

JAN 23 2015

A BILL FOR AN ACT

RELATING TO WILDLIFE.

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

1 SECTION 1. Chapter 188, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§188- Selling of aquatic life for aquarium purposes
5 prohibited; penalties; fines. (a) It shall be unlawful for any
6 person at any time to knowingly or intentionally sell or offer
7 to sell, for aquarium purposes, aquatic life taken from any of
8 the waters within the jurisdiction of the State.

9 (b) This section shall not apply to a person exercising a
10 customary and traditional right for subsistence, cultural, or
11 religious purposes, subject to the right of the State to
12 regulate that right, including native Hawaiian gathering rights
13 and traditional cultural practices as authorized by law or as
14 permitted by the State pursuant to article XII, section 7, of
15 the Hawaii State Constitution.



1 (c) This section shall not apply to the taking of aquatic
2 life for human consumption or for sale for human consumption,
3 including the use of bait.

4 (d) This section shall not prohibit special activity
5 permits allowed under section 187A-6; provided that the permit
6 issued is for bona fide scientific or public display purposes.

7 (e) Any person violating this section or any rule adopted
8 pursuant to this section shall be guilty of a misdemeanor and,
9 notwithstanding any law to the contrary:

10 (1) For a first offense, shall be fined not more than
11 \$1,000 or thirty days imprisonment, or both;

12 (2) For a second offense within five years of a previous
13 violation, shall be fined not more than \$2,000 or
14 sixty days imprisonment, or both; and

15 (3) For a third or subsequent violation within five years
16 of a previous violation, shall be fined not more than
17 \$3,000 or ninety days imprisonment, or both.

18 (f) In addition to any other penalty imposed under this
19 section, a person violating this section shall be subject to:

20 (1) An administrative fine of not more than \$1,000 for
21 each aquatic life specimen sold;



1 (2) Seizure and forfeiture of any taken aquatic life
2 specimens, commercial marine license, vessel, and
3 equipment; and

4 (3) Assessment of administrative fees and costs, and
5 attorney's fees and costs.

6 (g) The division of aquatic resources of the department of
7 land and natural resources shall submit an annual report on the
8 effectiveness and enforcement of this section to the legislature
9 no later than twenty days prior to the convening of each regular
10 session.

11 (h) For the purposes of this section:

12 "Aquarium purposes" means the holding of saltwater fish,
13 freshwater nongame fish, or other aquatic life alive in a state
14 of captivity as pets, for scientific study, for public
15 exhibition or display, or for sale for these purposes.

16 "Aquatic life" means any type or species of mammal, fish,
17 amphibian, reptile, mollusk, crustacean, arthropod,
18 invertebrate, coral, or other animal that inhabits the
19 freshwater or marine environment and includes any part, product,
20 egg, or offspring thereof; or freshwater or marine plants,
21 including seeds, roots, products, and other parts thereof.



1 "Sell" means to transfer, prescribe, give, or deliver to
2 another; to leave, barter, or exchange with another; or to offer
3 or agree to do the same to another for consideration.

4 "Take" means to fish for, catch, capture, confine, or
5 harvest, or to attempt to fish for, catch, capture, confine, or
6 harvest aquatic life."

7 SECTION 2. Section 188-31, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§188-31 Permits to take aquatic life for aquarium**
10 **purposes.** (a) Except as prohibited by law, the department,
11 upon receipt of a written application, may issue an aquarium
12 fish permit, not longer than one year in duration, to take
13 aquatic life and to use fine meshed traps, or fine meshed nets
14 other than throw nets, for the taking of marine or freshwater
15 nongame fish and other aquatic life for aquarium purposes. No
16 person shall take aquatic life for aquarium purposes or use fine
17 meshed traps or fine meshed nets, other than throw nets, to take
18 marine or freshwater nongame fish and other aquatic life for
19 aquarium purposes without an aquarium fish permit.

20 (b) Except as prohibited by law, the permits shall be
21 issued only to persons who can satisfy the department that they



1 possess facilities to and can maintain fish and other aquatic
2 life alive and in reasonable health.

3 (c) It shall be illegal to sell or offer for sale any fish
4 and other aquatic life taken under an aquarium fish permit
5 ~~[unless those fish and other aquatic life are sold alive for~~
6 ~~aquarium purposes].~~

7 The department may adopt rules pursuant to chapter 91 for
8 the purpose of this section.

9 (d) For the purposes of this section:

10 ~~[(1)]~~ "Aquarium purposes" means ~~[to hold]~~ the holding of
11 salt water fish, freshwater nongame fish, or other aquatic life
12 alive in a state of captivity as pets, for scientific study, or
13 for public exhibition or display~~[, or for sale for these~~
14 ~~purposes, and]~~.

15 ~~[(2)]~~ "Aquarium fish permit" means a permit issued by the
16 board for the taking of aquatic life, and for the use of fine
17 mesh nets and traps to take salt water fish, freshwater nongame
18 fish, or other aquatic life for aquarium purposes.

19 "Sell" means to transfer, prescribe, give, or deliver to
20 another; to leave, barter, or exchange with another; or to offer
21 or agree to do the same to another for consideration.



1 "Take" means to fish for, catch, capture, confine, or
2 harvest, or to attempt to fish for, catch, capture, confine, or
3 harvest aquatic life."

4 SECTION 3. Section 189-11, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§189-11 Receipts in duplicate.** Every commercial marine
7 dealer shall issue receipts to the person from whom marine life
8 is obtained and shall provide the following information in the
9 receipt:

- 10 (1) The date of the issuance;
- 11 (2) The name of the person to whom the receipt is issued;
- 12 (3) The following information with respect to each of the
13 varieties of marine life as the department shall
14 require including:
- 15 (A) The weight in pounds of each of the varieties
16 received;
- 17 (B) The numbers of marine life when they average a
18 pound or more; and
- 19 (C) The price per pound paid; and



1 ~~[(D) 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 ~~["§188-31.5] Aquarium fish for export; monthly count.~~
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~~



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. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect on January 1, 2016.

10
INTRODUCED BY:

Paul E. Bl
Trzanne Chun Alakel
Amely H. Baker



S.B. NO. 322

Report Title:

Aquatic Life; Aquarium Permits; Fish; Sale of Aquatic Life for Aquarium Use Prohibited

Description:

Criminalizes the sale of aquatic life for aquarium use and establishes the penalties for first and subsequent violations. Amends existing aquarium fish permit law to conform to the ban. Takes effect on 1/1/2016.

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

