as follows:

"§205A-44 Prohibitions. (a) ~~[The]~~ Any person is prohibited from mining or taking of sand, dead coral or coral rubble, rocks, soil, or other marine deposits seaward from the shoreline with the following exceptions:

- (1) The inadvertent taking from the shoreline area of the materials, such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags;
- (2) Where the mining or taking is authorized by a variance pursuant to this part;
- (3) The clearing of these materials from existing drainage pipes and canals and from the mouths of streams including clearing for the purposes under section 46-11.5; provided that the sand removed shall be placed on adjacent areas unless the placement would result in significant turbidity;
- (4) The cleaning of the shoreline area for state or county maintenance purposes, including the clearing for purposes under section 46-12; provided that the sand removed shall be placed on adjacent areas unless the placement would result in significant turbidity;
- (5) The taking of driftwood, shells, beach glass, glass floats, or seaweed;
- (6) The exercise of traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii State Constitution; or
- (7) For the response to a public emergency or a state or local disaster.

(b) Except as provided in this section, structures are prohibited in the shoreline area without a variance pursuant to this part. Structures in the shoreline area shall not need a variance if:

- (1) They were completed prior to June 22, 1970;
- (2) They received either a building permit, board approval, or shoreline setback variance prior to June 16, 1989;
- (3) They are outside the shoreline area when they receive either a building permit or board approval;

- (4) They are necessary for or ancillary to continuation of existing agriculture or aquaculture in the shoreline area on June 16, 1989;
- (5) They are minor structures permitted under rules adopted by the department which do not affect beach processes or artificially fix the shoreline and do not interfere with public access or public views to and along the shoreline; or
- (6) Work being done consists of maintenance, repair, and minor additions or alterations of legal boating, maritime, or watersports recreational facilities, which are publicly owned, and which result in little or no interference with natural shoreline processes;

provided that permitted structures may be repaired, but shall not be enlarged, rebuilt, or replaced within the shoreline area without a variance.

(c) For purposes of this section only, the term "person" includes any individual, firm, partnership, corporation, association, or other legal entity, including licensed and unlicensed contractors."

Thank you for the opportunity to testify.



February 5, 2026

Senate Committee on Water, Land, Culture and the Arts
Hawai'i State Legislature
Via Electronic Transmission

Re: Testimony in SUPPORT of SB3032, Relating to Beaches
Hearing: Friday, February 6, 2026, 1:00 PM CR 224 & Via Videoconference

To: The Honorable Chair Lee, Vice Chair Inouye, and Members of the Committee

Surfrider Foundation Hawai'i Region strongly supports Senate Bill 3032, which clarifies and strengthens enforcement of existing laws that prohibit the illegal removal or disturbance of sand from Hawai'i's public beaches.

Surfrider Foundation is a grassroots environmental organization dedicated to the protection of the world's oceans, waves, and beaches for all people. Through our chapters on Maui, Kaua'i, and O'ahu, we are regularly engaged in shoreline protection efforts and community advocacy, where we see firsthand how illegal sand removal, often undertaken in response to erosion pressures, accelerates beach loss and compromises public trust resources.

While existing Hawai'i law prohibits the removal or disturbance of sand from public beaches, enforcement has been undermined by uncertainty over who may be held accountable when violations occur. In practice, responsibility has often fallen primarily on homeowners, even when the physical removal of sand is carried out by licensed or unlicensed contractors. This has created an enforcement gap that allows contractors, the repeat actors with technical expertise and control over execution, to avoid direct accountability. In coastal erosion hotspots, such as the North Shore of O'ahu, this dynamic has contributed to recurring instances of illegal sand adjustment conducted by hired contractors.

SB3032 fills this gap by explicitly clarifying that licensed and unlicensed contractors are included as "persons" subject to penalties for illegal sand removal. The bill does not change what activities are legal or illegal, nor does it expand or restrict existing permitting authorities. Instead, it ensures that everyone involved in illegal sand removal is clearly accountable under the law.

This measure adds a critical prevention layer. When contractors face direct liability, they are far more likely to seek agency guidance, to refuse illegal work and accurately inform homeowners

about what is and is not allowed. This shifts enforcement from a reactive, complaint-driven system to one that better deters violations before irreversible harm to beaches occurs.

Illegal sand removal contributes to shoreline erosion, habitat degradation, and the loss of public beach access—impacts that are becoming more severe as dense coastal development and sea level rise and intensify pressure along the shoreline. SB3032 strengthens Hawai'i's ability to protect beaches by closing an enforcement loophole and reinforcing accountability.

