

JAN 21 2022

A BILL FOR AN ACT

RELATING TO AQUACULTURE.

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

1 SECTION 1. The legislature finds that diversification of
2 the State's economy is necessary to lessen the economic
3 dependence on tourism and to respond to the economic downturn
4 exacerbated by the coronavirus disease 2019 pandemic.
5 Supporting local aquacultural productions can help the State
6 move towards greater food sustainability and expand a home-based
7 workforce. The legislature further finds that seafood demand
8 outpaces supply and world fishery resources are quickly
9 depleting. There is significant growth potential for the
10 aquaculture industry in the State and for aspiring entrepreneurs
11 looking to establish themselves in this global emerging
12 industry.

13 Accordingly, the purpose of this Act is to:

14 (1) Establish provisions relating to the department of
15 agriculture's governing of the business of
16 aquaculture;



- 1 (2) Grant exclusive property rights to persons who
- 2 lawfully obtain the cultured progeny of wild plants
- 3 and animals by brood stock acquisition;
- 4 (3) Clarify that any person who takes aquaculture products
- 5 without lawful entitlement shall be subject to
- 6 prosecution for theft;
- 7 (4) Authorize the department of agriculture to regulate
- 8 the transportation, purchase, possession, and sale of
- 9 specific aquaculture products as may be necessary to
- 10 protect indigenous species;
- 11 (5) Establish prohibitions relating to the spawning,
- 12 incubating, or cultivation of transgenic fish species
- 13 or any exotic species of finfish;
- 14 (6) Make exemptions for certain research activities; and
- 15 (7) Require the department of agriculture to prepare
- 16 programmatic environmental impact reports.

17 SECTION 2. Chapter 141 Hawaii Revised Statutes, is amended
18 by adding nine new sections to part IV to be appropriately
19 designated and to read as follows:

20 "§141- Definitions. As used in this part:



1 "Aquaculture" means that form of agriculture devoted to the
2 propagation, cultivation, maintenance, and harvesting of aquatic
3 plants and animals in marine, brackish, and fresh water. The
4 term "aquaculture" does not include species of ornamental marine
5 or freshwater plants and animals not utilized for human
6 consumption or bait purposes that are maintained in closed
7 systems for personal, pet industry, or hobby purposes.

8 "Chairperson" means the chairperson of the board of
9 agriculture.

10 "Department" means the department of agriculture.

11 "Exotic species" means a fish that is not indigenous to
12 Hawaii waters and does not currently exist as a viable
13 population in a wild condition in the State.

14 "Indigenous species" means any aquatic life, wildlife, or
15 land plant species growing or living naturally in Hawaii without
16 having been brought to Hawaii by humans.

17 "Person" means any natural person or any partnership,
18 corporation, limited liability company, trust, or other type of
19 association.

20 §141- Powers, duties, and activities of the department.

21 (a) The business of aquaculture shall be governed by this part



1 and shall be exempt from any other provisions relating to
2 commercial fishing, harvesting, processing, and marketing.

3 (b) Except as provided in this part, the business of
4 aquaculture processing, distribution, and marketing shall be
5 administered by the chairperson.

6 (c) The chairperson may enter into an agreement with the
7 chairperson of the board of land and natural resources for the
8 resolution of any conflict regarding jurisdiction that arises
9 under this part.

10 (d) Any costs incurred by the department in implementing
11 this part shall be recovered pursuant to this part.

12 §141- Brood stock acquisition; exclusive property
13 rights. The cultured progeny of wild plants and animals
14 lawfully obtained by brood stock acquisition are the exclusive
15 property of that person who cultured them or that person's
16 successor in interest.

17 §141- Theft. Any person who takes aquaculture products
18 without lawful entitlement shall be subject to prosecution for
19 theft.

20 §141- Protection of indigenous species. (a) When
21 necessary for the protection of indigenous species, the



1 department may regulate the transportation, purchase,
2 possession, and sale of specific aquaculture products as
3 provided for in this section.

