THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 839

JAN 17 2025

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES.

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

SECTION 1. The legislature finds that Hawai'i law provides that aquarium fishing by aquarium fish collectors is permitted when a valid permit is obtained, subject to restrictions. Non-commercial aquarium fish collectors are limited to catches of a combined total of five fish or aquatic life specimens per person, per day.

In November 2020, the environmental court of the first circuit of Hawai'i ruled, in part, that the issuance of aquarium fishing permits is subject to the Hawaii Environmental Policy Act and, therefore, an environmental impact statement must be completed before the department of land and natural resources approves or renews additional aquarium fishing licenses and permits. At the time of the ruling, the department of land and natural resources confirmed that it would no longer approve or renew commercial marine licenses for aquarium fishing without a complete environmental review process. In January 2021, the department of land and natural resources clarified that those

with existing commercial marine licenses could no longer collect aquarium fish, as well.

Accordingly, the purpose of this Act is to recognize the court's ruling and the position taken by the department of land and natural resources to protect the aquarium fish and other aquatic life in Hawai'i's nearshore waters by increasing fines for violations relating to aquarium fishing.

SECTION 2. Section 188-70, Hawaii Revised Statutes, is amended to read as follows:

"**§188-70 Penalties.** (a) Any person violating any provision of or any rule adopted pursuant to this chapter, except sections 188-23, 188-39.5, and 188-40.8, is guilty of a petty misdemeanor and, in addition to any other penalties, shall be fined [~~no~~] not less than:

(1) $100 for a first offense;

(2) $200 for a second offense; and

(3) $500 for a third or subsequent offense.

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

(1) For a first offense, up to $100 or the retail market value of the specimen, whichever is higher;

(2) For a second offense, up to $200 or the retail market value of the specimen, whichever is higher; and

(3) For a third or subsequent offense, up to $500 or the retail market value of the specimen, whichever is higher.

(c) Any person violating section 188-23, is guilty of a class C felony and shall be sentenced pursuant to chapter 706; provided that the environmental court, in addition to any term of imprisonment or any other terms and conditions of probation, shall order the defendant to pay a fine of not less than $1,000. Notwithstanding section 706-669 and any other law to the contrary, any person in violation of section 188-23(b), as a first offense, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole of thirty days. Repeat offenders shall be sentenced pursuant to chapter 706.

(d) Any person violating section 188-31 is guilty of a misdemeanor and, in addition to any other penalties, shall be fined not less than:

(1) $200 for a first offense;

(2) $400 for a second offense; and

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

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

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

(g) For the purposes of this section, each fish or aquatic life specimen taken in violation of sections 188-23 and 188-31 shall constitute a separate offense.

[~~(f)~~] (h) The department of land and natural resources may recommend to the environmental court that the defendant be sentenced to probation with probationary terms and conditions

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

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

(2) Engaging in certain fishing activities;

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

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

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

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

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

INTRODUCED BY:

S.B. NO. 839

Report Title:
Aquarium Fishing; Fine Increase

Description:
Establishes a criminal penalty and monetary fines for aquarium fishing violations. Clarifies that each fish or aquatic life specimen taken in violation of certain fishing laws regarding aquarium fish and the possession and use of prohibited explosives, electrofishing devices, and poisonous substances constitutes a separate offense.

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