
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 the department of
2 land and natural resources is responsible for managing the
3 aquatic life resources of the State. To effectively manage
4 these resources, the department utilizes a variety of tools and
5 methods to increase yields for Hawaii fishers and to conserve
6 and protect aquatic resources to ensure abundant fisheries for
7 future generations.

8 To achieve the twin goals of ensuring healthy, well-managed
9 fisheries in Hawaii and protecting aquatic resources from over-
10 exploitation, the department utilizes management tools, such as
11 size limits, daily bag limits, seasonal restrictions, gear
12 restrictions, bait restrictions, and marine managed areas, all
13 of which are expressly authorized by the provisions of section
14 187A-5, Hawaii Revised Statutes, and other authorizing statutes.
15 Other management tools are implied in statute but not expressly
16 authorized.



1 The legislature further finds that clarifying the
2 rulemaking authority provided in section 187A-5, Hawaii Revised
3 Statutes, would enable the department to more effectively carry
4 out its responsibility to manage the aquatic resources of the
5 State.

6 Furthermore, the legislature finds it necessary to improve
7 the adaptive management authority granted in section 187A-5(b),
8 Hawaii Revised Statutes. The existing statute authorizes the
9 adoption of temporary rules by formal board action only if the
10 board finds the rule necessary "in response to rapidly changing
11 resource conditions". However, it has come to the legislature's
12 attention that this provision is extremely limiting and that
13 there are other compelling reasons to authorize temporary
14 rulemaking through the adaptive management process. Therefore,
15 the legislature finds it necessary to expand the adaptive
16 management authority granted to the department to include
17 adaptive management rulemaking authority in light of newly
18 available data and in light of newly available technology.

19 The purpose of this Act is to:

20 (1) Clarify that the department of land and natural
21 resources' rulemaking authority includes adopting,



1 amending, or repealing any rule deemed necessary to
2 implement the purposes of section 187A-5, Hawaii
3 Revised Statutes; and
4 (2) Expand the board of land and natural resources'
5 authority to temporarily adopt, amend, or repeal
6 certain rules by formal action at a publicly noticed
7 meeting if the board finds that such adoption,
8 amendment, or repeal is necessary to implement
9 effective and adaptive management measures in light of
10 newly available technology or in light of newly
11 available data.

12 SECTION 2. Section 187A-5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§187A-5 Rules.** (a) Subject to chapter 91, the
15 department shall adopt, amend, and repeal rules for and
16 concerning the protection and propagation of introduced and
17 transplanted aquatic life or the conservation and allocation of
18 the natural supply of aquatic life in any area. The rules may
19 include but are not limited to the following:

20 (1) Size limits;

21 (2) Bag limits;



- 1 (3) Open and closed fishing seasons;
- 2 (4) Permits for the use and possession of lay nets,
3 including reasonable permit fees and provisions for
4 revocation, suspension, and withholding of permits for
5 noncompliance with lay net rules;
- 6 (5) Specifications and numbers of fishing or taking gear
7 that may be used or possessed; ~~and~~
- 8 (6) Prescriptions and limits on the kind and amount of
9 bait that may be used in taking aquatic life and the
10 conditions for entry into areas for taking aquatic
11 life[-]; and
- 12 (7) Any other restriction or requirement as deemed
13 necessary by the department to implement the purposes
14 of this section.

15 The rules may vary from county to county or in any part of
16 a county and may specify certain days of the week or certain
17 hours of the day in designating open and closed fishing seasons.
18 All rules shall have the force and effect of law. Except as
19 provided by subsection (b), any person who violates any of the
20 rules adopted pursuant to this section shall be guilty of a



1 petty misdemeanor and upon conviction thereof shall be punished
2 as provided by section 188-70.

3 (b) Notwithstanding any law to the contrary, the board may
4 adopt, amend, or repeal any rule pertaining to bag limits, size
5 limits, open or closed fishing seasons, or gear restrictions by
6 formal board action at a publicly noticed meeting; provided
7 that:

8 (1) The board finds that the timely adoption, amendment,
9 or repeal of the rule is necessary to implement
10 effective and adaptive management measures [~~is~~]:

11 (A) In response to rapidly changing resource
12 conditions;

13 (B) In light of newly available technology; or

14 (C) In light of newly available data;

15 (2) Notice of the rulemaking shall:

16 (A) Be given at least once statewide at least thirty
17 days in advance of the public meeting;

18 (B) Include a statement of the topic of the proposed
19 rule to be adopted, amended, or repealed or a
20 general description of the subjects involved;



- 1 (C) Include a statement that a copy of the proposed
2 rule to be adopted, the proposed rule amendment,
3 or the rule proposed to be repealed will be
4 mailed to any interested person who requests a
5 copy and pays the required fees for the copy and
6 the postage, if any, together with a description
7 of where and how the requests may be made;
- 8 (D) Include a statement of when, where, and during
9 what times the proposed rule to be adopted, the
10 proposed rule amendment, or the rule proposed to
11 be repealed may be reviewed;
- 12 (E) Include the date, time, and place where the
13 public meeting will be held and where interested
14 persons may be heard on the proposed rule
15 adoption, amendment, or repeal; and
- 16 (F) Be mailed to all persons who have made a timely
17 written request of the board for advance notice
18 of its rule-making proceedings; and
- 19 (3) The adoption, amendment, or repeal of the rule shall
20 be effective for an initial period of no longer than
21 two years, subject to legislative approval and renewal



1 by the board; provided that renewal by the board shall
2 extend for up to one year at a time.

3 Each rule hereafter adopted, amended, or repealed under
4 this subsection shall become effective ten days after formal
5 action by the board; provided that if a later effective date is
6 specified in the rule, the later date shall be the effective
7 date. The department shall post the final adopted, amended, or
8 repealed rule on its website for the duration of time the rule
9 is in effect.

10 Any such rule established by such action of the board
11 pursuant to this subsection shall have the force and effect of
12 law. Any person who violates any rule established by such
13 action of the board shall be subject to administrative penalties
14 as provided by section 187A-12.5."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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



H.B. NO. 1554

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INTRODUCED BY:

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JAN 12 2024



H.B. NO. 1554

Report Title:

Aquatic Resources; DLNR; Rulemaking Authority; Flexibility;
Adaptive Management

Description:

Expands the department of land and natural resources' rulemaking authority to include any rule deemed necessary to protect certain aquatic life. Expands the board of land and natural resources' authority to temporarily adopt, amend, or repeal certain natural resource rules by formal action at a publicly noticed meeting if the board finds that such adoption, amendment, or repeal is necessary to implement effective and adaptive management measures in light of newly available technology, or in light of newly available data.

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