
A BILL FOR AN ACT

RELATING TO MARINE AQUARIUM FISHING.

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

1 SECTION 1. The legislature finds that kanaka maoli values
2 such as living in harmony and balance with nature, mālama ‘āina,
3 kuleana for the surrounding environment, the concept of aloha
4 ‘āina, and other Native Hawaiian traditional and customary
5 gathering rights and cultural practices are the foundation of
6 the constitution of the State of Hawaii's mandates related to
7 the conservation and management of natural resources. There is
8 evidence to show that historically the commercial capture of
9 Hawaii's reef wildlife for sale to the aquarium pet trade has
10 resulted in a depletion of marine resources. To allow the
11 commercial trade to continue in a manner that adversely impacts
12 marine resources would be contrary to effective marine resource
13 management and traditional Hawaiian practices.

14 The purpose of this Act is to:

15 (1) Place a two-year moratorium on the commercial capture
16 of aquatic life for aquarium purposes or pursuant to a



1 commercial marine license through the use of fine-mesh
2 nets or fine-mesh traps;

3 (2) Require the research corporation of the university of
4 Hawaii to prepare an environmental impact statement to
5 evaluate the impacts of the department of land and
6 natural resources' issuance of commercial aquarium
7 permits on the island of Oahu and West Hawaii;

8 (3) Require the research corporation of the university of
9 Hawaii to complete a comprehensive cultural impact
10 assessment in coordination with the office of Hawaiian
11 affairs and Native Hawaiian cultural organizations;

12 (4) Require the department of land and natural resources
13 to establish a marine aquarium fishing advisory group;

14 (5) Prohibit any person from possessing a fine-mesh net or
15 fine-mesh trap on their person or within a vessel
16 within state marine waters or on or about the shore
17 where fish can be taken and impose a \$5,000 fine for a
18 violation; and

19 (6) Appropriate funds for the purposes of this Act.

20 This Act is intended to allow the following practices to
21 continue:



- 1 (1) Issuance of special activity permits pursuant to
2 section 187A-6, Hawaii Revised Statutes;
- 3 (2) Issuance of recreational permits for non-commercial
4 capture of aquatic life for aquarium purposes, in
5 accordance with existing laws and rulings regarding
6 compliance with environmental assessments; and
- 7 (3) Captive-breeding and aquaculture efforts, as regulated
8 by section 187A-3.5, Hawaii Revised Statutes.

9 Nothing in this Act should be construed to prohibit any
10 person from exercising native Hawaiian rights, customarily and
11 traditionally exercised for subsistence, cultural, and religious
12 purposes pursuant to article XII, section 7, of the Hawaii State
13 Constitution, the lawful taking of fish for consumption or bait,
14 or lawful management or taking of aquatic life from fishponds.

15 SECTION 2. Chapter 189, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§189- Harvesting aquatic life for commercial aquarium
19 purposes; prohibition; exemptions; definitions. (a) No person
20 shall harvest aquatic life for commercial aquarium purposes
21 using a fine-mesh net or fine-mesh trap in any state marine



1 waters. No person operating under a commercial marine license
2 pursuant to section 189-2, shall harvest aquatic life for
3 commercial aquarium purposes using a fine-mesh net or fine-mesh
4 trap in any state marine waters.

5 (b) This section shall not apply to the harvest or
6 collection of aquatic life for purposes of:

- 7 (1) Activities pursuant to the issuance of a license or
8 permit for activities permitted in sections 187A-3.5
9 and 187A-6 and chapter 188; provided that the
10 requirements of those sections are met;
- 11 (2) Scientific or research activities;
- 12 (3) Educational activities or activities conducted as part
13 of a school activity or assignment;
- 14 (4) Activities permitted under federal law;
- 15 (5) Activities associated with the exercise of native
16 Hawaiian rights, customarily and traditionally
17 exercised for subsistence, cultural, and religious
18 purposes pursuant to article XII, section 7, of the
19 Hawaii State Constitution; and
- 20 (6) Activities otherwise expressly and lawfully permitted
21 by state law or county ordinance.



1 (c) For the purposes of this section:

2 "Aquarium purposes" means to hold salt water fish,
3 freshwater nongame fish, or other aquatic life alive in a state
4 of captivity as pets, for public exhibition or display, or for
5 sale for these purposes.

6 "Aquatic life" means any type or species of mammal, fish,
7 amphibian, reptile, mollusk, crustacean, arthropod,
8 invertebrate, coral, or other animal that inhabits the
9 freshwater or marine environment and includes any part, product,
10 egg, or offspring thereof; or marine plants, including seeds,
11 roots, products, and other parts thereof.

12 "Commercial" means to take aquatic life for profit or gain
13 or where the aquatic life is sold, offered for sale, possessed
14 with intent to sell, bartered, landed, or transported for sale.

