

EXECUTIVE CHAMBERS

HONOLULU

July 13, 2004

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1743

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1743, entitled "A Bill for an Act Relating to Light Pollution."

The purpose of this bill is to protect avian and marine life by prohibiting within special management areas artificial lights that are "positioned toward or directly illuminate ocean waters," unless those lights are authorized and required for public safety or safe ocean navigation, or are located in a hotel/hotel-condo and under water or directed downward illuminating a limited area of no more than thirty feet into ocean water.

While the intent to protect Hawaii's marine and bird life is laudable, the substantive provisions of this bill are objectionable, because they are vague and rely on determinations that will be subjective. For example, the determination as to whether an artificial light source is positioned towards or directly illuminating ocean waters is highly subjective. Enforcement of this statute would likely be difficult and inconsistent due to one person's interpretation of the phrase differing from another's. Similarly, the phrase "required for public safety" is open to subjective determinations. Also, the bill speaks of lights that are authorized without indicating what the source of that authorization would be.

This bill is objectionable because of the vagueness of much of its operative language. It fails to distinguish artificial light that is outdoors from that which is indoors in

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the section entitled prohibitions. Except for the part dealing with hotel/condos, the bill contains no standards concerning distances from shore or brightness of lights. Additionally, its substantive provisions will be amendments to chapter 205A, Hawaii Revised Statute, relating to coastal zone management. As such, alleged failures of state and county agencies to enforce these provisions would allow civil actions to be brought against such agencies pursuant to section 205A-6. Because certain terms of the bill are, as noted, seriously imprecise, it would not be fair to subject agencies to civil lawsuits alleging failure to enforce those provisions. For example, the prohibition on artificial lighting exists anywhere within a special management area so long as the light is "positioned toward" ocean waters. Because of the large size of some shoreline management areas, an artificial light source could be significantly removed from the immediate shoreline and still arguably be "positioned toward" ocean waters, at least in the view of some.

For the foregoing reasons, I am returning House Bill No. 1743 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii