

JAN 17 2018

A BILL FOR AN ACT

RELATING TO AQUATIC LIFE.

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

1 SECTION 1. The legislature finds that hundreds of
2 thousands of saltwater fish and other aquatic life, such as
3 invertebrates, are annually removed from their natural ocean
4 habitat in Hawai'i to be kept in aquariums in homes throughout
5 the state and country. These fish and other aquatic life are
6 caught and sold as part of the aquarium trade industry for
7 ornamentation and amusement, not for food purposes.

8 The legislature also finds that the state aquarium fish
9 permit authorizes the taking of an unlimited number of fish and
10 other aquatic life for commercial purposes, and up to two
11 thousand fish and other aquatic life annually for recreational
12 purposes, using nets and traps containing stretched netting of
13 less than two-inch mesh. While a fine mesh net or trap is not
14 required in order to remove aquatic life for aquarium purposes,
15 it is generally believed to be more effective than using other
16 gear that does not require a permit, as the mesh is tight enough
17 to keep fish from escaping. The fine mesh nets and traps can be



1 used both near the surface of the ocean and at depths reached by
2 scuba diving. Like humans, any fish caught deep below the
3 surface will need to decompress before being brought to the
4 surface. The fish is then put in a bucket or other storage
5 container to take to shore, where it will begin its journey
6 through various temporary tanks and diverse conditions to travel
7 across the State or to other parts of the globe.

8 The legislature further finds that, as a precautionary
9 principle and since saltwater fish and other aquatic life are
10 not caught for food purposes, it is in the best interest of the
11 fish and other aquatic life, as well as of the reefs they
12 inhabit, that they remain in their natural environment, not
13 confined in personal aquarium tanks. Therefore, the legislature
14 concludes that commercial fishing for aquarium fish in Hawai'i
15 should be phased out.

16 While prohibiting the issuance of new aquarium fish
17 permits, this Act will protect existing commercial aquarium fish
18 collecting businesses by allowing individuals holding aquarium
19 fish permits that have been issued or renewed within the past
20 five years to continue using those permits, provided that they
21 also possess a commercial marine license. These existing



1 permits will also be able to be transferred, for five years
2 after enactment of this Act, to other individuals who possess a
3 commercial marine license. Non-commercial collectors will be
4 able to continue collecting aquarium fish up to the existing
5 limit of five specimens per day without needing an aquarium fish
6 permit, provided that they do not use fine meshed traps, fine
7 meshed nets, throw nets, or other prohibited catch methods.

8 This Act is not, however, intended to encourage residents
9 and tourists to go into the water to view or catch aquarium fish
10 unless sufficient safety measures and adequate environmental
11 precautions are taken.

12 The purpose of this Act is to:

- 13 (1) Restrict the taking of, for commercial purposes,
14 aquatic life by any method of catch to those
15 individuals who hold a valid, non-lapsed aquarium fish
16 permit and commercial marine license;
- 17 (2) Prohibit the department of land and natural resources
18 from issuing new aquarium fish permits to take aquatic
19 life for commercial or non-commercial purposes;
- 20 (3) Allow, for commercial purposes, existing aquarium fish
21 permits to be renewed by individuals possessing a



1 commercial marine license and, for five years,
2 transferred to individuals possessing a commercial
3 marine license; and

4 (4) Allow the taking of, for non-commercial purposes,
5 aquatic life subject to a limit of five fish or
6 aquatic life specimens per permit per day; provided
7 that fine meshed traps, fine meshed nets, throw nets,
8 or other prohibited catch methods are not used.

