

**ACT 85**

**S.B. NO. 508**

**A Bill for an Act Relating to Hawaii Revised Statutes, Title 12, Conservation and**

Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Title 12, Hawaii Revised Statutes, is amended by amending subtitle 4 to read:

**"SUBTITLE 4. FORESTRY AND WILDLIFE; RECREATION AREAS; FIRE PROTECTION"**

SECTION 2. Chapter 183, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"§183- Definitions.** As used in this chapter, unless the context indicates otherwise:

- (1) "Board" means the board of land and natural resources.
- (2) "Department" means the department of land and natural resources.
- (3) "Game" means birds and mammals designated, by law or by rule, for hunting.
- (4) "Predators" mean animals destructive of game or wildlife by nature of their predatory habits, including mongooses, cats, dogs, and rats.
- (5) "Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, and includes any part, product, egg, or offspring thereof."

SECTION 3. Section 183-1, Hawaii Revised Statutes, is amended to read:

**"§183-1 Duties in general.** The department shall:

- (1) Gather, compile, tabulate, and publish from time to time, information and statistics concerning the area, location, character, and increase and decrease of forests and wildlife in the State;
- (2) Gather and compile information as necessary concerning trees, plants, shrubs, and wildlife recommended for planting or release in different localities, including the care and propagation of trees, shrubs, and wildlife for protective, productive, and aesthetic purposes and other useful information, which the department in its discretion may deem proper;
- (3) Have the care, custody, control, and regulation of all lands which may be set apart as forest reservations, public hunting areas, and wildlife sanctuaries under the terms of this title;
- (4) Devise ways and means of protecting, extending, increasing, and utilizing the forests and forest reserves, more particularly for protecting and developing the springs, streams, and sources of water supply to increase and make such water supply available for use;
- (5) Devise and carry into operation, ways and means by which forests and forest reservations can, with due regard to the main objects in title 12, be made self-supporting in whole or in part;
- (6) Establish, maintain, and conduct at such places within the State, wildlife propagating stations;
- (7) Pursuant to sections 187-1.1 to 187-1.3, import wildlife for propagating purposes;
- (8) Pursuant to sections 187-13 and 187-14, destroy predators deemed

- harmful to wildlife and game;
- (9) Formulate and from time to time recommend to the governor and legislature such additional legislation as it deems necessary or desirable for better implementing the objectives of title 12;
  - (10) Make and publish, at the end of each year, a report of the expenditures and proceedings of the department and of the results achieved by the department, together with such other matters as are germane to the subject matter under title 12 and which the department may deem proper."

SECTION 4. Section 183-2, Hawaii Revised Statutes, is amended to read:

**"§183-2 Rules.** Subject to chapter 91, the department shall make, amend, and repeal rules for and concerning the preservation, protection, regulation, extension, and utilization of forest reserves, wildlife sanctuaries, game management areas, and public hunting areas designated by the department. The department may also make, amend, and repeal rules for the purpose of protecting, conserving, propagating, and harvesting introduced and transplanted wildlife and game. The rules may include size limits, bag limits, open and closed seasons, specifications of hunting gear which may be used or possessed, and the conditions of entry into public hunting areas, game management areas, and wildlife sanctuaries. The rules may vary from county to county and may specify certain days of the week or certain hours of the day in designating open seasons.

All rules made as aforesaid, shall have the force and effect of law."

SECTION 5. Section 183-3, Hawaii Revised Statutes, is amended to read:

**"§183-3 Administrator.** The board shall:

- (1) Appoint an administrator of forestry and wildlife, hereinafter called "administrator", who shall have charge, direction, and control (subject to the direction and control of the board) of all matters relating to forestry and wildlife management under title 12 and such other matters as the board may direct. The administrator shall be trained and educated in natural resource management;
- (2) Appoint and remove foresters and wildlife biologists and such other persons as the board may employ."

SECTION 6. Section 183-18, Hawaii Revised Statutes, is amended to read:

**"§183-18 Penalty.** Any person who violates section 183-17, upon conviction thereof, is guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 7. Section 183-19, Hawaii Revised Statutes, is amended to read:

**"§183-19 Exclusion of stock from forest reservations; notice.** When branded wild cattle are found on any forest land in the State, which land is duly set apart and established as a forest reservation, or if the land is privately owned and surrendered as defined in section 183-15, the department, in all cases where the land is so set apart and established as a forest reservation, whether from privately owned lands or public lands, may remove, shoot, or destroy the cattle without compensation to the owner, after thirty days' public notice, and three insertions of the intended action has been

given by publication in a newspaper of general circulation in the county where the cattle are found.”

SECTION 8. Section 183-20, Hawaii Revised Statutes, is amended to read:

“§183-20 **Disposition.** The department may, at any time, without notice to the owners, remove any and all cattle or horses found on any forest reservation and may hold and care for all such cattle or horses in some convenient place, at the expense of the owners, subject to the lien for charges and expenses herein provided for. The owners of the cattle or horses shall pay to the department the actual expenses reasonably incurred, which shall include, but not be limited to, allowances for employees’ wages, equipment cost, transportation cost, feeding cost, cost of advertising notice, and other costs related to the catching, driving, and transportation of animals. After the cattle or horses have been removed and held as aforesaid, the owners shall be notified personally of this fact, if the owners be known, and shall be notified of the total amount of the charges and expenses to be paid for the release of the cattle or horses.