Thank you for the opportunity to submit testimony in strong support of SB3032 on behalf of Surfrider Foundation's three Hawai'i chapters and members statewide

Sincerely,

Hanna Lilley
Hawai'i Regional Manager
Surfrider Foundation

SB-3032

Submitted on: 2/4/2026 2:25:44 PM

Testimony for WLA on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Maureen Brock	Individual	Support	Written Testimony Only

Comments:

I support SB3032

SB-3032

Submitted on: 2/4/2026 6:48:01 PM

Testimony for WLA on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Denise E Antolini	Individual	Support	Remotely Via Zoom

Comments:

Aloha WLA Chair Lee, Vice Chair Inouye, and Committee Members,

I strongly support SB3032, which clarifies that licensed and unlicensed contractors may be held responsible for illegally removing sand from our public beaches.

As a North Shore O‘ahu resident, I have been monitoring the severe beach erosion issues in the area known as Kammies as Sunset-Paumalū.

Over the years, I have received MANY reports of contractors or "workers" who have been hired by beachfront landowners to "shore up" their private property using public beach sand when no such permit has been issued by DLNR. I have seen some of this illegal sand "mining" myself.

Often the work is done after hours, sometimes in the dead of the night, to avoid detection. They use shovels, conveyor belts, even heavy equipment to move or push sand from public to private property. Besides being illegal, the work directly takes public property - precious beach sand - for private use.

But - so far - these "rogue" contractors/workers have evaded any responsibility for knowingly helping landowners violate our state laws protecting beach sand and shoreline ecosystems. They shrug off any questions and keep spreading the word that they will do the dirty work, for a high price.

Landowners in turn then shrug off responsibility - "oh, I didn‘t know what the contractor was doing" - "the contractor told me they had always done this - this was OK" - baloney.

This bill sends a strong message to contactors/workers who do the bidding of often wealthy offshore private landowner that they must insist on only doing legal permitted projects or risk liability themselves.

When enacted, this bill will make fill a big gap in existing enforcement efforts and better protect our public trust resources.

Mahalo,

Denise Antolini

Pūpūkea resident

Member, Protect Paumalū

SB-3032

Submitted on: 2/4/2026 9:23:31 PM

Testimony for WLA on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Kai Paisley	Individual	Support	Written Testimony Only

Comments:

As a member of the Surfrider Foundation O‘ahu Chapter, I have seen firsthand how illegal sand removal accelerates erosion and harms the beaches our communities depend on.

Although sand removal is already illegal, enforcement has been weakened by uncertainty over who is accountable. SB3032 offers a simple, commonsense fix to ensure accountability.

Protecting our beaches is essential for Hawai‘i’s resilience, culture, and enjoyment of our beaches by future generations. I respectfully urge your support.

Mahalo for the opportunity to submit testimony.

SB-3032

Submitted on: 2/5/2026 12:11:54 PM

Testimony for WLA on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
arleen velasco	Individual	Support	Written Testimony Only

Comments:

Many property owners are illegally installing armoring structures and materials on the beach. Many of their homes have been undermined by the energy of the ocean waves so some have hired contractors and independant workers to do the amoring. The workers and contractors can now claim they were just doing what was asked of them and were unaware of the illegality of the work. If they faced hefty fines, it might incentivise them to become familiar with the law. I also suggest adding a clause to the bill saying a contractor could have their license revoked if caught.

Damage to our ocean and reefs has already ocured due to this practice and we must do all we can to stop such things as someone pouring concrete over sand in the middle of the night!

Please pass this bill.

LATE

SB-3032

Submitted on: 2/5/2026 6:40:53 PM

Testimony for WLA on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicolas Bartol	Individual	Comments	Written Testimony Only

Comments:

I am concerned that SB-2818, as written, does not provide meaningful deterrence for wealthy beachfront property owners who alter public beaches to protect their homes. The administrative fines (\$2,500–\$10,000) and petty misdemeanor penalties (\$500–\$2,000) are trivial compared to the value of multi-million-dollar properties, and the larger civil fines under coastal management law typically require documented environmental harm before they can be applied. In practice, this means homeowners could move sand, add sandbags, or build private walls with minimal immediate consequence, only facing serious penalties if the state conducts costly studies and proves measurable environmental damage. Fines and penalties should be scaled to reflect the economic stakes and potential environmental impact, ensuring that violations carry real consequences and effectively protect public beaches.