HOUSE OF REPRESENTATIVES TWENTY-EIGHTH LEGISLATURE, 2015 STATE OF HAWAII H.B. NO. 873

#### A BILL FOR AN ACT

RELATING TO AQUATIC LIFE.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The United States Coral Reef Task Force has 2 reported that severe over-harvesting of coral by the aquarium industry occurs in Hawaii. Hawaii's reefs are the world's 3 4 third-largest source of wildlife for aquarium hobbyists. This 5 loss of wildlife threatens Hawaii's reef environments and the 6 socioeconomic benefits they provide, including to tourism -- a 7 crucial contributor to the State's economy, and as sustenance 8 for local families.

9 The aquarium industry has operated for over fifty years 10 with no limits on the volume of take and no limits on the 11 number of permits. Species targeted by the industry are three 12 to ten times more abundant in areas protected from aquarium-13 collecting than in areas where the industry operates, which 14 represents the vast majority of Hawaii's coral reefs.

15 Regulations have thus far failed to maintain populations of 16 crucial species at levels necessary to protect Hawaii's coral 17 reefs. The aquarium industry primarily targets herbivorous



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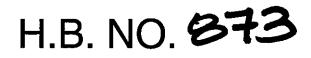
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species like the yellow tang. The species that have been most
heavily collected have also experienced the greatest declines in
population. As the most heavily targeted species, the
population of yellow tang has now been depleted in many areas,
decreasing by seventy to ninety per cent.

6 A decline in herbivorous fish are a known stressor to coral 7 reefs. Recent research shows that two-thirds of Hawaii reefs are now dominated by the type of algae upon which herbivorous 8 9 fish would typically feed. Abundant and diverse communities of 10 herbivorous fish are vital for coral reefs to recover from 11 events like the recent unprecedented coral bleaching that occurred throughout the State. Without herbivorous fish, the 12 13 long-term stability of these fragile ecosystems is in jeopardy. Fewer than one hundred of the more than two hundred 14 15 individuals with commercial aquarium fish permits are actually

16 engaged in such activity and file reports with the department of 17 land and natural resources. Most of these nearly one hundred 18 aquarium collectors work part-time, collecting wildlife three 19 days per week. These part-time jobs appear to be the only 20 identifiable economic benefit. Reported annual sales of less 21 than \$2,300,000 generate less than \$100,000 in general excise





taxes--far less than the amount of funding required for permit
administration and adequate enforcement by the division of
conservation and resource enforcement of the department of land
and natural resources.

5 Wildlife left on reefs benefits the reefs. Restoring 6 herbivorous fish populations is essential for the protection of 7 Hawaii's coral reefs and the current and future socioeconomic 8 well-being of Hawaii's people, which is tied to this unique 9 marine environment.

10 SECTION 2. Chapter 188, Hawaii Revised Statutes, is 11 amended by adding a new section to be appropriately designated 12 and to read as follows:

13 "§188- Selling of aquatic life for aquarium purposes 14 prohibited; penalties; fines. (a) It shall be unlawful for any 15 person at any time to knowingly or intentionally sell or offer to sell, for aquarium purposes, aquatic life taken from any of 16 17 the waters within the jurisdiction of the State. 18 (b) This section shall not apply to a person exercising a 19 customary and traditional right for subsistence, cultural, or 20 religious purposes, subject to the right of the State to

21 regulate that right, including native Hawaiian gathering rights



1	<u>and tradi</u>	tional cultural practices as authorized by law, or as
2	permitted	by the State pursuant to article XII, section 7, of
3	the Hawai	i State Constitution.
4	(c)	This section shall not apply to the taking of aquatic
5	<u>life for</u>	human consumption or for sale for human consumption,
6	including	the use of bait.
7	<u>(</u> d)	This section shall not prohibit special activity
8	permits a	llowed under section 187A-6; provided that the permit
9	issued is	for bona fide scientific or public display purposes.
10	<u>(e)</u>	Any person violating this section or any rule adopted
11	pursuant	to this section shall be guilty of a misdemeanor, and:
12	(1)	For a first offense, shall be fined not more than
13		\$1,000 or thirty days of imprisonment, or both;
14	(2)	For a second offense within five years of a previous
15		violation, shall be fined not more than \$2,000 or
16		sixty days of imprisonment, or both; and
17	(3)	For a third or subsequent offense within five years of
18		a previous violation, shall be fined not more than
19		\$3,000 or ninety days of imprisonment, or both.
20	<u>(f)</u>	In addition to any other penalty imposed under this
21	section,	a person violating this section shall be subject to:



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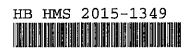
1	<u>(1)</u>	An administrative fine of not more than \$1,000 for
2		each specimen of aquatic life sold;
3	(2)	Seizure and forfeiture of any taken specimens of
4		aquatic life, commercial marine license, vessel, and
5		equipment; and
6	<u>(3)</u>	Assessment of administrative fees and costs, and
7		attorney's fees and costs.
8	<u>(g)</u>	The division of aquatic resources of the department of
9	land and	natural resources shall submit an annual report on the
10	effective	ness and enforcement of this section to the legislature
11	no later	than twenty days prior to the convening of each regular
12	session.	
13	<u>(h)</u>	As used in this section:
14	"Aqu	arium purposes" means to hold salt water fish,
15	freshwate	r nongame fish, or other aquatic life alive in a state
16	of captiv	ity as pets, for scientific study, for public
17	<u>exhibitio</u>	n or display, or for sale for these purposes.
18	"Aqu	atic life" means any type or species of mammal, fish,
19	amphibian	, reptile, mollusk, crustacean, arthropod,
20	invertebr	ate, coral, or other animal that inhabits the
21	freshwate	r or marine environment and includes any part, product,