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 ~~[-]; prohibitions.~~ (a) ~~[Except as prohibited by law,~~
13 ~~the department, upon receipt of a written application, may issue~~
14 ~~an aquarium fish permit, not longer than one year in duration to~~
15 ~~use fine meshed traps, or fine meshed nets other than throw~~
16 ~~nets,]~~ It shall be unlawful to take, for commercial purpose, any
17 marine or freshwater nongame fish and other aquatic life by any
18 method of catch, including by use of fine meshed traps, fine
19 meshed nets, or throw nets, without possessing a valid, non-
20 lapsed aquarium fish permit and commercial marine license;
21 provided that the taking is not otherwise prohibited by law.



S.B. NO. 2003

1 (b) It shall be unlawful to take, for non-commercial
2 purpose, marine or freshwater nongame fish and other aquatic
3 life by use of fine meshed traps, fine meshed nets, throw nets,
4 or other prohibited catch methods, and to take more than a
5 combined total of five fish or aquatic life specimens per person
6 per day.

7 (c) Beginning on July 1, 2018, the department of land and
8 natural resources shall not issue aquarium fish permits for the
9 taking of marine or freshwater nongame fish and other aquatic
10 life for aquarium purposes.

11 (d) The department of land and natural resources shall
12 renew an existing aquarium fish permit, if the permit has not
13 lapsed at the time of the renewal.

14 (e) The department of land and natural resources shall
15 transfer an existing aquarium fish permit prior to July 1, 2023,
16 if the permit has not lapsed at the time of the transfer.

17 ~~[(b)]~~ (f) Except as prohibited by law, [the] non-lapsed
18 permits shall be [issued only to persons] renewed by or
19 transferred to only commercial marine licensees, as defined in
20 section 187A-1, who can satisfy the department that they possess
21 facilities to and can maintain fish and other aquatic life alive



1 and in reasonable health[-] and do not engage in animal cruelty
2 practices that violate section 711-1109.

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

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

9 (h) This section shall not prohibit any commercial marine
10 licensee, as defined in section 187A-1, from assisting another
11 commercial marine licensee who holds a valid aquarium fish
12 permit; provided that the assistance does not involve the use of
13 any gear, equipment, tools, or other means to take fish and
14 other aquatic life.

15 [~~d~~] (i) For the purposes of this section:

16 [~~1~~] "~~Aquarium purposes~~" means to hold salt water fish,
17 freshwater nongame fish, or other aquatic life alive
18 in a state of captivity as pets, for scientific study,
19 or for public exhibition or display, or for sale for
20 these purposes; and



1 ~~(2)~~] "Aquarium fish permit" means a permit issued by the
2 ~~board~~] department of land and natural resources for
3 the use of fine mesh nets and traps, other than throw
4 nets, to take salt water fish, freshwater nongame
5 fish, or other aquatic life for aquarium purposes.

6 "Aquarium purposes" means to hold salt water fish,
7 freshwater nongame fish, or other aquatic life alive in a state
8 of captivity as pets, for scientific study, or for public
9 exhibition or display, or for sale for these purposes.

10 "Commercial purpose" has the same meaning as in section
11 187A-1.

12 "Fine mesh", or "fine meshed", means stretched mesh of less
13 than two inches, as used in netting to collect fish and other
14 aquatic life.

15 "Lapsed" means a permit issued by the department of land
16 and natural resources that has not been renewed for five or more
17 years immediately preceding the time of the transfer or the
18 renewal."

19 SECTION 3. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



S.B. NO. 2003

1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2018.

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INTRODUCED BY:

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S.B. NO. 2003

Report Title:

Aquarium Fish Permits; Commercial Marine License; Transfer or Renewal

Description:

Restricts the taking of aquatic life by any method for commercial purposes to individuals who hold a valid, non-lapsed aquarium fish permit and commercial marine license. Prohibits DLNR from issuing new aquarium fish permits. Requires DLNR to renew existing aquarium fish permits that have not lapsed for commercial marine licenses and transfer existing aquarium fish permits to commercial marine licenses prior to July 1, 2023. Allows for the taking of aquatic life for non-commercial purposes to a limit of five aquatic life specimens per permit per day, subject to certain conditions.

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