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# A BILL FOR AN ACT

RELATING TO COMMERCIAL AQUARIUM COLLECTION.

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

1           SECTION 1. The legislature finds that the capture and sale  
2 of Hawaii's native reef wildlife for ornamental display and  
3 commercial profit is unsustainable and contrary to Hawaiian  
4 values, including malama aina, aloha aina, kuleana for the  
5 surrounding environment, and pono fishing practices, such as  
6 taking only what is needed for family or community subsistence.

7           The legislature further finds that the 1953 territorial  
8 legislature, in enacting legislation to permit commercial  
9 aquarium fish collection using fine-meshed nets, currently  
10 codified in section 188-31, Hawaii Revised Statutes, ignored,  
11 disregarded, and effectively nullified the many traditional uses  
12 of Hawaiian reef fish by falsely stating that fish taken for  
13 aquarium display have "little or no value as food fish," and  
14 that "the species of fish for aquarium purposes is not edible".

15           The legislature recognizes that many species of fish  
16 targeted by aquarium collection, including lauipala (yellow  
17 tang) and kole (goldring surgeonfish), have in fact been used



1 for subsistence and cultural purposes and have been critical to  
2 maintaining healthy reef ecosystems to support these purposes  
3 since time immemorial, up to and including the present day.

4 The legislature also finds that climate change and  
5 associated ecological shifts require the State to keep as many  
6 native fish on the reef as possible. Abundant populations of  
7 herbivorous reef wildlife can bolster reef resiliency against  
8 the effects of climate change by consuming algae that bloom and  
9 can smother reefs following ocean heat waves or changes in ocean  
10 acidity. Reefs provide vital ecosystem benefits, reducing the  
11 impact of extreme weather events and high surf by moderating  
12 onshore erosion, protecting human infrastructure, and mitigating  
13 harm to flora and fauna. Moreover, on-reef tourism activities,  
14 including snorkeling and diving, are a vital part of Hawaii's  
15 nature-based tourism economy, which is driven by healthy and  
16 vibrant ecosystems.

17 The legislature notes that in 1988, the State prohibited  
18 the taking of sand, dead coral or coral rubble, rocks, soil, and  
19 other marine deposits. Extending these prohibitions to  
20 encompass the commercial collection and sale of reef wildlife  
21 for the aquarium pet trade is now necessary to protect and



1 conserve Hawaii's invaluable natural resources for present and  
2 future generations, including traditional Native Hawaiian  
3 cultural practices that depend on them. The legislature further  
4 notes that these obligations and protections are enshrined in  
5 article XI, sections 1 and 9, and article XII, section 7 of the  
6 Constitution of the State of Hawaii.

7 Accordingly, the purpose of this Act is to prohibit the  
8 capture and sale of aquatic life for commercial aquarium  
9 purposes, regardless of the method of collection.

10 SECTION 2. Chapter 188, Hawaii Revised Statutes, is  
11 amended by adding a new section to be appropriately designated  
12 and to read as follows:

13 "§188- \_\_\_\_\_ **Harvesting aquatic life for commercial aquarium**  
14 **purposes; prohibition.** (a) No person shall harvest aquatic  
15 life from state marine waters for commercial aquarium purposes.

16 (b) Nothing in this section shall be construed to:

17 (1) Affect:

18 (A) Captive-breeding and aquaculture activities  
19 pursuant to section 187A-3.5; or

20 (B) The issuance of special activity permits  
21 authorizing the capture and take of aquatic life



1                   for scientific, educational, management, or  
2                   propagation purposes pursuant to section 187A-6;  
3                   or

4           (2) Prohibit the:

5                   (A) Exercise of traditional and customary practices;

6                   (B) Lawful taking of fish for consumption or bait; or

7                   (C) Lawful management or taking of aquatic life from  
8                   fishponds.

9           (c) As used in this section:

10                   "Commercial aquarium purpose" means the taking of marine  
11 life for profit, gain, or as a means of livelihood for sale into  
12 the aquarium trade to be held in a state of captivity as a pet  
13 or for ornamental display."

14           SECTION 3. Section 188-22.9, Hawaii Revised Statutes, is  
15 amended to read as follows:

16                   **"[+]§188-22.9[+] Ha`ena community-based subsistence**

17 **fishing area; restrictions; regulations.** (a) There is  
18 designated the Ha`ena community-based subsistence fishing area  
19 on the northwestern coast of Kauai, which shall consist of all  
20 state waters and submerged lands bounded by:

21           (1) The shoreline of the Ha`ena district;



1           (2) A line that follows an imaginary extension of the  
2           boundary between Hae`na state park and Na Pali state  
3           park that extends seaward for one mile from the  
4           shoreline;

5           (3) An irregular line one mile offshore that is parallel  
6           to the contours of the shoreline; and

7           (4) A line that follows an imaginary extension of the  
8           boundary between Hae`na and Wainiha, as specified in  
9           the tax map of the county of Kauai, that extends  
10          seaward for one mile from the shoreline.

11          (b) In addition to the provisions of this chapter, the  
12 following uses or activities shall be regulated in the Ha`ena  
13 community-based subsistence fishing area:

14          (1) Any activities with a commercial purpose, as defined  
15          in section 187A-1;

16          (2) The issuance of any commercial marine license, as  
17          defined in section 187A-1;

18          ~~[(3) The issuance of any aquarium fish permits, pursuant to~~  
19          ~~section 188-31,]~~

20          (4) Fishing with the use of gill nets;



- 1 (5) Fishing with self-contained underwater breathing
- 2 apparatus and spears; and
- 3 (6) Any other use or activity that the department of land
- 4 and natural resources, in consultation with the
- 5 inhabitants of the ahupua`a of Ha`ena and other
- 6 interested parties, deems appropriate.