The department shall also, in all cases, where the owners are unknown or cannot be found, cause a statement and notice to be published in a newspaper of general circulation published in the county in which the cattle or horses are held, which statement shall set forth the general description and the brands of all the cattle or horses so removed and held, as aforesaid, and shall notify the owners and the public generally that unless the charges and costs to be specified in the notice shall have been paid on or before the date therein specified, which date shall not be less than two weeks from the date of the last publication of the notice, the cattle or horses therein described will be sold at public auction for cash to the highest bidder for the purpose of satisfying the lien on the same for the costs and charges in the notice set forth. The notice shall be published once a week for four consecutive weeks (four insertions). If the charges and costs, together with such additional expenses as may have been incurred since the first publication of the notice, are not paid before the date stated in the notice, the cattle or horses shall on that date be sold, as aforesaid and all charges and other expenses shall be satisfied out of the proceeds of the sale and the balance paid to the owner or owners of the cattle or horses. If no claim is made for any balance within sixty days after the date of sale, the same shall be deposited in the treasury of the State as a government realization and all private rights therein and thereto shall be thereafter forever barred.”

SECTION 9. Section 183-42, Hawaii Revised States, is amended to read:

“§183-42 **Strip mining; prior approval of license or permit.** No original permit or license for strip mining on land within the forest reserve boundaries shall be issued by any officer or agency of the State without the prior approval and concurrence of the department. In determining whether to grant or withhold such approval, the department shall be guided by the standards set forth in section 183-41.”

SECTION 10. Title 12, Hawaii Revised Statutes, is amended by amending subtitle 5 to read:

“SUBTITLE 5. AQUATIC RESOURCES AND WILDLIFE”

SECTION 11. The heading of Chapter 187, Hawaii Revised Statutes, is amended to read:

**“CHAPTER 187  
GENERAL PROVISIONS RELATING TO  
AQUATIC RESOURCES AND WILDLIFE”**

SECTION 12. Chapter 187, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“§187- Definitions.** As used in this subtitle, unless the context indicates otherwise:

- (1) “Aquaculture” means the farming or ranching of any plant or animal species in a controlled salt, brackish, or fresh water environment; provided that such farm or ranch is on or directly adjacent to land.
- (2) “Aquatic life” means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animals that inhabit the freshwater or marine environment, and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, and other parts thereof.
- (3) “Board” means the board of land and natural resources.
- (4) “Commercial purpose” means the taking of marine life for profit or gain or as a means of livelihood, provided the marine life is taken in the waters of the State or sold or offered for sale anywhere in the State.
- (5) “Commercial marine dealer” means any person who sells marine life purchased directly from a commercial marine licensee, or any commercial marine licensee who sells marine life at retail.
- (6) “Commercial marine license” means a license issued to take marine life within the waters of the State for commercial purpose.
- (7) “Commercial marine licensee” means a person who has been issued a commercial marine license pursuant to section 189-2.
- (8) “Department” means the department of land and natural resources.
- (9) “Game” means birds and mammals designated, by law or by rule, for hunting.
- (10) “Marine life” means any type or species of salt-water fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.
- (11) “Predators” means animals destructive of game by nature of their predatory habits, including mongooses, cats, dogs, and rats.
- (12) “Qualified aquaculturist” means a person, or association of persons, actively engaged in aquaculture farming, aquaculture produce processing, or aquaculture product development activities.
- (13) “Taking” means to take, fish, trap, hunt, net, spear, harvest, pick, or withdraw marine life from the waters.
- (14) “Wildlife” means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, and includes any part, product, egg, or offspring thereof, except aquatic life as defined in paragraph (2).”

SECTION 13. Section 187-1, Hawaii Revised Statutes, is amended to read:

**“§187-1 Powers and duties of department.** The department of land and natural resources shall:

- (1) Enforce all laws relating to the protecting, taking, killing, propagating, or increasing the aquatic life within the State and the waters subject to its jurisdiction;
- (2) Establish, maintain, and conduct, at such place or places within the State as the department shall select, with the approval of the governor, aquatic life propagating station or stations;
- (3) Subject to section 187-1.2, import aquatic life for the purpose of propagating and disseminating the same in the State and the waters thereof;
- (4) Distribute, free of charge, at such points as the department shall deem to be in the public interest, aquatic life as the department deems best, for the purpose of increasing the food supply of the State; provided that when, in the discretion of the department, the public interest will not be materially interfered with by so doing, the department may propagate and furnish aquatic life to private parties, upon such reasonable terms, conditions, and prices as the department may determine.
- (5) Ascertain, compile, and disseminate, free of charge, information and advice as to the best methods of protecting, propagating, and distributing aquatic life in the State and its waters, with a view of increasing the food supply and reducing the cost of the same to consumers;

in addition to those powers and duties provided in section 183-1 relating to wildlife.”

SECTION 14. Section 187-1.1, Hawaii Revised Statutes, is amended to read:

**“§187-1.1 Animal species advisory commission.** (a) There is established within the department of land and natural resources an animal species advisory commission which may serve in an advisory capacity to the board of land and natural resources. The commission shall consist of thirteen members to be appointed by the governor in the manner provided in section 26-34. The chairperson of each aquatic life and wildlife advisory committee established pursuant to this chapter and the chiefs of the divisions of forestry and wildlife, conservation and resources enforcement, and aquatic resources shall serve as members of the commission. Six of the members shall be scientists in the fields of botany, mammalogy, ichthyology, entomology, ornithology, and invertebrate zoology. The commission shall select its own chairperson.

(b) The animal species advisory commission may advise the board on every proposal for the deliberate introduction of a species of animal by the department into any habitat within the State, whether the introduction proposed is from without the State into the State or from one area in the State into another area in the State.

(c) The animal species advisory commission may also advise the board of any matter affecting fishing or hunting, and aquatic life and wildlife conservation, including proposed rules. The commission may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the board.”

SECTION 15. Section 187-1.2, Hawaii Revised Statutes, is amended to read:

**“§187-1.2 Introduction of species of animals.** (a) No species of animal shall be deliberately introduced by the department under the provisions of chapter 187 into any habitat within the State, whether the introduction is from without the State into the State or from one area in the State into another area in the State unless the introduction is recommended by the forestry and wildlife division and the aquatic resources division and authorized by rules of the department of land and natural resources, pursuant to chapter 91.