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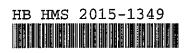
1	egg, or offspring thereof; or freshwater or marine plants,
2	including seeds, roots, products, and other parts thereof.
3	"Sell" means to transfer, prescribe, give, or deliver to
4	another; to leave, barter, or exchange with another; or to offer
5	or agree to do the same to another for consideration.
6	"Take" means to fish for, catch, capture, confine, or
7	harvest, or to attempt to fish for, catch, capture, confine, or
8	harvest, aquatic life."
9	SECTION 2. Section 188-31, Hawaii Revised Statutes, is
10	amended to read as follows:
11	"§188-31 Permits to take aquatic life for aquarium
12	purposes. (a) Except as prohibited by law, the department,
13	upon receipt of a written application, may issue an aquarium
14	fish permit, not longer than one year in duration, to <u>take</u>
15	aquatic life and to use fine meshed traps, or fine meshed nets
16	other than throw nets, for the taking of marine or freshwater
17	nongame fish and other aquatic life for aquarium purposes. <u>No</u>
18	person shall take aquatic life for aquarium purposes or use fine
19	meshed traps or fine meshed nets other than throw nets to take
20	marine or freshwater nongame fish and other aquatic life for
21	aquarium purposes without an aquarium fish permit.



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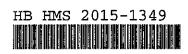
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1	(b)	Except as prohibited by law, the permits shall be
2	issued on	ly to persons who can satisfy the department that they
3	possess f	acilities to and can maintain fish and other aquatic
4	life aliv	e and in reasonable health.
5	(c)	It shall be illegal to sell or offer for sale any fish
6	and other	aquatic life taken under an aquarium fish permit
7	[ <del>unless t</del>	hose fish and other aquatic life are sold alive for
8	<del>aquarium</del>	purposes].
9	The	department may adopt rules pursuant to chapter 91 for
10	the purpo	se of this section.
11	(đ)	For the purposes of this section:
12	(1)	"Aquarium purposes" means to hold salt water fish,
13		freshwater nongame fish, or other aquatic life alive
14		in a state of captivity as pets, for scientific study,
15		or for public exhibition or display[ <del>, or for sale for</del>
16		these purposes; and];
17	(2)	"Aquarium fish permit" means a permit issued by the
18		board for the taking of aquatic life and for the use
19		of fine mesh nets and traps to take salt water fish,
20		freshwater nongame fish, or other aquatic life for
21		aquarium purposes[+]; and
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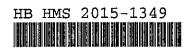


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1	<u>(3)</u>	"Sel	l" means to transfer, prescribe, give, or deliver
2		to a	mother; to leave, barter, or exchange with
3		anot	ther; or to offer or agree to do the same to
4		anot	ther for consideration."
5	SECI	ION 4	. Section 189-11, Hawaii Revised Statutes, is
6	amended t	o rea	nd as follows:
7	"§18	9-11	Receipts in duplicate. Every commercial marine
8	dealer sh	all i	ssue receipts to the person from whom marine life.
9	is obtain	led an	nd shall provide the following information in the
10	receipt:		
11	(1)	The	date of the issuance;
12	(2)	The	name of the person to whom the receipt is issued;
13	(3)	The	following information with respect to each of the
14		vari	eties of marine life as the department shall
15		requ	lire, including:
16		(A)	The weight in pounds of each of the varieties
17			received;
18		(B)	The numbers of marine life when they average a
19			pound or more; and
20		(C)	The price per pound paid; and



1	[ <del>(D)</del> With regard to aquarium fish, regardless of
2	weight, the number and species of the fishes;
3	and]
4	(4) The signature of the dealer who issues the receipt.
5	Any dealer taking the dealer's own marine life or handling any
6	marine life taken by commercial marine licensees working for or
7	with the dealer, shall make out the same receipt, giving market
8	price for the marine life as prevails on the date of receipt. A
9	duplicate copy of this receipt shall be kept on file at the
10	premise where the marine life was sold by the dealer issuing the
11	same for a period of twelve months from the date of issuance,
12	and the duplicate copy shall be available for inspection upon
13	the demand of any conservation officer authorized to enforce the
14	laws of the State."
15	SECTION 4. Section 188-31.5, Hawaii Revised Statutes, is
16	repealed.
17	[" <del>[\$188-31.5] Aquarium fish for export; monthly-count.</del>
18	The department of land and natural resources shall adopt rules
19	in-accordance with chapter 91 to monitor the aquarium fish catch
20	report and fish dealer's report for export of aquarium fish
21	taken from the waters of the State for aquarium purposes



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1	pursuant to section 188 31. A monthly count of the quantities
2	taken of each individual species of aquarium fish exported shall
3	be reported to the board."]
4	SECTION 5. Statutory material to be repealed is bracketed
5	and stricken. New statutory material is underscored.
6	SECTION 6. This Act shall take effect on January 1, 2016.
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	$\sim 21$

BR INTRODUCED BY: .

JAN 2 6 2015

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#### Report Title:

Aquatic Life; Protection

#### **Description:** Prohibits the sale of aquatic life for aquarium purposes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

