



GOV. MSG. NO. 1135

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 8, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 8, 2022, the following bill was signed into law:

HB1653 HD2 SD2

RELATING TO AQUATIC RESOURCES.
ACT 035

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCES.

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

1 SECTION 1. The legislature finds that Hawaii's aquatic
2 resources are of significant economic, ecologic, cultural, and
3 aesthetic importance to agriculture, tourism, food production,
4 and fisheries in the State. The legislature recognizes the
5 importance of managing and conserving Hawaii's aquatic resources
6 and ecosystem for present and future generations. Careful
7 stewardship and protection of Hawaii's aquatic resources are
8 essential to the well-being of the State.

9 The purpose of this Act is to strengthen the penalties for
10 violations of the State's aquatic resources law by:

11 (1) Establishing a tiered administrative fine system for
12 each specimen of aquatic life taken, killed, or
13 injured;

14 (2) Establishing a criminal fine structure on a per-
15 specimen basis for violations involving aquatic life;

16 (3) Authorizing the department of land and natural
17 resources to recommend community service that benefits



1 the resource damaged when a person is ordered to
 2 perform community service in lieu of a fine; and
 3 (4) Authorizing the department of land and natural
 4 resources to recommend to the court that defendants be
 5 restricted from entering specific geographical areas
 6 where aquatic resources may be found, including ocean
 7 waters, estuaries, rivers, and streams.

8 SECTION 2. Section 187A-12.5, Hawaii Revised Statutes, is
 9 amended by amending subsections (d) and (e) to read as follows:

10 " (d) ~~[In addition to subsection (b), a fine of up to~~
 11 ~~\$5,000]~~ A fine in addition to the fine under subsection (b) may
 12 be levied for each specimen of threatened or endangered aquatic
 13 life taken, killed, or injured in violation of subtitle 5 of
 14 title 12 or any rule adopted thereunder[-] as follows:

- 15 (1) For a first violation, up to \$5,000 or the retail
 16 market value of the specimen, whichever is higher;
- 17 (2) For a second violation, up to \$10,000 or the retail
 18 market value of the specimen, whichever is higher; and
- 19 (3) For a third or subsequent violation, up to \$15,000 or
 20 the retail market value of the specimen, whichever is
 21 higher.



1 (e) [~~In addition to subsection (c), a fine of up to~~
2 ~~\$1,000]~~ A fine in addition to the fine under subsection (c) may
3 be levied for each specimen of all other aquatic life taken,
4 killed, or injured in violation of subtitle 5 of title 12 or any
5 rule adopted thereunder[-] as follows:

6 (1) For a first violation, up to \$1,000 or the retail
7 market value of the specimen, whichever is higher;

8 (2) For a second violation, up to \$2,000 or the retail
9 market value of the specimen, whichever is higher; and

10 (3) For a third or subsequent violation, up to \$3,000 or
11 the retail market value of the specimen, whichever is
12 higher."

13 SECTION 3. Section 187A-13, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§187A-13 General penalty; community service. (a) Any
16 person violating this chapter or any rule adopted thereunder for
17 which a penalty is not otherwise provided, shall be guilty of a
18 petty misdemeanor and, in addition to any other penalties, shall
19 be fined not less than:

20 (1) \$250 for a first offense;

21 (2) \$500 for a second offense; and



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

2 (b) A fine in addition to the fine under subsection (a)
3 may be levied for each specimen of aquatic life taken, killed,
4 or injured in violation of this chapter or any rule adopted
5 thereunder as follows:

6 (1) For a first offense, up to \$250 or the retail market
7 value of the specimen, whichever is higher;

8 (2) For a second offense, up to \$500 or the retail market
9 value of the specimen, whichever is higher; and

10 (3) For a third or subsequent offense, up to \$1,000 or the
11 retail market value of the specimen, whichever is
12 higher.

13 [~~(b)~~] (c) The court may require the defendant to complete
14 an aquatic resources educational class administered by the
15 department in addition to or in lieu of paying all or any part
16 of any monetary fine authorized by this section.