(b) The forestry and wildlife division and the aquatic resources division in determining whether to recommend the deliberate introduction of a species of animal shall make the following findings:

- (1) The factors which limit the distribution and abundance of the species in its native habitat have been studied and its probable dispersal pattern appraised;
- (2) Whether in the area where the species is proposed to be introduced there is or had been stock of a desirable, ecologically comparable indigenous species which can be increased or rehabilitated by reintroduction or by encouraging extension of its range;
- (3) Whether the species proposed to be introduced would threaten the existence and stability of any indigenous species as predator; competitor for food, cover, or breeding sites; or in any other way arising from its characteristics and ecological requirements;
- (4) The availability of socially acceptable methods of eliminating the species or keeping it under control in the area where it is proposed to be introduced and in adjoining areas;
- (5) The extent to which the species will enhance the economic and aesthetic values of the area where it is proposed to be introduced;
- (6) That the individuals to be introduced are free of communicable diseases and parasites and that there is no reason to believe that any communicable disease or parasite constitutes an important factor in the control of population; and
- (7) That there is no foreseeable risk of conflict on account of the introduction with land use policies in the area where a species is proposed to be introduced or in adjoining areas to which the species might spread.

(c) Before any species of animal is deliberately introduced, under the provisions of this chapter, into a habitat, the suitability of the introduction shall be tested if there is available an experimental area which can be fully controlled with a habitat typical of the area where the species is proposed to be introduced.

(d) When a species of animal is deliberately introduced into a habitat under the provisions of this chapter and until the species becomes established there on a stable basis, the forestry and wildlife division and the aquatic resources division shall conduct studies of the introduced species in its new habitat, including studies of its rate of spread and impact on the habitat.

(e) Any person who violates this section or any rule promulgated pursuant to this section shall be subject to the penalties provided by section 187-20.

(f) The term “indigenous”, as used in this section, includes plant and animal life (including fish and fowl), and organisms produced, growing, or living naturally in the various islands of Hawaii without having been brought here by man.”

SECTION 16. Section 187-1.3, Hawaii Revised Statutes, is amended to read:

**“§187-1.3 Aquatic life and wildlife advisory committees.** (a) There is established in each of the counties of the State, an aquatic life and wildlife advisory committee. Each committee shall be composed of members of the board of land and natural resources representing the county, who shall serve ex officio and shall be nonvoting members, and five members appointed by the governor in accordance with section 26-34, who shall be knowledgeable in the fishing, hunting, and conservation of aquatic life and wildlife. The members shall serve for four-year terms. Each committee shall select its own chairperson from its voting members, and three voting members shall constitute a quorum. Members of the committees shall receive no compensation but shall be reimbursed by the board of land and natural resources for all necessary expenses, including stenographic services.

(b) A committee shall meet at the call of its chairperson or of any three of its members for the consideration of any matter affecting fishing or hunting and aquatic life and wildlife conservation within the county, including proposed rules and the enforcement thereof. Each committee may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the divisions of conservation and resources enforcement, aquatic resources, and forestry and wildlife.”

SECTION 17. Section 187-2, Hawaii Revised Statutes, is amended to read:

**“§187-2 Rules.** Subject to chapter 91, the department of land and natural resources shall make, amend, and repeal rules for and concerning the protection and propagation of introduced and transplanted aquatic life, or the conservation of the natural supply of aquatic life in any area where, in the judgment of the department, such supply has been or may soon be seriously depleted; the rules may include the following: size limits, bag limits, open and close seasons, specifications of fishing or taking gear which may be used or possessed, prescribe and limit the kind and amount of bait that may be used in taking aquatic life, and the conditions for entry into areas for taking aquatic life. The rules may vary from one county to another and may specify certain days of the week or certain hours of the day in designating open seasons.

Any person who violates any of the rules adopted pursuant to this section shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished as provided in section 188-70.

All rules made as aforesaid, shall have the force and effect of law.”

SECTION 18. Section 187-3, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 187-4, Hawaii Revised Statutes, is amended to read:

**“§187-4 Permits for taking aquatic life or wildlife for scientific, educational, or propagation purposes.** Notwithstanding the provisions of any other law, the department of land and natural resources may take, for scientific, educational, or propagation purposes aquatic life or wildlife except those species which are threatened or endangered.

The department may issue permits to any person subject to such restrictions as the department deems desirable, to take, in any part of the State, for scientific, educational, and propagation purposes aquatic life and wildlife, the taking of which is



otherwise prohibited by law except those species which are threatened or endangered. The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.

Anything taken under the authority of the permit shall be accompanied by the permit while being transported, and shall be exempt from seizure while being transported, or while in possession, in accordance with the permit.”

SECTION 20. Section 187-7, Hawaii Revised Statutes, is amended to read:

“§187-7 **Federal aid in fish and wildlife restoration.** The State hereby assents to the provisions of the Pittman-Robertson Federal Aid in Wildlife Restoration Act (50 Stat. 917, 16 U.S.C. 669) as amended, and the Dingell-Johnson Federal Aid in Fish Restoration Act (64 Stat. 430, 16 U.S.C. 777) as amended. The divisions of conservation and resources enforcement, aquatic resources, and forestry and wildlife of the department of land and natural resources shall perform such acts as may be necessary to the conduct and establishment of cooperative fish and wildlife restoration and management projects, as defined in the Acts of Congress and in compliances with the Acts and rules and regulations promulgated by the Secretary of the Interior thereunder; provided that federal aid funds granted under the Acts shall be used for the purposes of approved projects, and no funds accruing to the State from license fees paid by sport fishermen and hunters shall be diverted for any purpose other than as provided for in the Acts and rules and regulations promulgated pursuant thereto.”

SECTION 21. Section 187-8, Hawaii Revised Statutes, is repealed.