15 "Fine-mesh" means the rhombic (diamond-shaped) opening
16 enclosed by four bars of twines or equal length at the four
17 corners where the opening is less than three centimeters
18 measured between corners when the mesh is stretched.

19 "Harvest" means to take and retain aquatic life."

20 SECTION 3. Section 187A-13, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§187A-13 General penalty; community service. (a) Any
2 person violating this chapter or any rule adopted thereunder for
3 which a penalty is not otherwise provided, shall be guilty of a
4 petty misdemeanor and, in addition to any other penalties, shall
5 be fined not less than:

6 (1) \$250 for a first offense;

7 (2) \$500 for a second offense; and

8 (3) \$1,000 for a third or subsequent offense.

9 (b) The court may require the defendant to complete an
10 aquatic resources educational class administered by the
11 department in addition to or in lieu of paying all or any part
12 of any monetary fine authorized by this section.

13 (c) The court may direct the defendant to perform
14 community service as administered by the department in lieu of
15 paying any monetary fine authorized by this section.

16 (d) No person shall possess a fine-mesh net or fine-mesh
17 trap on their person or within a vessel within state marine
18 waters or on or about the shore where fish can be taken. Any
19 person who violates this subsection shall be subject to seizure
20 and forfeiture of any fine-mesh net or fine-mesh trap and shall
21 be fined \$5,000.



1 For purposes of this subsection:

2 "Fine-mesh" means the rhombic (diamond-shaped) opening
3 enclosed by four bars of twines or equal length at the four
4 corners where the opening is less than three centimeters
5 measured between corners when the mesh is stretched.

6 "Vessel" means every description of watercraft or other
7 artificial contrivance used, or capable of being used, as a
8 means of transportation on water."

9 SECTION 4. Section 188-31.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]§188-31.5[+] Aquarium fish for export; monthly count.~~
12 ~~[The department of land and natural resources shall adopt rules~~
13 ~~in accordance with chapter 91 to monitor the aquarium fish catch~~
14 ~~report and fish dealer's report for export of aquarium fish~~
15 ~~taken from the waters of the State for aquarium purposes~~
16 ~~pursuant to section 188-31. A monthly count of the quantities~~
17 ~~taken of each individual species of aquarium fish exported shall~~
18 ~~be reported to the board.] Repealed."~~

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



1 "**§189-11 Receipts in duplicate.** Every commercial marine
2 dealer shall issue receipts to the person from whom marine life
3 is obtained and shall provide the following information in the
4 receipt:

5 (1) The date of the issuance;
6 (2) The name of the person to whom the receipt is issued;
7 (3) The following information with respect to each of the
8 varieties of marine life as the department shall
9 require including:

10 (A) The weight in pounds of each of the varieties
11 received;

12 (B) The numbers of marine life when they average a
13 pound or more; and

14 (C) The price per pound paid; and

15 ~~(D) With regard to aquarium fish, regardless of~~
16 ~~weight, the number and species of the fishes,~~
17 ~~and]~~

18 (4) The signature of the dealer who issues the receipt.

19 Any dealer taking the dealer's own marine life or handling any
20 marine life taken by commercial marine licensees working for or
21 with the dealer, shall make out the same receipt, giving market



1 price for the marine life as prevails on the date of receipt. A
2 duplicate copy of this receipt shall be kept on file at the
3 premise where the marine life was sold by the dealer issuing the
4 same for a period of twelve months from the date of issuance,
5 and the duplicate copy shall be available for inspection upon
6 the demand of any conservation officer authorized to enforce the
7 laws of the State."

8 SECTION 6. (a) The research corporation of the university
9 of Hawaii shall prepare an environmental impact statement that
10 meets the requirements of chapter 343, Hawaii Revised Statutes,
11 to evaluate the impacts of the department of land and natural
12 resources' issuance of commercial aquarium permits on the island
13 of Oahu and West Hawaii. The research corporation of the
14 university of Hawaii may prepare the environmental impact
15 statement internally or hire a consultant to prepare the
16 environmental impact statement insofar as the consultant can
17 demonstrate neutrality on the issue.

18 (b) As part of the environmental impact statement, the
19 research corporation of the university of Hawaii shall complete
20 a cultural impact assessment in coordination with the office of
21 Hawaiian affairs and Native Hawaiian organizations, including



1 but not limited to the Aha Moku advisory committee and Hunting,
2 Farming, and Fishing Association.

3 (c) The research corporation of the university of Hawaii
4 shall submit a report on its progress regarding the
5 environmental impact statement and cultural impact assessment to
6 the legislature no later than twenty days prior to the convening
7 of the regular session of 2020.

8 (d) The governor shall serve as the accepting authority
9 for the environmental impact statement. The environmental
10 impact statement shall be completed and accepted no later than
11 twenty days prior to the convening of the regular session of
12 2021.