17 [~~(e)~~] (d) The court may direct the defendant to perform
18 community service as administered by the department in lieu of
19 paying any monetary fine authorized by this section[-]; provided
20 that if community service is ordered pursuant to this
21 subsection, the department may recommend to the court an order



1 of community service that benefits the resource that was
2 damaged.

3 (e) The department may recommend to the court that the
4 defendant be sentenced to probation with probationary terms and
5 conditions consistent with sections 706-623 and 706-624,
6 including but not limited to restrictions on:

7 (1) Entering specific geographical areas within waters of
8 the State where aquatic resources may be found,
9 including ocean waters, estuaries, rivers, and
10 streams;

11 (2) Engaging in certain fishing activities;

12 (3) Handling, operating, or possessing certain fishing
13 gear or boating equipment; and

14 (4) Taking or possessing certain species of aquatic life."

15 SECTION 4. Section 188-70, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§188-70 Penalties. (a) Any person violating any
18 provision of or any rule adopted pursuant to this chapter,
19 except sections 188-23, 188-39.5, and 188-40.8, is guilty of a
20 petty misdemeanor and, in addition to any other penalties, shall
21 be fined no less than:



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

4 (b) A fine in addition to the fine under subsection (a)
5 may be levied for each specimen of aquatic life taken, killed,
6 or injured in violation of this chapter or any rule adopted
7 thereunder as follows:

- 8 (1) For a first offense, up to \$100 or the retail market
9 value of the specimen, whichever is higher;
- 10 (2) For a second offense, up to \$200 or the retail market
11 value of the specimen, whichever is higher; and
- 12 (3) For a third or subsequent offense, up to \$500 or the
13 retail market value of the specimen, whichever is
14 higher.

15 [~~b~~] (c) Any person violating section 188-23, is guilty
16 of a class C felony and shall be sentenced pursuant to chapter
17 706; provided that the environmental court, in addition to any
18 term of imprisonment or any other terms and conditions of
19 probation, shall order the defendant to pay a fine of not less
20 than \$1,000. Notwithstanding section 706-669 and any other law
21 to the contrary, any person in violation of section 188-23(b),



1 as a first offense, shall be sentenced to a mandatory minimum
2 period of imprisonment without possibility of parole of thirty
3 days. Repeat offenders shall be sentenced pursuant to chapter
4 706.

5 ~~[(e)]~~ (d) The environmental court may require the
6 defendant to complete an aquatic resources educational class
7 administered by the department of land and natural resources in
8 addition to or in lieu of paying all or any part of any monetary
9 fine authorized by this section.

10 ~~[(d)]~~ (e) The environmental court may direct the defendant
11 to perform community service as administered by the department
12 of land and natural resources in lieu of paying any monetary
13 fine authorized by this section~~[-]~~; provided that if community
14 service is ordered pursuant to this subsection, the department
15 of land and natural resources may recommend to the environmental
16 court an order of community service that benefits the resource
17 that was damaged.

18 (f) The department of land and natural resources may
19 recommend to the environmental court that the defendant be
20 sentenced to probation with probationary terms and conditions



1 consistent with sections 706-623 and 706-624, including but not
2 limited to restrictions on:

3 (1) Entering specific geographical areas within waters of
4 the State where aquatic resources may be found,
5 including ocean waters, estuaries, rivers, and
6 streams;

7 (2) Engaging in certain fishing activities;

8 (3) Handling, operating, or possessing certain fishing
9 gear or boating equipment; and

10 (4) Taking or possessing certain species of aquatic life."

11 SECTION 5. Section 189-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§189-4 Penalties. (a) Any person violating any of the
14 provisions of this chapter for which a penalty is not otherwise
15 provided, or any rule of the department adopted thereunder,
16 shall be guilty of a petty misdemeanor and punishable as
17 provided in subsection (b); provided that in the case of a
18 corporation violating any of the provisions, only the fine shall
19 be imposed, but any officer of the corporation who wilfully
20 procures or permits the violation of the provisions by the



1 corporation shall be punishable as in the case of an individual
2 violating the same.