SECTION 22. Section 187-9, Hawaii Revised Statutes, is repealed.

SECTION 23. Section 187-10, Hawaii Revised Statutes, is repealed.

SECTION 24. Section 187-11, Hawaii Revised Statutes, is repealed.

SECTION 25. Section 187-12, Hawaii Revised Statutes, is repealed.

SECTION 26. Section 187-13, Hawaii Revised Statutes, is amended to read:

“§187-13 **Destruction of predators.** On any game management area or forest reserve or other lands under the jurisdiction of the department of land and natural resources predators deemed harmful to wildlife or game by officers or agents of the department may be destroyed by any means deemed necessary by the department or any of its officers or agents.”

SECTION 27. Section 187-15, Hawaii Revised Statutes, is repealed.

SECTION 28. Section 187-16, Hawaii Revised Statutes, is repealed.

SECTION 29. Section 187-17, Hawaii Revised Statutes, is amended to read:

“§187-17 **Disposition or revenues.** All moneys collected each month as fees for hunting and fishing permits or licenses, and all fees for commercial marine activities including commercial marine licenses, mullet licenses, and all other moneys collected under the provisions of any law relating to the importation, taking, catching, killing of aquatic life, game, wildlife, and products thereof shall be deposited with the

director of finance to the credit of the general fund. The moneys collected shall be available for expenditure only by the department of land and natural resources in accordance with appropriations authorized by the legislature of the State, and shall be expended by the department for the importation, management, preservation, propagation, and protection of aquatic life, game, or wildlife into or in the State, and for the payment of expenses incurred in the prosecution of offenders against the fishing and hunting license laws of the State, and for the conservation of commercial fisheries and all phases of the work pertaining thereto and all expenses connected therewith, which the department in its discretion deems expedient.”

SECTION 30. Section 187-19, Hawaii Revised Statutes, is amended to read:

“§187-19 **University of Hawaii may use land, etc.** The University of Hawaii shall have the privilege, free of charge, of using the land, buildings, apparatus, and appliances of the aquatic resources division of the department of land and natural resources for the purposes of a marine biological laboratory and of research and investigation in connection therewith, so far as the same can be done without material interference with the use of the same as a fish hatchery or for other fisheries-related activities; the university rendering to the department, in return therefor, such assistance as is reasonably practicable, in connection with the hatchery or for other fisheries-related activities, and as may be mutually agreed upon.”

SECTION 31. Section 188-21, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 188-22, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 188-23, Hawaii Revised Statutes, is amended to read:

“§188-23 **Possession or use of explosives, electrofishing devices, and poisonous substances in state waters prohibited; exception.** (a) It is unlawful to possess or use on or near state waters, any explosives, blasting fuse caps, electrofishing devices, or any source of electrical energy with appurtenant devices for the introduction of electricity into the water for the purpose of taking aquatic life, except under the terms and conditions of a permit first obtained by the user from the department. The department may issue permits for the use of electrofishing devices and explosives consistent with other legal requirements.

(b) It is unlawful to deposit in, permit to pass into, or place where it can pass into the state waters for the purpose of taking aquatic life any of the following:

- (1) Any petroleum, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum or carbonaceous material or substance;
- (2) Hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders;
- (3) Preparations containing rotenone, tephrosin, or plant materials from *Barringtonia asiatica*, *Cocculus ferrandianus*, *Hura crepitans*, *Priscidia erythrina*, † *Tephrosia pupurea*, † *Wikstroemia*; † and
- (4) Any other substance or material deleterious to aquatic life; except under

† Probably should read “*Piscidia erythrina*”, “*Tephrosia purpurea*”, *Wikstroemia*”.

the terms and conditions of a permit first obtained by the user from the department.

The department may issue permits to allow the possession of stated amounts of these substances poisonous to aquatic life if the department deems the amount in possession is for legitimate purposes or in quantities too small to harm aquatic life.

The possession of these substances without a permit by any person on or near the water where fish can be taken, or aboard any fishing vessel or boat is prima facie evidence of a violation of this section.

The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.

Nothing in this section shall be held or construed to be an amendment of the rules of the department of transportation."

SECTION 34. Section 188-24, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 188-25, Hawaii Revised Statutes, is amended to read:

**"§188-25 Fishing with firearms, spears.** (a) It is unlawful for any person to pursue, take, or kill any turtle, crustacean, mollusk, aquatic mammal, or fish other than sharks in the waters of the State with firearms as defined in section 134-1 or to pursue, take, or kill any crustacean (except introduced freshwater prawns), turtle, or aquatic mammal with a spear.

(b) After December 31, 1983, it is unlawful for any person to sell or offer to sell any fish other than sharks, u'u, uhu, and kumu taken or killed with a spear; provided that fish may be lawfully taken or killed with a spear for home consumption only.

(c) Any crustacean, mollusk, aquatic mammal, or fish taken or killed or offered for sale in violation of this section shall be confiscated and offered as evidence. For the purpose of this section, "spear-gun" means any artificial device used to propel a spear or spears by means of compressed air or gas, elastic, spring, or any motive power.

(d) It is unlawful for any person to take any fish by the use of spears, or have in his possession any speared fish which is smaller than the minimum size for the fish as specified in section 188-40 and any person violating this provision for the first time shall receive a citation. Any subsequent violation shall be punished as provided in section 188-70; provided that the first such subsequent violation shall be considered a first violation for the purpose of section 188-70."

SECTION 36. Section 188-26, Hawaii Revised Statutes, is repealed.

SECTION 37. Section 188-27, Hawaii Revised Statutes, is repealed.

