

JAN 18 2019

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# A BILL FOR AN ACT

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

15           The legislature further finds that sharks and rays on the  
16 reefs not only play important ecological roles, but are also  
17 valued figures in Hawaiian culture and are important



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

5 The purpose of this Act is to protect sharks and rays for  
6 ecological purposes, for their value to the ocean recreation  
7 industry, and for their value to native Hawaiian cultural  
8 practices by:

9 (1) Establishing fines and penalties for knowingly  
10 capturing, taking, possessing, abusing, or entangling  
11 a shark, whether alive or dead, or killing a shark,  
12 within state marine waters;

13 (2) Expanding the existing prohibition on knowingly  
14 capturing or killing a manta ray to apply to all rays;  
15 and

16 (3) Expanding the prohibition regarding rays to include  
17 knowingly capturing, taking, possessing, abusing, or  
18 entangling a ray, whether alive or dead, or killing a  
19 ray, within state marine waters.



1 SECTION 2. 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- Sharks; mano; prohibitions; exceptions; penalties  
5 and fines. (a) Except as provided in subsection (e), or as  
6 otherwise provided by law, no person shall knowingly capture,  
7 take, possess, abuse, or entangle any shark, whether alive or  
8 dead, or kill any shark, within state marine waters.

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

- 12 (1) \$500 for a first offense;  
13 (2) \$2,000 for a second offense; and  
14 (3) \$10,000 for a third or subsequent offense.

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

- 17 (1) An administrative fine of no more than \$10,000 for  
18 each shark captured, taken, possessed, abused,  
19 entangled, or killed in violation of this section;



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- 1        (2) Seizure and forfeiture of any captured sharks,  
2        commercial marine license, vessel, and fishing  
3        equipment; and
- 4        (3) Assessment of administrative fees and costs, and  
5        attorney's fees and costs.
- 6        (d) The criminal penalties and administrative fines, fees,  
7        and costs shall be assessed per shark captured, taken,  
8        possessed, abused, entangled, or killed in violation of this  
9        section.
- 10       (e) This section shall not apply to:
- 11       (1) Special activity permits allowed under section 187A-6  
12       or research permits authorized by law; provided that  
13       the permit issued does not allow a take that exceeds  
14       the potential biological removal level; provided  
15       further that the department of land and natural  
16       resources may adopt rules to define "take" for  
17       purposes of this subsection and determine when a take  
18       exceeds the potential biological removal level;
- 19       (2) The department of land and natural resources or its  
20       designated agent if the capture, taking, possession,



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1            abuse, entanglement, or killing is for the protection  
2            of public safety; and

3            (3) Sharks taken outside of state marine waters and  
4            possessed on a vessel in state marine waters pursuant  
5            to any federally managed fishery, for the purpose of  
6            landing the catch in the State.

7            (f) Nothing in this section shall be construed to restrict  
8            the exercise of traditional and customary rights protected  
9            pursuant to article XII, section 7, of the Hawaii State  
10           Constitution.

11           (g) For the purposes of this section, "shark" means any  
12           species of shark within the subclass Elasmobranchii."

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

15           "~~[§] 188-39.5 [~~] Manta rays,~~] Rays; hihimanu; prohibitions,~~

16           penalties and fines. (a) [~~№~~] Except as provided in subsection

17           (e), no person shall knowingly capture [~~or kill~~], take, possess,

18           abuse, or entangle a [~~manta~~] ray, whether alive or dead, or kill

19           any ray, within 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, taken, possessed, abused,  
11 entangled, or killed in violation of 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, taken,  
19 possessed, abused, entangled, or killed in violation of this  
20 section.



1           (e) This section shall not [~~prohibit~~] apply to special  
2 activity permits allowed under section 187A-6[+] or research  
3 permits authorized by law; provided that the permit issued does  
4 not allow a take that exceeds the potential biological removal  
5 level; and provided further that the department [~~shall~~] may  
6 adopt rules to define a "take" and determine when a take exceeds  
7 the potential biological removal level.

8           (f) Nothing in this section shall be construed to restrict  
9 the exercise of traditional and customary rights protected  
10 pursuant to article XII, section 7, of the Hawaii State  
11 Constitution.

12           (g) For the purposes of this section, "ray" means any  
13 species of ray within the subclass Elasmobranchii."

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

16           "(a) Any person violating any provision of or any rule  
17 adopted pursuant to this chapter, except sections 188-23 [~~and~~],  
18 188-39.5, and 188-\_\_\_, is guilty of a petty misdemeanor and, in  
19 addition to any other penalties, shall be fined not less than:

- 20           (1) \$100 for a first offense;  
21           (2) \$200 for a second offense; and



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1 (3) \$500 for a third or subsequent offense."

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

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

7 SECTION 7. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

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**Report Title:**

Sharks; Rays; Prohibitions; Exemptions

**Description:**

Establishes an offense of knowingly capturing, taking, possessing, abusing, entangling, or killing a shark in state marine waters, along with penalties and fines. Expands the existing prohibition on knowingly capturing or killing a manta ray in state marine waters to apply to all rays and to also include knowingly taking, possessing, abusing, or entangling a ray. Provides certain exemptions.

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