3 (b) The punishment, in addition to any other penalties,
4 shall be a fine of not less than:

5 (1) \$250 for a first offense;

6 (2) \$500 for a second offense; and

7 (3) \$1,000 for a third or subsequent offense.

8 (c) A fine in addition to the fine under subsection (b)
9 may be levied for each specimen of aquatic life taken, killed,
10 injured, or sold in violation of this chapter or any rule
11 adopted thereunder as follows:

12 (1) For a first offense, up to \$250 or the retail market
13 value of the specimen, whichever is higher;

14 (2) For a second offense, up to \$500 or the retail market
15 value of the specimen, whichever is higher; and

16 (3) For a third or subsequent offense, up to \$1,000 or the
17 retail market value of the specimen, whichever is
18 higher.

19 [~~e~~] (d) The fines specified in this section shall not be
20 suspended or waived.

1 (e) The department may recommend to the court that the
2 defendant be sentenced to probation with probationary terms and
3 conditions consistent with sections 706-623 and 706-624,
4 including but not limited to restrictions on:

5 (1) Entering specific geographical areas within waters of
6 the State where aquatic resources may be found,
7 including ocean waters, estuaries, rivers, and
8 streams;

9 (2) Engaging in certain fishing activities;

10 (3) Handling, operating, or possessing certain fishing
11 gear or boating equipment; and

12 (4) Taking or possessing certain species of aquatic life."

13 SECTION 6. Section 190-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§190-5 Penalty.** (a) Any person violating this chapter,
16 any rule adopted pursuant thereto, or the terms and conditions
17 of any permit issued under section 190-4, shall be guilty of a
18 petty misdemeanor and punished as provided in subsections (b)
19 [~~and (e)~~], (c), and (d).

20 (b) The punishment, in addition to any other penalties,
21 shall be a fine of not less than:



1 (1) \$250 for a first offense;
2 (2) \$500 for a second offense; and
3 (3) \$1,000 for a third or subsequent offense.
4 (c) A fine in addition to the fine under subsection (b)
5 may be levied for each specimen of aquatic life taken, killed,
6 or injured in violation of this chapter or any rule adopted
7 thereunder as follows:

- 8 (1) For a first offense, up to \$250 or the retail market
9 value of the specimen, whichever is higher;
10 (2) For a second offense, up to \$500 or the retail market
11 value of the specimen, whichever is higher; and
12 (3) For a third or subsequent offense, up to \$1,000 or the
13 retail market value of the specimen, whichever is
14 higher.

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

20 ~~(d)~~ (e) The court may allow the defendant to perform
21 community service as administered by the department of land and



1 natural resources in lieu of paying any monetary fine authorized
2 by this section[-]; provided that if community service is
3 ordered pursuant to this subsection, the department of land and
4 natural resources may recommend to the court an order of
5 community service that benefits the resource that was damaged.

6 (f) The department of land and natural resources may
7 recommend to the court that the defendant be sentenced to
8 probation with probationary terms and conditions consistent with
9 sections 706-623 and 706-624, including but not limited to
10 restrictions on:

- 11 (1) Entering specific geographical areas within waters of
12 the State where aquatic resources may be found,
13 including ocean waters, estuaries, rivers, and
14 streams;
- 15 (2) Engaging in certain fishing activities;
- 16 (3) Handling, operating, or possessing certain fishing
17 gear or boating equipment; and
- 18 (4) Taking or possessing certain species of aquatic life."

19 SECTION 7. 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 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2022.

APPROVED this 8 day of June , 2022



GOVERNOR OF THE STATE OF HAWAII



HB No. 1653, HD 2, SD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 21, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives

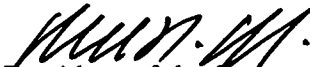



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: April 12, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2022.


President of the Senate


Clerk of the Senate