

---

# A BILL FOR AN ACT

RELATING TO AQUATIC NUISANCE SPECIES.

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

1           SECTION 1. The legislature finds that the department of  
2 land and natural resources is the lead state agency for  
3 preventing and responding to the introduction of aquatic  
4 nuisance species through the regulation of ballast water  
5 discharges and hull fouling organisms.

6           The legislature further finds that aquatic nuisance species  
7 can also be introduced into state waters through discharges  
8 incidental to the normal operation of a vessel, other than  
9 ballast water and hull fouling.

10           The legislature further finds that the increase in global  
11 trade and transportation, as well as climate change, can result  
12 in unknown or previously benign aquatic plants, animals, and  
13 pathogens becoming invasive.

14           The legislature further finds that part III of chapter  
15 187A, "Alien Aquatic Organisms", should be amended to permit the  
16 department to address incidental discharges other than ballast  
17 water and biofouling, reflect the relationship between state and



1 federal laws related to aquatic nuisance species, establish  
2 penalties sufficient to deter violations, and remove outdated  
3 terminology.

4 The purpose of this Act is to:

5 (1) Authorize the department of land and natural resources  
6 to prevent and respond to the introduction of aquatic  
7 nuisance species from discharges incidental to the  
8 normal operation of a vessel other than ballast water  
9 and hull fouling;

10 (2) Contemplate the relationship between the federal  
11 Vessel Incidental Discharge Act of 2018 (title IX of  
12 P.L. 115-282) and state law;

13 (3) Provide penalties that will deter violations and  
14 prevent the introduction of aquatic nuisance species;  
15 and

16 (4) Update outdated terminology.

17 SECTION 2. Part III of chapter 187A, Hawaii Revised

18 Statutes, is amended as follows:

19 1. By adding two new sections to be appropriately  
20 designated and to read:



1        "§187A-        Rules. (a) The department may adopt rules to  
2 prevent and respond to the introduction of aquatic nuisance  
3 species from discharges incidental to the normal operation of a  
4 vessel.

5        (b) The rules may include:

6        (1) Standards for the department and the United States  
7 Coast Guard to use as part of their respective  
8 inspection protocols; and

9        (2) Requirements for preventive measures and best  
10 management practices that will reduce the risk of  
11 introduction of aquatic nuisance species.

12       (c) The rules may also include implementation of a course  
13 of action in relation to the arrival or pending arrival of a  
14 vessel, including a high risk vessel.

15       (d) Notwithstanding subsection (a) or any other law to the  
16 contrary, if the federal government adopts any regulations under  
17 VIDA for a discharge incidental to the normal operation of a  
18 vessel related to aquatic nuisance species or that otherwise  
19 preempts any rule adopted under this part, the VIDA regulation  
20 shall be deemed to be a rule adopted by the department.





1       "Aquatic nuisance species" has the same meaning as in  
2 section 312 of the Federal Water Pollution Control Act (33  
3 U.S.C. 1322), as amended.

4       "Discharge incidental to the normal operation of a vessel"  
5 has the same meaning as in section 312 of the Federal Water  
6 Pollution Control Act (33 U.S.C. 1322), as amended.

7       ~~["high]~~ "High risk vessel" includes [fishing and  
8 recreational] vessels and floating structures, such as barges,  
9 dry docks, drilling rigs, and cranes, which have spent extended  
10 periods of time tied up in out-of-state ports[-] or prior to  
11 arrival in the State, transited a jurisdiction with a high risk  
12 aquatic nuisance species, including high risk coral pathogens.

13       "VIDA" means the federal Vessel Incidental Discharge Act of  
14 2018 (title IX of P.L. 115-282; 132 Stat. 4322) and the  
15 amendments made by that Act."

16       4. By amending section 187A-32, Hawaii Revised Statutes,  
17 to read:

18       "[+]§187A-32[+] [~~Alien aquatic organisms; lead agency;~~  
19 rules.] Purposes; lead agency. (a) The purposes of this part  
20 are to:



1        (1) Authorize the department to prevent and respond to the  
2        introduction of aquatic nuisance species from  
3        discharges incidental to the normal operation of a  
4        vessel, including discharges other than ballast water  
5        and hull fouling;

6        (2) Contemplate the relationship between the federal  
7        Vessel Incidental Discharge Act of 2018 (title IX of  
8        P.L. 115-282) and state law; and

9        (3) Provide for penalties that will deter violations and  
10       prevent the introduction of aquatic nuisance species.

11       ~~[(a)]~~ (b) The department is designated as the lead state  
12       agency for preventing the introduction of and [carrying out the  
13       destruction of alien] responding to aquatic [organisms] nuisance  
14       species through the regulation of ballast water discharges,  
15       [and] hull fouling organisms[-], and other discharges incidental  
16       to the normal operation of a vessel. The department may  
17       establish an interagency team to address the concerns relating  
18       to [alien] aquatic [organisms-] nuisance species.

19       ~~[(b) The department may adopt rules in accordance with~~  
20       ~~chapter 91, including penalties, to carry out the purposes of~~  
21       ~~this part. The rules may include standards for the department~~



1 ~~and the United States Coast Guard to use as part of their~~  
2 ~~respective inspection protocols. The rules may also include~~  
3 ~~implementation of a course of action in relation to the arrival~~  
4 ~~or pending arrival of a high risk vessel.~~

5 ~~(c) The governor may enter into an agreement with the~~  
6 ~~United States Secretary of Transportation to carry out the~~  
7 ~~purposes of this part, including but not limited to the~~  
8 ~~enforcement of state law.]"~~

9 SECTION 3. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on June 30, 3000.



**Report Title:**

Department of Land and Natural Resources; Division of Aquatic Resources; Aquatic Nuisance Species; Discharges Incidental to the Normal Operation of a Vessel; Penalties

**Description:**

Authorizes the Department of Land and Natural Resources to adopt rules to prevent and respond to the introduction of aquatic nuisance species from discharges incidental to the normal operation of a vessel and contemplate the relationship between the federal Vessel Incidental Discharge Act of 2018, as amended, and state law. Effective 6/30/3000. (HD1)

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