7 (c) The department of land and natural resources, as soon  
8 as practical, shall consult with as broad a base as possible,  
9 group of inhabitants of the ahupua`a of Ha`ena and other  
10 interested parties to establish rules for the Ha`ena community-  
11 based subsistence fishing area, to include but not be limited  
12 to:

- 13 (1) A determination of fishing practices that are
- 14 customarily and traditionally exercised for purposes
- 15 of native Hawaiian subsistence, culture, and religion
- 16 in the fishing area;
- 17 (2) A management plan recognizing existing marine
- 18 activities permitted by the department of land and
- 19 natural resources and containing a description of
- 20 specific activities to be conducted in the fishing



- 1 area, including evaluation and monitoring processes  
2 and methods of funding and enforcement;
- 3 (3) Limits on the harvest of aquatic life, as those terms  
4 are defined in section 187A-1, in the fishing area;
- 5 (4) The establishment of no harvesting zones within the  
6 fishing area without depriving ahupua`a inhabitants of  
7 access to traditional sources of subsistence; and
- 8 (5) A process for the expansion of the fishing area to  
9 include other ahupua`a.

10 The department of land and natural resources shall adopt  
11 rules pursuant to chapter 91 necessary for the purpose of this  
12 section."

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

15 "**§189-11 Receipts in duplicate.** Every commercial marine  
16 dealer shall issue receipts to the person from whom marine life  
17 is obtained and shall provide the following information in the  
18 receipt:

- 19 (1) The date of the issuance;
- 20 (2) The name of the person to whom the receipt is issued;



1           (3) The following information with respect to each of the  
2           varieties of marine life as the department shall  
3           require including:

4           (A) The weight in pounds of each of the varieties  
5           received;

6           (B) The numbers of marine life when they average a  
7           pound or more; and

8           (C) The price per pound paid; and

9           ~~[(D) With regard to aquarium fish, regardless of  
10           weight, the number and species of the fishes,  
11           and]~~

12          (4) The signature of the dealer who issues the receipt.

13 Any dealer taking the dealer's own marine life or handling any  
14 marine life taken by commercial marine licensees working for or  
15 with the dealer, shall make out the same receipt, giving market  
16 price for the marine life as prevails on the date of receipt. A  
17 duplicate copy of this receipt shall be kept on file at the  
18 premise where the marine life was sold by the dealer issuing the  
19 same for a period of twelve months from the date of issuance,  
20 and the duplicate copy shall be available for inspection upon



1 the demand of any conservation officer authorized to enforce the  
2 laws of the State."

3 SECTION 5. Section 188-31, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§188-31 Permits to take aquatic life for aquarium~~  
6 ~~purposes.~~ (a) ~~Except as prohibited by law, the department,~~  
7 ~~upon receipt of a written application, may issue an aquarium~~  
8 ~~fish permit, not longer than one year in duration, to use fine~~  
9 ~~meshed traps, or fine meshed nets other than throw nets, for the~~  
10 ~~taking of marine or freshwater nongame fish and other aquatic~~  
11 ~~life for aquarium purposes.~~

12 (b) ~~Except as prohibited by law, the permits shall be~~  
13 ~~issued only to persons who can satisfy the department that they~~  
14 ~~possess facilities to and can maintain fish and other aquatic~~  
15 ~~life alive and in reasonable health.~~

16 (c) ~~It shall be illegal to sell or offer for sale any fish~~  
17 ~~and other aquatic life taken under an aquarium fish permit~~  
18 ~~unless those fish and other aquatic life are sold alive for~~  
19 ~~aquarium purposes.~~

20 The department may adopt rules pursuant to chapter 91 for  
21 the purpose of this section.



1       ~~(d) For the purposes of this section:~~

2       ~~(1) "Aquarium purposes" means to hold salt water fish,~~  
3       ~~freshwater nongame fish, or other aquatic life alive~~  
4       ~~in a state of captivity as pets, for scientific study,~~  
5       ~~or for public exhibition or display, or for sale for~~  
6       ~~these purposes; and~~

7       ~~(2) "Aquarium fish permit" means a permit issued by the~~  
8       ~~board for the use of fine mesh nets and traps to take~~  
9       ~~salt water fish, freshwater nongame fish, or other~~  
10       ~~aquatic life for aquarium purposes." ]~~

11       SECTION 6. Section 188-31.5, Hawaii Revised Statutes, is  
12       repealed.

13       ~~["**\$188-31.5** **Aquarium fish for export; monthly count.**~~

14       ~~The department of land and natural resources shall adopt rules~~  
15       ~~in accordance with chapter 91 to monitor the aquarium fish catch~~  
16       ~~report and fish dealer's report for export of aquarium fish~~  
17       ~~taken from the waters of the State for aquarium purposes~~  
18       ~~pursuant to section 188-31. A monthly count of the quantities~~  
19       ~~taken of each individual species of aquarium fish exported shall~~  
20       ~~be reported to the board." ]~~



1 SECTION 7. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7 SECTION 8. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

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

12 SECTION 10. This Act shall take effect upon its approval.

13

INTRODUCED BY:

  
By Request



# S.B. NO. 2535

**Report Title:**

Office of Hawaiian Affairs Package; DLNR; BLNR; Aquatic Resources; Fishing Regulations; Commercial Aquarium Collection; Sustainability; Prohibition

**Description:**

Prohibits the capture and sale of aquatic life for commercial aquarium purposes, regardless of the method of collection.

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

