
A BILL FOR AN ACT

RELATING TO THE PROTECTION OF SHARKS.

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

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

6 The legislature also finds that a very limited number of
7 sharks are caught by subsistence fishers as a source of food.
8 In addition, some sharks are caught as incidental take by
9 fishers targeting other species. There have been numerous
10 incidents reported where young sharks, such as hammerhead shark
11 pups, are killed by being entangled in gill nets set in shark
12 nursery habitats. The legislature further finds that the very
13 limited amount of subsistence fishing for sharks is not a threat
14 to shark populations, and the incidental take of sharks by
15 fishers targeting other species is unavoidable and should not be
16 criminalized. In addition, the legislature finds that
17 prohibiting the placement of gill nets in areas determined to be



1 shark nursery habitats would be an effective tool to protect
2 shark populations.

3 The purpose of this Act is to protect sharks for their
4 ecological value while allowing their taking for subsistence
5 purposes as well as for traditional and customary practices.

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

9 "§188- Sharks; mano; prohibitions; exceptions;
10 penalties and fines. (a) Except as provided in subsection (f),
11 or as otherwise provided by law, no person shall knowingly
12 capture or entangle any shark, whether alive or dead, or kill
13 any shark, within state marine waters.

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

- 17 (1) \$500 for a first offense;
- 18 (2) \$2,000 for a second offense; and
- 19 (3) \$10,000 for a third or subsequent offense.

20 (c) A person convicted of violating this section may be
21 sentenced to pay a fine not exceeding \$10,000 per offense.



1 (d) In addition to any other penalty imposed under this
2 section, a person violating this section shall be subject to:

3 (1) An administrative fine of no more than \$10,000 for
4 each shark captured or entangled, whether alive or
5 dead, or killed in violation of this section;

6 (2) Seizure and forfeiture of any captured sharks or any
7 part or product therefrom, commercial marine license,
8 vessel, and fishing equipment; and

9 (3) Assessment of administrative fees and costs, and
10 attorney's fees and costs.

11 (e) The criminal penalties and administrative fines, fees,
12 and costs shall be assessed per shark captured or entangled,
13 whether dead or alive, or killed in violation of this section.

14 (f) This section shall not apply to:

15 (1) Special activity permits issued under section 187A-6;

16 (2) The department of land and natural resources or its
17 designated agent if the capture or entanglement,
18 whether alive or dead, or killing is for the
19 protection of public safety;

20 (3) Sharks taken outside of state marine waters and
21 possessed on a vessel in state marine waters pursuant



1 to any federally managed fishery, with the required
2 documentation of the location where the capture
3 occurred;

4 (4) Any person who captures or kills sharks for
5 subsistence fishing purposes pursuant to a permit
6 issued by the department of land and natural resources
7 under subsection (h) (4);

8 (5) Any person who incidentally takes sharks while
9 targeting other species; and

10 (6) Any person if the capture or entanglement, whether
11 alive or dead, or killing is the result of defense of
12 the person's self or of another against death or
13 bodily harm.

14 (g) Nothing in this section shall be construed to restrict
15 the exercise of traditional and customary rights protected
16 pursuant to article XII, section 7, of the Hawaii State
17 Constitution.

18 (h) The department of land and natural resources shall
19 adopt rules pursuant to chapter 91 to implement this section to:

20 (1) Ensure that the incidental taking of sharks while
21 targeting other species is not a violation;



- 1 (2) Prevent the wanton waste of sharks;
- 2 (3) Limit gear, such as gill nets, in areas identified as
- 3 shark nursery habitats; and
- 4 (4) Allow the taking of sharks by permit for subsistence
- 5 purposes, subject to reasonable regulation by the
- 6 State for the protection of shark species.
- 7 (i) For the purposes of this section, "shark" means any
- 8 species of shark within the subclass Elasmobranchii."

9 SECTION 3. Section 188-70, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

11 "(a) Any person violating any provision of or any rule
 12 adopted pursuant to this chapter, except sections 188-23
 13 [~~and~~], 188-39.5, and 188-____, is guilty of a petty misdemeanor
 14 and, in addition to any other penalties, shall be fined [~~not~~] no
 15 less than:

- 16 (1) \$100 for a first offense;
- 17 (2) \$200 for a second offense; and
- 18 (3) \$500 for a third or subsequent offense."

19 SECTION 4. This Act does not affect rights and duties that
 20 matured, penalties that were incurred, and proceedings that were
 21 begun before its effective date.



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

3 SECTION 6. This Act shall take effect on January 1, 2050.



Report Title:

Sharks; Prohibitions; Penalties; Exemptions

Description:

Establishes an offense of knowingly capturing, entangling, or killing a shark in state marine waters, and provides penalties and fines. Provides certain exemptions. Requires the department of land and natural resources to establish rules to achieve certain objectives. Effective 1/1/2050. (HD2)

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