13 SECTION 7. (a) The department of land and natural
14 resources shall establish a marine aquarium fishing advisory
15 group, exempt from section 26-34, Hawaii Revised Statutes, to
16 monitor activities addressed by this Act and provide guidance to
17 the research corporation of the university of Hawaii and office
18 of Hawaiian affairs toward completion of the environmental
19 impact statement and cultural impact assessment. The advisory
20 group members shall consist of the following:



- 1 (1) The administrator of the division of aquatic
2 resources;
- 3 (2) One representative of the commercial aquarium
4 industry, to be selected by the chairperson of the
5 board of land and natural resources;
- 6 (3) One representative of a conservation organization, to
7 be selected by the chairperson of the board of land
8 and natural resources;
- 9 (4) One member with knowledge, experience, and expertise
10 in the area of Hawaiian cultural practices, to be
11 selected by the chairperson of the board of land and
12 natural resources; and
- 13 (5) One representative of a fishing or fishermen's
14 association.
- 15 (b) The marine aquarium fishing advisory group shall elect
16 a chairperson from among its members. Any action of the
17 advisory group shall be by a simple majority of its members.
18 Three members shall constitute a quorum.
- 19 (c) The marine aquarium fishing advisory group shall be
20 administered by the division of aquatic resources. The advisory
21 group shall advise the department of land and natural resources



1 on issues related to marine aquarium fishing and the activities
2 under this Act. The marine aquarium fishing advisory group
3 shall:

- 4 (1) Advise the research corporation of the university of
5 Hawaii and department of land and natural resources on
6 any environmental reviews related to commercial
7 aquarium fishing;
- 8 (2) Identify an appropriate scope of work for the
9 environmental impact statement required pursuant to
10 section 6 of this Act;
- 11 (3) Identify appropriate cultural groups and practitioners
12 to be consulted on the cultural impact assessment
13 required pursuant to section 6 of this Act;
- 14 (4) Work with the research corporation of the university
15 of Hawaii and department of land and natural resources
16 to ensure proper notice and community engagement on
17 the environmental impact statement, such that
18 stakeholders and community members have ample
19 opportunity to engage in the review process;
- 20 (5) Make recommendations to the research corporation of
21 the university of Hawaii and department of land and



1 natural resources regarding local outlets or
2 publications where notice of the environmental impact
3 statement should be distributed;

4 (6) Make recommendations to the research corporation of
5 the university of Hawaii and department of land and
6 natural resources regarding public meetings on the
7 environmental impact statement; and

8 (7) Assess the impact of the moratorium implemented under
9 this Act.

10 The marine aquarium fishing advisory group shall submit a
11 report of its findings and recommendations, including any
12 proposed legislation, to the legislature no later than twenty
13 days prior to the convening of the regular session of 2021.

14 (d) Members of the marine aquarium fishing advisory group
15 shall serve without compensation but shall be reimbursed for
16 expenses, including travel expenses, necessary for the
17 performance of their duties. No member shall be made subject to
18 chapter 84, Hawaii Revised Statutes, solely because of that
19 member's participation as a member of the advisory group.

20 SECTION 8. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$500,000 or so much



1 thereof as may be necessary for fiscal year 2019-2020 for the
2 purposes of this Act.

3 The sums appropriated shall be expended by the university
4 of Hawaii and single-sourced to the research corporation of the
5 university of Hawaii for the purposes of this Act.

6 SECTION 9. If there is any conflict with section 188-31,
7 Hawaii Revised Statutes, this Act shall supersede.

8 SECTION 10. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun before its effective date.

11 SECTION 11. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 12. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 13. This Act shall take effect on July 1, 2019,
20 and shall be repealed on June 30, 2021; provided that sections
21 187A-13, 188-31.5, and 189-11, Hawaii Revised Statutes, shall be



1 reenacted in the form in which they read on the day before the
2 effective date of this Act.



Report Title:

Marine Aquarium Fishing; Fine-Mesh Prohibition; Commercial Aquarium Fishing Moratorium; Environmental Impact Statement; Cultural Impact Assessment; Marine Aquarium Fishing Advisory Group; Appropriation

Description:

Prohibits any person from possessing a fine-mesh net or fine-mesh trap on their person or within a vessel within state marine waters or on or about the shore where fish can be taken and imposes a \$5,000 fine for violations. Places a two-year moratorium on the commercial capture of aquatic life for aquarium purposes or under a commercial marine license through use of fine-mesh nets or fine-mesh traps. Requires the research corporation of the university of Hawaii (RCUH) to evaluate the impacts of the department of land and natural resources' issuance of commercial aquarium permits on the island of Oahu and West Hawaii. Requires a cultural impact assessment in coordination with the office of Hawaiian affairs and Native Hawaiian cultural organizations. Requires the RCUH to submit a progress report to the Legislature no later than twenty days prior to the regular session of 2020. Requires the governor to accept the EIS no later than twenty days prior to the regular session of 2021. Requires the department of land and natural resources to establish a marine aquarium fishing advisory group. Makes an appropriation. Repeals 6/30/2021. (SD1)

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