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SB 855

RELATING TO FISHING

Statement for
Senate Committee on Judiciary
Public Hearing, 11 March 1977

by

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SB 855 would amend Sec. 188-25 of Hawaii Revised Statutes, that deals with fishing with firearms and spears. This statement on this bill has been submitted for review to the legislative subcommittee of the Environmental Center of the University of Hawaii. It does not represent an institutional position of the University.

SB 855 would delete present prohibitions against spearing crustaceans and against the sale of turtles and fish that have been speared. We understand that the intent of the bill is to allow the spearing of prawns and to allow the sale of fish and prawns that have been taken with spears. This intent is appropriate. However, the bill would do more.

It would allow the spearing of lobsters, and it would remove the indirect control of the spearing of turtles that is now provided by the prohibitions against the sale of speared turtles.

It is perhaps unnecessary for the state to extend its anti-spearing prohibitions to aquatic mammals, since these are provided under the federal marine mammals law. However, we are unaware of any other state law that pertains to the spearing of lobsters or turtles or the sale of speared lobsters or turtles. DLNR Fish and Game Reg. 22 relates to the spearing of lobsters, and Reg. 36 regulates the taking of turtles, but the statutory base for these regulations is not clear.

We point out the the intent of SB 855 could be met by:

- 1) retaining in Subsec. 188-25(a) the phrase "or to pursue, take or kill any crustacean with a spear", but inserting "other than prawns" following the word "crustacean" in p. 1, line 7;

- 2) retaining the present subsec. 188-25(c) but deleting from it the words "or fish other than sharks" in line 12 and "or fish" in p. 1, line 13;
- 3) retaining the words "or offered for sale" in subsec. (d) in p. 1, line 16.

Unless statutory authority for controlling the spearing of lobsters and turtles is clearly provided in other laws, it would be unwise to amend Sec. 188-25 in the manner now proposed in SB 855.