SECTION 38. Section 188-29, Hawaii Revised Statutes, is amended to read:

**"§188-29 Nets and traps.** It is unlawful for any person to use nets or traps of any type with a stretched mesh of less than two inches, or to use any trap which is not portable or which is more than ten feet in length or six feet in height or width; provided that:

(1) Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches,

- (2) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds,
- (3) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait,
- (4) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa,
- (5) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller mesh to take aquarium fish in conformance with the conditions of the permit, and
- (6) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October."

SECTION 39. Section 188-30, Hawaii Revised Statutes, is amended to read:

**§188-30 Possession of fine meshed throw nets.** It is unlawful for any person who is in the water or on or about the shore where fish can be taken to have in his possession a throw net with a mesh of less than one and one-half inches stretched measure."

SECTION 40. Section 188-30.2, Hawaii Revised Statutes, is amended to read:

**§188-30.2 Fishing with gill nets.** It is unlawful for any person engaged in gill net fishing to leave his net unattended for a period of more than twelve hours."

SECTION 41. Section 188-32, Hawaii Revised Statutes, is repealed.

SECTION 42. Section 188-33, Hawaii Revised Statutes, is repealed.

SECTION 43. Section 188-34, Hawaii Revised Statutes, is amended to read:

**§188-34 Fishing in Honolulu harbor, Hilo bay, restricted.** It is unlawful to take or kill fish by means of any draw, drag, or seine net in the waters of the harbor of Honolulu; provided that commercial marine licensees as defined in chapter 187 may take bait fish by means of any draw, drag, or seine net during periods scheduled by the harbor master.

It is unlawful except for commercial marine licensees taking bait fish, or persons using their catch solely for home consumption, to take or kill fish by means of any draw, drag, or seine net in the waters of that portion of the bay of Hilo bounded by the breakwater, a line from the outer end of the breakwater of Alealea Point and the shoreline from Alealea Point to the inshore end of the breakwater.

SECTION 44. Section 188-35, Hawaii Revised Statutes, is amended to read:

**§188-35 Fishing in certain waters.** It is unlawful for any person to fish in or take aquatic life from the waters:

- (1) Of the Waikiki reclamation canal, Oahu;

- (2) Of the drainage canal constructed in connection with Kapiolani Boulevard, Oahu;
- (3) Of the Kapalama drainage canal, Oahu;
- (4) Off Heeia-Kea wharf, Oahu;
- (5) Within that portion of Waialua Bay delineated on the seaward boundary by lines drawn one hundred yards seaward of and parallel to the Haleiwa Harbor Breakwater and one hundred yards seaward of and parallel to the Haleiwa Beach Groin including the extension to the intercept of these lines and the inland boundary consisting of a line drawn ten yards downstream of and parallel to the Anahulu Bridge, Oahu;
- (6) Within that portion of Pokai Bay including the Pokai Boat Harbor and the Waianae Small Boat Harbor delineated on the seaward boundary by a straight line drawn from Kaneilio Point to Lahilahi Point with the northwestern boundary to be delineated by a straight line extending from the southernmost tip of the point immediately seaward of Waianae High School on a southwest azimuth to the intercept of the seaward boundary extending from Kaneilio Point to Lahilahi Point, Oahu; and
- (7) Of the Kapaa and Waikaena canals, Kauai;

with any device whatsoever, except as hereinafter provided.

With reference to any of the places or areas named above, any person may at any time fish or take any fish with one line, or one rod and line, provided the line shall not have more than two hooks; or may take crabs with not more than ten nets, provided the nets shall not exceed two feet in diameter; or may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension; provided that in the Waikiki reclamation canal any person may take up to fifty tabai or mosquito fish, or o'opu akupa, or tilapia or any combination thereof, per day, for non-commercial purposes only, with a single small mesh net, provided that the net including any handle and other attachment thereto shall not exceed three feet in any dimension.

With a license obtained from the department of land and natural resources and under rules the department may adopt, the owner or operator of a fish pond may take pua or other small fish, using nets, for the purpose of stocking the fish pond.

With a license from the department, commercial marine licensees may take nehu or iao, using nets for bait purposes only.

The department may issue licenses at its discretion and at any time may revoke any or all licenses when, in its judgment, the action is necessary to preserve the stock of fish in the canals or waters."

SECTION 45. Section 188-36, Hawai Revised Statutes, is amended to read:

**"§188-36 Hawaii marine laboratory refuge.** It is unlawful for any person within the Hawaii marine laboratory refuge to take any aquatic life. Nothing in this section shall apply to any officer, faculty member, employee, or student of the University of Hawaii or licensee of the board of regents of the University of Hawaii, while employed in catching or taking aquatic life for scientific purposes.

The Hawaii marine laboratory refuge consists of the reefs and bay waters surrounding the island of Moku-o-Ioe located in Kaneohe Bay, island of Oahu, from the high water mark on the island extending outward to "twenty-five feet beyond the

outer edges of the reefs.”

All laws enacted for the protection of aquatic life or wildlife shall likewise apply to the Hawaii marine laboratory refuge, except that no person or persons, other than those designated by this section, shall be authorized to catch or take aquatic life in the refuge.

The Hawaii marine laboratory refuge shall continue only as long as the regents of the University of Hawaii maintain the Hawaii marine laboratory on the island of Moku-o-loe, island of Oahu.”

SECTION 46. Section 188-37, Hawaii Revised Statutes, is amended to read:

**“§188-37 Fishing in the Northwestern Hawaiian Islands.** (a) The department of land and natural resources may adopt rules relating to the taking of marine life in the Northwestern Hawaiian Islands, where, in the judgment of the department the action will not deplete the stocks of marine life in the area; the rules may include open and closed seasons, size limits, methods and appliances, and establishment of permits for taking marine life.

(b) Those islands, reefs, and shoals, as well as their respective appurtenant reefs and territorial waters, of the Hawaiian Islands chain beginning and including Nihoa Island to and including Kure Island shall be referred to as the Northwestern Hawaiian Islands.

