

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO THE TAKING OF MARINE LIFE.

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

1           SECTION 1. Fishing is an important pastime for many Hawaii  
2 residents, providing not only recreational and subsistence  
3 benefits, but also a source of additional income for many small-  
4 scale commercial fishers who often sell a portion of their catch  
5 to cover costs of fuel or fishing gear.

6           Furthermore, the current commercial marine license laws are  
7 unnecessarily burdensome on boat-based fishers due to the  
8 requirement that each individual on a fishing vessel have a  
9 commercial marine license to participate in a commercial fishing  
10 trip where the resulting catch may be sold. This places  
11 logistical and financial burdens on vessel captains when part-  
12 time crew members are needed for a commercial fishing trip, or  
13 when unscheduled or infrequent visitors are invited aboard. It  
14 also leads to confusion regarding who is responsible for  
15 submitting commercial catch reports for fishing activities on  
16 board the vessel.

17           This Act clarifies that a valid commercial marine vessel  
18 license satisfies the commercial marine license requirement for

1 commercial purposes aboard a licensed vessel as a commercial  
2 marine vessel license will be more convenient and cost effective  
3 for Hawaii boat-based fishers and will clarify who is  
4 responsible for submitting commercial catch reports for the  
5 vessel. The department of land and natural resources  
6 (department) has the discretion through the public rulemaking  
7 process contained in chapter 91, Hawaii Revised Statutes, to  
8 determine the specifications and qualifications for these  
9 licenses.

10 Furthermore, although existing statutory language requires  
11 vessel-based fishing charters to obtain a commercial marine  
12 license, it is unclear whether shore-based charters are also  
13 required to obtain a commercial marine license. This Act  
14 clarifies that the commercial marine license requirement applies  
15 to any person providing fishing charter services. This will  
16 allow the department to better understand and manage marine  
17 charter fishing activities in the State.

18 The purpose of this Act is to amend the commercial marine  
19 license statute to:

20 (1) Specify that a commercial marine vessel license  
21 satisfies an individual's licensure requirement if  
22 aboard a licensed vessel; and

1           (2) Require any person providing fishing charter services  
2           to obtain a commercial marine license.

3           SECTION 2. Section 189-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "~~§189-2~~ **Commercial marine license[-] and commercial marine**  
6 **vessel license.** (a) No person shall take marine life for  
7 commercial purposes whether the marine life is caught or taken  
8 within or outside of the State, without first obtaining a  
9 commercial marine license as provided in this section. A valid  
10 commercial marine vessel license shall satisfy the commercial  
11 marine license requirement for all persons taking marine life  
12 for commercial purposes aboard a validly licensed vessel.

13           (b) [~~Additionally, any~~] Any person providing [~~vessel~~]  
14 charter services in the State for the taking of marine life in  
15 or outside of the State shall obtain a commercial marine  
16 license.

17           (c) Any vessel used for or engaged in the taking of marine  
18  
19 life for commercial purposes may obtain a commercial marine  
20 vessel license.

21           [~~(e)~~] (d) The department may adopt rules pursuant to  
22 chapter 91 necessary for the purpose of this section and to set

S.B. NO. 1170

1 fees for commercial marine [~~licensing.~~] and commercial marine  
2 vessel licenses.

3 [~~(d)~~] (e) The fees for commercial marine and commercial  
4 marine vessel licenses and duplicate commercial marine and  
5 commercial marine vessel licenses shall be established by the  
6 department by rules adopted in accordance with chapter 91.

7 [~~(e)~~] (f) The department shall suspend, shall refuse to  
8 renew, reinstate, or restore, or shall deny any license issued  
9 under this section if the department has received certification  
10 from the child support enforcement agency pursuant to section  
11 576D-13 that the licensee or applicant is not in compliance with  
12 an order of support or has failed to comply with a subpoena or  
13 warrant relating to a paternity or child support proceeding.  
14 The department shall issue, renew, reinstate, or restore an  
15 affected license only upon receipt of authorization from the  
16 child support enforcement agency, the office of child support  
17 hearings, or the family court."

18 SECTION 3. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

S.B. NO. 1170

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BY REQUEST

S.B. NO. 1170

**Report Title:**

Commercial Marine Licenses; Commercial Marine Vessel Licenses;  
Charter Services

**Description:**

Clarifies that a valid commercial marine vessel license shall satisfy the commercial marine license requirement for all persons taking marine life for commercial purposes aboard a validly licensed vessel. Requires any person who provides fishing charter services to obtain a commercial marine license.

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

# SB. NO. 1170

## JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO THE TAKING OF MARINE LIFE.

PURPOSE: To clarify that a valid commercial marine vessel license shall satisfy the commercial marine license requirement for all persons taking marine life for commercial purposes aboard a validly licensed vessel; and to require any person providing fishing charter services to obtain a commercial marine license.

MEANS: Amend section 189-2, Hawaii Revised Statutes.

JUSTIFICATION: Currently each individual on a fishing vessel must have the individual's own commercial marine license (CML) to participate in a commercial fishing trip. This causes problems when part-time crew members are needed for a commercial fishing trip or when unscheduled and infrequent visitors are invited aboard. The Department initially intended to establish a new commercial marine vessel license (CMVL) category by amending its CML rules. The CMVL, which would cover everyone on board under one license and eliminate the need for individual licenses, would be more convenient and cost effective for Hawaii boat-based fishers. The CMVL would clarify who is responsible for submitting catch reports for the vessel. In December 2017, the Board of Land and Natural Resources approved the proposed CMVL rules for public hearing, subject to clarification that the Department has the statutory authority to create and issue CMVLs. Because the Department intends this bill to clarify the authority for such rules, the December 2017 approval for public rulemaking should be rescinded.

The bill also provides clarification and consistency regarding the CML requirement for fishing charter services. Current statutory wording expressly requires vessel-based charters to obtain a CML. It is unclear however whether shore-based charters are also required to obtain a CML. The bill would clarify that any person providing fishing charter services, whether vessel-based or shore-based, must first obtain a CML. This will allow the Department to better understand and manage marine charter fishing activities in the State.

Impact on the public: The bill would authorize the Department to issue CMVLs through administrative rules, which would reduce the financial burden on Hawaii's boat-based fishers who engage in small-scale commercial fishing with rotating crewmembers. It would also require shore-based fishing charter services to obtain a CML.

Impact on the department and other agencies: Issuing CMVLs would enhance reporting accuracy by clarifying who is responsible for submitting commercial catch reports for the vessel. It would also allow the Department to collect information from shore-based fishing charter services to better manage fisheries.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LNR 153.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.