

JAN 19 2018

---

---

# A BILL FOR AN ACT

RELATED TO SHARK AND RAY PROTECTION.

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

1           SECTION 1. The legislature finds that sharks and rays are  
2 extremely important to ocean ecosystems. As ocean predators  
3 near the top of the food chain, sharks keep the ecosystem  
4 balanced, regulate populations of other marine life, and ensure  
5 healthy fish stock and reefs.

6           Sharks and rays are more vulnerable than most other fish  
7 species. They are long-lived and slow-growing, start  
8 reproducing at an advanced age, and produce relatively few  
9 offspring per year. If the food chain is disrupted by a decline  
10 in the shark population, it affects the entire reef system.  
11 Protection for sharks and rays ultimately means healthier, more  
12 resilient oceans and reefs that are better able to withstand  
13 other pressures on the ocean ecosystem from climate change and  
14 pollution.

15           Sharks and rays on the reefs not only play important  
16 ecological roles but are also valued figures in Hawaiian culture  
17 and are important economically to ocean recreation industries



1 and to tourism in Hawaii. The benefits of maintaining viable  
2 populations greatly outweigh any value that would be gained by  
3 killing these species.

4 The purpose of this Act is to:

- 5 (1) Protect sharks and rays for ecological purposes, for  
6 their value to the ocean recreation industry, and for  
7 their value to native Hawaiian cultural practices;
- 8 (2) Establish fines and penalties for knowingly capturing,  
9 killing, or taking a shark within state waters; and
- 10 (3) Expand the existing prohibition on knowingly capturing  
11 or killing a manta ray to all rays.

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

15 "§188- Sharks; prohibitions; exceptions; penalties and  
16 fines. (a) Except as provided in subsection (e), or as  
17 otherwise provided by law, no person shall knowingly capture,  
18 kill, or take any shark within state marine waters.

19 (b) Any person violating this section or any rule adopted  
20 pursuant to this section shall be guilty of a misdemeanor;  
21 provided that the fine for violating this section shall be:



1        (1) \$500 for a first offense;

2        (2) \$2,000 for a second offense; and

3        (3) \$10,000 for a third or subsequent offense.

4        (c) In addition to any other penalty imposed under this  
5 section, a person violating this section shall be subject to:

6        (1) An administrative fine of not more than \$10,000 for  
7 each shark captured, killed, or taken in violation of  
8 this section;

9        (2) Seizure and forfeiture of any captured sharks,  
10 commercial marine license, vessel, and fishing  
11 equipment; and

12        (3) Assessment of administrative fees and costs, and  
13 attorney's fees and costs.

14        (d) The criminal penalties and administrative fines, fees,  
15 and costs shall be assessed per shark captured, killed, or taken  
16 in violation of this section.

17        (e) This section shall not apply to:

18        (1) Special activity permits allowed under section 187A-6  
19 or research permits authorized by law; provided that  
20 the permit issued does not allow a take that exceeds  
21 the potential biological removal level; provided



## S.B. NO. 2079

1           further that the department of land and natural  
2           resources may adopt rules to define "take" for  
3           purposes of this subsection and determine when a take  
4           exceeds the potential biological removal level;

5           (2) Any person exercising native Hawaiian gathering rights  
6           and traditional cultural practices as authorized by  
7           law or as permitted by the department pursuant to  
8           article XII, section 7, of the Hawaii State  
9           Constitution; and

10          (3) The department or its designated agent if the capture,  
11          kill, or take is for the protection of public safety.

12          (f) For the purposes of this section, "shark" means any  
13          species of shark within the subclass *Elasmobranchii*.

14          SECTION 3. Section 188-39.5, Hawaii Revised Statutes, is  
15          amended to read as follows:

16          " [f] §188-39.5 [f] ~~Manta rays;~~ Rays; prohibitions, penalties  
17          and fines. (a) [No] Except as provided in subsection (e), no  
18          person shall knowingly capture or kill a [manta] ray within  
19          state marine waters.



1 (b) Any person violating this section or any rule adopted  
2 pursuant to this section shall be guilty of a misdemeanor and  
3 shall be fined:

4 (1) \$500 for a first offense;

5 (2) \$2,000 for a second offense; and

6 (3) \$10,000 for a third or subsequent offense.

7 (c) In addition to any other penalty imposed under this  
8 section, a person violating this section shall be subject to:

9 (1) An administrative fine of not more than \$10,000 for  
10 each [~~manta~~] ray captured or killed in violation of  
11 this section;

12 (2) Seizure and forfeiture of any captured [~~manta~~] rays,  
13 commercial marine license, vessel, and fishing  
14 equipment; and

15 (3) Assessment of administrative fees and costs, and  
16 attorney's fees and costs.

17 (d) The criminal penalties and administrative fines and  
18 costs shall be assessed per [~~manta~~] ray captured or killed in  
19 violation of this section.

20 (e) This section shall not prohibit special activity  
21 permits allowed under section 187A-6[+] or research permits



1 authorized by law; provided that the permit issued does not  
2 allow a take that exceeds the potential biological removal  
3 level; and provided further that the department [~~shall~~] may  
4 adopt rules to define a "take" and determine when a take exceeds  
5 the potential biological removal level.

6 (f) For the purposes of this section, "ray" means any  
7 species of ray within the subclass *Elasmobranchii*."

8 SECTION 4. Section 188-70, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) Any person violating any provision of or any rule  
11 adopted pursuant to this chapter, except sections 188-23 [and],  
12 188-39.5, and 188- , is guilty of a petty misdemeanor and, in  
13 addition to any other penalties, shall be fined not less than:

- 14 (1) \$100 for a first offense;  
15 (2) \$200 for a second offense; and  
16 (3) \$500 for a third or subsequent offense."

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

20 SECTION 6. If any provision of this Act, or the  
21 application thereof to any person or circumstance, is held



# S.B. NO. 2079

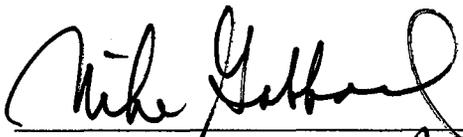
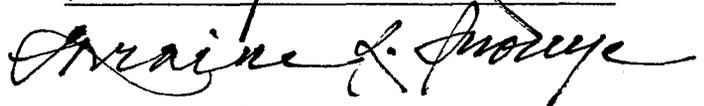
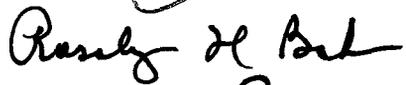
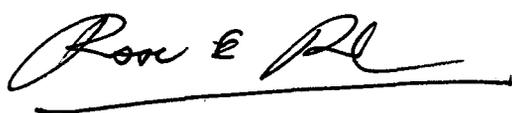
1 invalid, the invalidity does not affect other provisions or  
2 applications of the Act that can be given effect without the  
3 invalid provision or application, and to this end the provisions  
4 of this Act are severable.

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

7 SECTION 8. This Act shall take effect upon its approval.

8

INTRODUCED BY:



# S.B. NO. 2079

**Report Title:**

Sharks; Rays; Prohibitions

**Description:**

Establishes penalties and fines for any person who knowingly captures, kills, or takes any shark within state marine waters and makes it a misdemeanor. Provides exemptions for native Hawaiian gathering rights and cultural practices, special activity permits, research purposes, and public safety. Expands the existing prohibition on knowingly capturing or killing a manta ray to all rays.

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