(c) The department may issue permits to those persons with a valid commercial marine license issued pursuant to section 189-2 who own or operate a vessel deemed capable by the department for effectively taking marine life within the Northwestern Hawaiian Islands, and whenever the department deems necessary, it may limit the number of permits issued to take marine life in any particular area and such limitation shall be on the basis of the order of application for permits. Issuance of permits shall be limited to persons utilizing methods or appliances approved by rule of the department, which need not be legal elsewhere within the State, and these permittees may take species of marine life, when and as approved by rule of the department. The fee for the Northwestern Hawaiian Islands taking permit is \$1.

The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.”

SECTION 47. Section 188-38, Hawaii Revised Statutes, is repealed.

SECTION 48. Section 188-39, Hawaii Revised Statutes, is repealed.

SECTION 49. Section 188-42, Hawaii Revised Statutes, is repealed.

SECTION 50. Section 188-43, Hawaii Revised Statutes, is amended to read:

**“§188-43 Hinana, and oopu, taking of, prohibited.** It is unlawful for any person to fish for, or attempt to take any of the fish known as hinana or oopu, by means of traps or weirs.”

SECTION 51. Section 188-44, Hawaii Revised Statutes, is amended to read:

**“§188-44 Mullet, catching prohibited, when; exceptions.** It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, offer for sale, or have in

possession any mullet, known as amaama, or anaeholo during the months of December, January, or February; provided that any owner or operator of a fish pond, may lawfully catch the young mullet, known as pua, during the closed season, for the purpose of stocking his pond; and provided further that any owner or operator of a fish pond or any dealer may lawfully sell pond raised mullet during the closed season after first procuring a license granting this privilege.

Licenses to sell pond raised mullet shall be issued by the department of land and natural resources upon the payment of \$5, but any dealer having more than one market shall take out a separate license for each market or wagon from which mullet are sold.

All licenses shall expire on June 30 of each year.

Any licensee who sells, offers for sale, or has in his possession any sea mullet shall, on conviction, forfeit his license to sell mullet during the closed season. The department may also revoke any license for any infraction of the terms and conditions of the license. Any person whose license has been revoked shall not be eligible to apply for another license until the expiration of one year from the date of revocation."

SECTION 52. Section 188-45, Hawaii Revised Statutes, is amended to read:

**"§188-45 Nehu and iao, taking prohibited; exceptions.** It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu or iao; provided that any person may lawfully catch nehu for his family consumption or bait purposes with a net not longer than fifty feet; and provided further that the department of land and natural resources may issue to commercial marine licensees as defined in chapter 187 licenses to take nehu, iao, or any other species for which an open season may be declared by the department for use as bait only; provided that nehu may be taken by any licensed commercial marine licensee only if employed on a livebait tuna boat and only if the licensee's principal means of livelihood is derived from tuna fishing and the sale of tuna, and the nehu is not sold to others. The licenses may be issued by the department upon terms and conditions the department may deem necessary to conserve the supply of the fish within state waters. The license may be summarily revoked for a violation of any term or condition thereof, and any or all licenses may be revoked summarily whenever, in the judgment of the department, the action is necessary for the conservation of the fish.

Any person whose license has been revoked for violation of the terms and conditions of the person's license shall not be eligible for another license until the expiration of one year from the date of revocation."

SECTION 53. Section 188-46, Hawaii Revised Statutes, is amended to read:

**"§188-46 Opelu fishing regulated.** It is unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking opelu with fish or animal bait within the waters off the coast of South Kona, island of Hawaii, between Kiilae-Keokea boundary and the Kapua-Kaulanamauna boundary, except with hook and line."

SECTION 54. Section 188-47, Hawaii Revised Statutes, is repealed.

SECTION 55. Section 188-48, Hawaii Revised Statutes, is repealed.

SECTION 56. Section 188-49, Hawaii Revised Statutes, is repealed.

SECTION 57. Section 188-50, Hawaii Revised Statutes, is amended to read:

**“§188-50 License; application; fees; restrictions.** (a) It is unlawful for any person, except children below nine years of age, to fish, take or catch any introduced fresh water game fish without first obtaining a license. Children exempt by this section may fish, provided they are accompanied by a licensed person.

(b) The licenses shall be issued by agents of the department of land and natural resources upon written application in such form as may be prescribed by the department together with payment of a fee as hereinafter prescribed. The application shall require a statement under oath of the applicant's name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes. All licenses shall expire and become void on June 30, following the date of issuance, except the tourist license which shall expire and become void thirty days after the date of issuance; provided that no fees or charges shall be made for licenses issued to persons sixty-five years of age and older. A duplicate license may be issued upon affidavit that the original license has been lost or destroyed and upon the payment of 50 cents.

The fee schedule for licenses shall be as follows:

- (1) All minors between nine and fifteen years of age, \$1.50 each;
- (2) A resident of the State for at least one year, and over fifteen years of age, \$3.75;
- (3) Persons not qualifying under (2) but over fifteen years of age, \$7.50, except that,
  - (A) Any member of the armed forces of the United States on active duty in the State whether qualifying as a resident under (2) or not, and the spouse and children fifteen years of age and over of the member, \$3.75.
  - (B) Tourist license which is valid for only thirty days from the date of issue, \$3.75.

No person to whom a license has been issued under this section shall permit any other person to carry, display, or use the license for any purpose. Every person to whom a license has been issued under this section shall show the license upon demand of any officer authorized to enforce the fishing laws of the State. No person shall refuse any officer the examination or inspection of any bag or container of any kind used to carry fish or any vehicle or conveyance used to transport fish.

The department may upon written application issue a permit to a club or group of minors, not less than five in number, for unlicensed fishing where such activity will be supervised by responsible adults. All adults accompanying the excursions, however, shall themselves be licensed. The application shall state the area to be visited, the dates for the excursion, the name of the organization or group, and shall be signed by an adult advisor of the group. The permits shall expire and become void thirty days after issuance. The department may determine other terms and conditions of the permits.