4 (b) The department may determine that aquaculture products
5 shall be accompanied by a document containing any of the
6 following information:

7 (1) The name, address, and registration number of the
8 aquaculture producer;

9 (2) The species;

10 (3) The weight, volume, or count within the container;

11 (4) The date of the shipment; and

12 (5) The name and address of the intended receiver.

13 (c) The department may require that certain aquaculture
14 products shall be additionally identified as being aquaculture
15 produced.

16 **§141- Prohibited activities.** (a) In the waters of the
17 Pacific Ocean that are regulated by the State, it shall be
18 unlawful to spawn, incubate, or cultivate any transgenic fish
19 species, or any exotic species of finfish. This section shall
20 not apply to species that are propagated and cultured for either
21 of the following:



1 (1) Research conducted by, or on behalf of, the
2 department; or

3 (2) Release into the ocean waters for the purpose of
4 recovery, restoration, or enhancement of indigenous
5 species.

6 (b) Nothing in this section authorizes artificial
7 propagation, rearing, or stocking of transgenic freshwater and
8 marine fishes, invertebrates, crustaceans, or mollusks.

9 §141- Research activities. (a) Medical or scientific
10 research conducted on transgenic finfish species by accredited
11 academic institutions or private entities for research only and
12 not for commercial production may be authorized pursuant to a
13 permit issued by the department.

14 (b) At a minimum, research activities conducted pursuant
15 to this section shall be conducted in a closed system that has
16 eliminated the risk of escape of transgenic finfish species and
17 any potential disease they may transmit.

18 (c) A permit application applied for pursuant to this
19 section shall include a research plan specifying the objectives
20 and goals of the proposed research.



1 (d) Nothing in this section shall be construed to require
2 the disclosure of proprietary information.

3 §141- Programmatic environmental reports. (a) The
4 department shall prepare programmatic environmental impact
5 reports for existing and potential commercial aquaculture
6 operations in both coastal and inland areas of the State if both
7 of the following conditions are met:

8 (1) Funds are appropriated to the department for this
9 purpose; and

10 (2) Matching funds are provided by the aquaculture
11 industry.

12 (b) For purposes of this section, "matching funds"
13 includes but is not limited to any funds expended by the
14 aquaculture industry before January 1, 2022, for the preparation
15 of a programmatic environmental impact report.

16 §141- Rulemaking authority. The department shall adopt
17 rules pursuant to chapter 91 to effectuate the purpose of this
18 part."

19 SECTION 3. Chapter 141, Hawaii Revised Statutes, is amended
20 by designating sections 141-2.5 to 141-2.7 as part IV and
21 inserting a title before section 141-2.5 to read as follows:



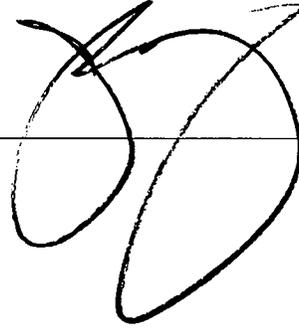
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"PART IV. AQUACULTURE"

SECTION 4. New statutory material is underscored.

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

INTRODUCED BY: _____

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned over the line following "INTRODUCED BY:".

S.B. NO. 2204

Report Title:

Aquaculture; Department of Agriculture; Aquaculture Program

Description:

Establishes provisions relating to the Department of Agriculture's governing of the business of aquaculture. Grants exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by brood stock acquisition. Clarifies that any person who takes aquaculture products without lawful entitlement shall be subject to prosecution for theft. Authorizes the Department of Agriculture to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be necessary to protect indigenous species. Establishes prohibitions relating to the spawning, incubating, or cultivation of transgenic fish species or any exotic species of finfish. Makes exemptions for certain research activities. Requires the Department of Agriculture to prepare programmatic environmental impact reports.

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