
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, known as
2 "manō" in the Hawaiian language, and rays, known variously as
3 "hīhīmanu", "hāhālua", "hailepo", or "lupe" in the Hawaiian
4 language depending on the type of ray, are extremely important
5 to ocean ecosystems. As ocean predators near the top of the
6 food chain, sharks keep the ecosystem balanced, regulate
7 populations of other marine life, and ensure healthy fish stock
8 and reefs.

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



1 The legislature further finds that sharks and rays on the
2 reefs not only play important ecological roles, but are also
3 valued figures in Hawaiian culture and are important
4 economically to ocean recreation industries and to tourism in
5 Hawaii. The benefits of maintaining viable populations greatly
6 outweigh any value that would be gained by killing these
7 species.

8 The purpose of this Act is to protect sharks and rays for
9 ecological purposes, for their value to the ocean recreation
10 industry, and for their value to Native Hawaiian cultural
11 practices by:

- 12 (1) Establishing fines and penalties for knowingly
13 capturing, taking, possessing, abusing, or entangling
14 a shark, whether alive or dead, or killing a shark,
15 within state marine waters;
- 16 (2) Expanding the existing prohibition on knowingly
17 capturing or killing a manta ray to apply to all rays;
18 and
- 19 (3) Expanding the prohibition regarding rays to include
20 knowingly capturing, taking, possessing, abusing, or



1 entangling a ray, whether alive or dead, or killing a
2 ray, within state marine waters.

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

6 "§188- Sharks; manō; prohibitions; exceptions; penalties
7 and fines. (a) Except as provided in subsection (e), or as
8 otherwise provided by law, no person shall knowingly capture,
9 take, possess, abuse, or entangle any shark, whether alive or
10 dead, or kill any shark, within state marine waters.

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

- 14 (1) \$500 for a first offense;
- 15 (2) \$2,000 for a second offense; and
- 16 (3) \$10,000 for a third or subsequent offense.

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

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



- 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,



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

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; and

7 (4) Any person if the capture, taking, possession, abuse,
8 entanglement, or killing is the result of defense of
9 the person's self or of another against death or
10 bodily harm.

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

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

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

19 " ~~[+] §188-39.5 []- Manta rays;~~ Rays; hihimanu; hāhālua;
20 hailepo; lupe; prohibitions, penalties and fines. (a) [Ne]

21 Except as provided in subsection (e), no person shall knowingly



1 capture [~~or kill~~], take, possess, abuse, or entangle a [manta]
2 ray, whether alive or dead, or kill any ray, within state marine
3 waters.

4 (b) Any person violating this section or any rule adopted
5 pursuant to this section shall be guilty of a misdemeanor and
6 shall be fined:

- 7 (1) \$500 for a first offense;
8 (2) \$2,000 for a second offense; and
9 (3) \$10,000 for a third or subsequent offense.

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

- 12 (1) An administrative fine of not more than \$10,000 for
13 each [~~manta~~] ray captured, taken, possessed, abused,
14 entangled, or killed in violation of this section;
15 (2) Seizure and forfeiture of any captured [~~manta~~] rays,
16 commercial marine license, vessel, and fishing
17 equipment; and
18 (3) Assessment of administrative fees and costs, and
19 attorney's fees and costs.

20 (d) The criminal penalties and administrative fines and
21 costs shall be assessed per [~~manta~~] ray captured, taken,



1 possessed, abused, entangled, or killed in violation of this
2 section.

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

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

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

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

18 "(a) Any person violating any provision of or any rule
19 adopted pursuant to this chapter, except sections 188-23 [~~and~~],
20 188-39.5, and 188-_____, is guilty of a petty misdemeanor and, in
21 addition to any other penalties, shall be fined not less than:



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

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 July 1, 2019.



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. (SD2)

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