Where a bag limit is specified for the catching of fresh water fish, each licensee may take only one bag per day. This restriction to one bag applies to each minor participating in unlicensed group excursions for which permits have been issued



under this section. The catch of a child below the age of nine years old shall be deemed part of the catch of the licensed adult accompanying him.

The department may revoke any license for any infraction of the terms and conditions of the license. Any person whose license has been revoked shall not be eligible to apply for another license until the expiration of one year from the date of revocation."

SECTION 58. Section 188-51, Hawaii Revised Statutes, is repealed.

SECTION 59. Section 188-52, Hawaii Revised Statutes, is repealed.

SECTION 60. Section 188-53, Hawaii Revised Statutes, is amended to read:

**§188-53 Fishing reserves, refuges, and public fishing areas.** (a) For the purposes of managing, preserving, protecting, conserving, and propagating introduced freshwater fishes, and other freshwater or marine life, the department of land and natural resources may establish, maintain, manage, and operate freshwater or marine fishing reserves, refuges, and public fishing areas in areas under its control as it may deem desirable and may enter into agreements for the taking of control of privately owned waters, lands, or fisheries for such purposes. The department may make, adopt, and amend rules and may issue permits as it deems necessary for managing the fishing reserves, refuges, and public fishing areas, and other waters or lands under the jurisdiction or control of the State.

(b) It is unlawful for any person to enter any area established under this section without first obtaining a permit from the department, if permits are required, or to violate any rule adopted by the department governing same.

The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation."

SECTION 61. Section 188-54, Hawaii Revised Statutes, is repealed.

SECTION 62. Section 188-54.1, Hawaii Revised Statutes, is repealed.

SECTION 63. Section 188-54.2, Hawaii Revised Statutes, is repealed.

SECTION 64. Section 188-55, Hawaii Revised Statutes, is repealed.

SECTION 65. Section 188-56, Hawaii Revised Statutes, is repealed.

SECTION 66. Section 188-57, Hawaii Revised Statutes, is amended to read:

**§188-57 Certain crustaceans protected.** It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any Kona crabs, spiny lobster (ula), or slipper lobster (ula-papapa), taken from the waters within the jurisdiction of the State during the months of June, July, and August. The possession of any Kona crabs, spiny lobster (ula), or slipper lobster (ula-papapa), by any person during the months of June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any dealer may sell, or any hotel or other public eating house may serve Kona crabs or lobsters lawfully caught during the open season by first procuring a license granting this privilege.

Licenses to sell or serve Kona crab or lobster during June, July, and August shall be issued by the department of land and natural resources upon the payment of \$5 by wholesale dealers, \$2.50 by retail markets and \$1 for any hotel or other class of

restaurant; provided that each license holder shall submit a report to the department within five days after the end of each of the months on blanks furnished by the department, which report shall give the name of the person or firm from whom the Kona crabs or lobsters were purchased, to whom sold, the number and weight bought or sold and the number and weight on hand the first and last day of each month.

The department may revoke any license for any infraction of the terms and conditions of the license. Any person whose license has been revoked shall not be eligible to apply for another license until the expiration of one year from the date of revocation.”

SECTION 67. Section 188-58, Hawaii Revised Statutes, is amended to read:

“§188-58 Crustaceans with eggs. It is unlawful for any person to catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any crustacean known as spiny lobster or ula, slipper lobster or ula-papapa, kuahonu crab, Samoan crab, or Kona crab while with egg. If any of the crustaceans be caught, they must immediately be returned to the waters from which they were taken. The possession of any spiny lobster or ula, slipper lobster or ula-papapa, kuahonu crab, Samoan crab or Kona crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.”

SECTION 68. Section 188-59, Hawaii Revised Statutes, is repealed.

SECTION 69. Section 188-60, Hawaii Revised Statutes, is repealed.

SECTION 70. Section 188-61, Hawaii Revised Statutes, is repealed.

SECTION 71. Section 188-62, Hawaii Revised Statutes, is repealed.

SECTION 72. Section 188-63, Hawaii Revised Statutes, is repealed.

SECTION 73. Section 188-64, Hawaii Revised Statutes, is repealed.

SECTION 74. Section 188-65, Hawaii Revised Statutes, is repealed.

SECTION 75. Section 188-66, Hawaii Revised Statutes, is repealed.

SECTION 76. Section 188-67, Hawaii Revised Statutes, is repealed.

SECTION 77. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be designated as section 188-70 and to read:

“§188-70 Penalties. (a) Any person violating any provision of this chapter, excepting section 188-23, or any rule adopted pursuant thereto, is guilty of a petty misdemeanor and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a fine of not more than \$500, or by imprisonment of not more than thirty days, or both;
- (2) For a second conviction within five years of a previous conviction by a fine not less than \$100 nor more than \$500, or by imprisonment of not more than thirty days, or both;
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$300 nor more than \$500, or by imprisonment of not more than thirty days, or both.

(b) Any person violating section 188-23, is guilty of a misdemeanor and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction by a fine of not more than \$1,000, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a fine of not less than \$250 nor more than \$1,000 or by imprisonment of not more than one year, or both;
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not more than one year, or both.

(c) In addition to the above penalties, for the first conviction a fine of up to \$25 may be levied for each specimen of aquatic life taken illegally under this chapter; provided that for every subsequent conviction within five years of the first conviction, a fine of up to \$25 shall be levied for each specimen of aquatic life taken illegally under this chapter."

SECTION 78. Section 189-1, Hawaii Revised Statutes, is repealed.

