

JAN 22 2021

A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

1 SECTION 1. The legislature finds that coral reefs are
2 immeasurably important to Hawaii's economy and way of life,
3 including Hawaii's tourism industry, food supply, recreation,
4 and coastal protection. Coral reefs are one of the most
5 threatened ecosystems on the planet. Hawaii's coral reefs have
6 been subjected to immense stress in recent decades because of
7 human-caused climate change, overfishing, and pollution. These
8 stressors have contributed to substantial losses in live coral
9 and an overall significant decline of Hawaii's coral reefs.

10 The legislature also finds that herbivorous fish and
11 invertebrates are critically important to Hawaii's coral reefs.
12 Herbivores are key to coral reef survival because they protect
13 these threatened ecosystems from harmful algal overgrowth that
14 can result from human-caused stressors.

15 The legislature further finds that the commercial capture
16 of the State's reef wildlife for sale to the aquarium pet trade
17 substantially reduces the abundance and biomass of important



1 herbivores and other fishes with key roles on the reef and is
2 incompatible with living in harmony and balance with nature,
3 respect for the surrounding environment, and the sustainability
4 of our ecosystem. The objectives of commercial trade are
5 contrary to sustainable fishing practices, such as taking only
6 what is needed for subsistence.

7 The legislature acknowledges that while Hawaii's laws offer
8 herbivorous fish some protections in marine protected areas and
9 fish replenishment areas, the legislature believes that ensuring
10 healthy populations of herbivorous fish in all of Hawaii's
11 waters is essential to protect Hawaii's coral reefs from
12 extinction.

13 The legislature further finds that in 1988, the State
14 prohibited the taking of sand, dead coral or coral rubble,
15 rocks, soil, and other marine deposits. Extending prohibitions
16 to encompass the commercial collection and sale of reef wildlife
17 for the aquarium pet trade is now needed to protect the
18 environment and preserve the State's natural resources for the
19 benefit of all Hawaii residents. The legislature recognizes
20 that these obligations to protect the environment are enshrined
21 in the Hawaii State Constitution, specifically in article XI,



1 section 1, conservation, control, and development of resources;
2 article XI, section 9, environmental rights; and article XII,
3 section 7, traditional and customary rights.

4 The purpose of this Act is to prohibit the harvesting of
5 aquatic life for commercial aquarium purposes, regardless of the
6 method of collection. This Act is intended to allow the
7 following practices to continue:

8 (1) Issuance of special activity permits pursuant to
9 section 187A-6, Hawaii Revised Statutes;

10 (2) Issuance of recreational permits for non-commercial
11 capture of aquatic life for aquarium purposes, in
12 accordance with existing laws and decisions regarding
13 compliance with environmental assessments; and

14 (3) Captive-breeding and aquaculture efforts, as regulated
15 by section 187A-3.5, Hawaii Revised Statutes.

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

19 "§189- _____ Harvesting aquatic life for commercial aquarium
20 purposes; prohibition. (a) No person shall harvest aquatic
21 life for commercial aquarium purposes.



1 (b) This section shall not apply to the issuance of a
2 license or permit for activities permitted in sections 187A-3.5
3 and 187A-6; provided that the requirements of those sections are
4 met.

5 (c) For the purposes of this section:

6 "Aquarium purposes" means to hold salt water fish,
7 freshwater nongame fish, or other aquatic life alive in a state
8 of captivity as pets, for scientific study, for public
9 exhibition or display, or for sale for these purposes.

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

13 SECTION 3. Section 189-11, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§189-11 Receipts in duplicate.** Every commercial marine
16 dealer shall issue receipts to the person from whom marine life
17 is obtained and shall provide the following information in the
18 receipt:

19 (1) The date of the issuance;

20 (2) The name of the person to whom the receipt is issued;



1 (3) The following information with respect to each of the
2 varieties of marine life as the department shall
3 require including:

4 (A) The weight in pounds of each of the varieties
5 received;

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

8 (C) The price per pound paid; and

9 ~~[(D) With regard to aquarium fish, regardless of
10 weight, the number and species of the fishes,
11 and]~~

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

13 Any dealer taking the dealer's own marine life or handling any
14 marine life taken by commercial marine licensees working for or
15 with the dealer, shall make out the same receipt, giving market
16 price for the marine life as prevails on the date of receipt. A
17 duplicate copy of this receipt shall be kept on file at the
18 premise where the marine life was sold by the dealer issuing the
19 same for a period of twelve months from the date of issuance,
20 and the duplicate copy shall be available for inspection upon



1 the demand of any conservation officer authorized to enforce the
2 laws of the State."

3 SECTION 4. Section 188-31.5, Hawaii Revised Statutes, is
4 repealed.

5 ~~["**§188-31.5** **Aquarium fish for export, monthly count.**
6 ~~The department of land and natural resources shall adopt rules
7 in accordance with chapter 91 to monitor the aquarium fish catch
8 report and fish dealer's report for export of aquarium fish
9 taken from the waters of the State for aquarium purposes
10 pursuant to section 188-31. A monthly count of the quantities
11 taken of each individual species of aquarium fish exported shall
12 be reported to the board."]~~~~

13 SECTION 5. Nothing in this Act shall be construed to
14 prohibit the exercise of traditional and customary practices,
15 the lawful taking of fish for consumption or bait, or the lawful
16 management or taking of aquatic life from fishponds.

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

19 SECTION 7. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



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1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 8. 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 9. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 10. This Act shall take effect upon its approval.

10

INTRODUCED BY: 



S.B. NO. 344

Report Title:

Aquatic Life; Harvesting; Commercial Aquarium Purposes

Description:

Prohibits the harvesting of aquatic life for commercial aquarium purposes, regardless of the method of collection.

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