

JAN 27 2021

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES.

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

1 SECTION 1. The legislature finds that Hawai'i law provides
2 that aquarium fishing is permitted by aquarium fish collectors
3 with a valid permit and subject to restrictions. Non-commercial
4 aquarium fish collectors are limited to catches of a combined
5 total of five fish or aquatic life specimens per person per day.

6 In November 2020, the environmental court of the First
7 Circuit of Hawai'i ruled, in part, that the issuance of aquarium
8 fishing permits is subject to the Hawaii Environmental Policy
9 Act and, therefore, an environmental impact statement must be
10 completed before the department of land and natural resources
11 approves or renews additional aquarium fishing licenses and
12 permits. At the time of the ruling, the department of land and
13 natural resources confirmed that it would no longer approve or
14 renew commercial marine licenses for aquarium fishing without a
15 complete environmental review process. In January 2021, the
16 department of land and natural resources clarified that those



1 with existing commercial marine licenses could no longer collect
2 aquarium fish, as well.

3 Accordingly, the purpose of this Act is to recognize the
4 court's ruling and the position taken by the department of land
5 and natural resources to protect the aquarium fish and other
6 aquatic life in Hawai'i's nearshore waters by increasing fines
7 for violations relating to aquarium fishing.

8 SECTION 2. Section 188-70, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§188-70 Penalties.** (a) Any person violating any
11 provision of or any rule adopted pursuant to this chapter,
12 except sections 188-23 and 188-39.5, is guilty of a petty
13 misdemeanor and, in addition to any other penalties, shall be
14 fined not less than:

- 15 (1) \$100 for a first offense;
16 (2) \$200 for a second offense; and
17 (3) \$500 for a third or subsequent offense.

18 (b) Any person violating section 188-31 is guilty of a
19 misdemeanor and, in addition to any other penalties, shall be
20 fined not less than:

- 21 (1) \$200 for a first offense;



1 (2) \$400 for a second offense; and

2 (3) \$1,000 for a third or subsequent offense.

3 ~~(b)~~ (c) Any person violating section 188-23, is guilty
4 of a class C felony and shall be sentenced pursuant to chapter
5 706; provided that the environmental court, in addition to any
6 term of imprisonment or any other terms and conditions of
7 probation, shall order the defendant to pay a fine of not less
8 than \$1,000. Notwithstanding section 706-669 and any other law
9 to the contrary, any person in violation of section 188-23(b),
10 as a first offense, shall be sentenced to a mandatory minimum
11 period of imprisonment without possibility of parole of thirty
12 days. Repeat offenders shall be sentenced pursuant to chapter
13 706.

14 ~~(e)~~ (d) The environmental court may require the
15 defendant to complete an aquatic resources educational class
16 administered by the department of land and natural resources in
17 addition to or in lieu of paying all or any part of any monetary
18 fine authorized by this section.

19 ~~(d)~~ (e) The environmental court may direct the defendant
20 to perform community service as administered by the department



1 of land and natural resources in lieu of paying any monetary
2 fine authorized by this section.

3 (f) For purposes of this section, each fish or aquatic
4 life specimen taken in violation of sections 188-23, 188-31, and
5 188-39.5 shall constitute a separate offense."

6 SECTION 3. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY:



S.B. NO. 1013

Report Title:

Aquarium Fishing; Fine Increase

Description:

Increases fines for aquarium fishing violations.

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