SECTION 79. Section 189-2, Hawaii Revised Statutes, is amended to read:

**"§189-2 Commercial marine license.** It is unlawful for any person to engage in any taking of marine life for commercial purposes in the waters of the State or to sell or offer for sale or to profit from any sale of marine life anywhere in the State whether the marine life is caught or taken in the waters of the State or outside the waters of the State, without first obtaining a commercial marine license as provided in this section.

The department of land and natural resources shall issue commercial marine licenses upon payment of the prescribed fees and receipt of properly completed applications upon such forms as may be prescribed by the department. The applications for commercial marine licenses shall require a statement of the applicant's name, address, age, place of birth, length of residence in the State, height, weight, color of hair and eyes, citizenship, and such other information as the department may require.

No commercial marine licensee shall permit any other person to carry, display, or use the license for any purpose. Every commercial marine licensee shall show the license upon demand of any officer authorized to enforce the fishing laws of the State. Failure or refusal to so show the license shall be sufficient cause for the immediate cancellation of such license by the department.

All licenses issued under this section shall be in force from the date of issuance to June 30 following the date of issuance. Duplicate licenses may be issued to any person upon affidavit that he has lost the license, and upon payment of a fee of 50 cents.

The fee for a commercial marine license shall be:

- (1) \$10 for any person who has resided in the State for one year or longer, and
- (2) \$20 for all other persons,

except that anyone who qualifies as a "trainee" under rules prescribed by the department of land and natural resources shall have the fee waived for a period of not more than one hundred eighty calendar days from the date on which the license is issued.

The department may revoke any license for any infraction of the terms and conditions of the license. In any proceeding for the revocation of a commercial marine license, the licensee shall be given notice and opportunity for hearing in conformity with chapter 91. Upon revoking the license, the department may specify a period of time during which the commercial licensee shall not be eligible to apply for another license; provided that the period shall not exceed one year from the date of revocation.”

SECTION 80. Section 189-3, Hawaii Revised Statutes, is amended to read:

“**§189-3 Monthly catch report.** (a) Every commercial marine licensee who sells or offers to sell or profits from any sale of marine life anywhere in the State shall furnish to the department of land and natural resources a report with respect to the marine life taken and any live, fresh, or frozen bait used for each month upon a form prescribed by the department, the form to be known as the “monthly catch report”; provided that whenever the total marine life taken monthly in respect to any commercial marine licensee is insufficient in the judgment of the department to require the submission of a monthly catch report, a certificate of exemption may be issued, and thereafter the commercial marine licensee to whom the certificate of exemption is issued shall not be required to submit monthly catch reports until the certificate is canceled by the department. Certificates of exemption may be canceled at any time. The monthly catch report shall be submitted to the department not later than the tenth day of the month following the month in which the marine life was taken. Failure or refusal on the part of any commercial marine licensee to submit a monthly catch report as prescribed in this section shall be sufficient cause for the revocation by the department of the commercial marine license. In any proceeding for the revocation of a commercial marine license, the licensee shall be given notice and opportunity for hearing in conformity with chapter 91. Upon revoking the license, the department may specify a period of time during which the commercial marine licensee shall not be eligible to apply for another license; provided that the period shall not exceed one year from the date of revocation.

(b) Any information submitted to the department by any person in compliance with any requirement under this section shall be confidential and shall not be disclosed, except when required under court order or pursuant to subpoena issued by the state attorney general’s office or with the prior written consent of the person submitting the information. The department, by rule, may establish such procedures as may be necessary to preserve such confidentiality, except that the department may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity of any person who submits such information.

This subsection shall not be construed to include the wet weight harvest of *Corallium secundum*, *Corallium regale*, *Corallium laauense*, *Gerardia*, *Callogorgia gilberti*, *Narella*, *Calyptrophora*, *Lepidisis olapa*, and *Acanella*. The wet weight harvest for each of the above shall be reported to the public by the department.”

SECTION 81. Section 189-4, Hawaii Revised Statutes, is amended to read:

“**§189-4 Penalties.** In addition to the revocation of a commercial marine license, any person violating any of the provisions of sections 189-2 and 189-3 shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be fined not less

than \$25 nor more than \$500, or imprisoned not less than five nor more than thirty days, or both; provided that in the case of a corporation violating any of the provisions only the fine shall be imposed, but any officer of the corporation who wilfully procures or permits the violation of the provisions by the corporation shall be subject to fine and imprisonment, or both, as in the case of an individual violating the same."

SECTION 82. Section 189-5, Hawaii Revised Statutes, is amended to read:

**"§189-5 Aliens not admitted to United States.** It is unlawful for any person who has not been lawfully admitted to the United States to engage in taking marine life for commercial purposes in the waters of the State. The term "United States" as used in this section, includes the several states and the territories and possessions of the United States."

SECTION 83. Section 189-6, Hawaii Revised Statutes, is amended to read:

**"§189-6 Marine life from waters not within state jurisdiction during closed seasons.** Any other provision of law to the contrary notwithstanding, wherever the possession or sale of marine life or products within the State is prohibited as for instance by a closed season, the prohibition shall not apply where the marine life or products have been taken from or caught outside of the waters of the State and the possession or sale has been licensed by the department of land and natural resources under rules adopted by the department. The department may make rules pursuant to chapter 91 governing the issuance, suspension, and revocation and all other terms of the licenses."

SECTION 84. Section 189-10, Hawaii Revised Statutes, is amended to read:

**"§189-10 Commercial marine dealers to report.** Every commercial marine dealer who engages in the business of buying or selling marine life or products taken within, or adjacent to, the waters of the State, shall render to the department of land and natural resources on or before the tenth day of each month on blanks to be furnished by the department, a true and correct statement showing the weight, number, and value of each of the species of marine life purchased, received, or sold during the previous month."

SECTION 85. Section 189-11, Hawaii Revised Statutes, is amended to read:

**"§189-11 Receipts in duplicate.** Every commercial marine dealer who engages in the business of buying or selling marine life or products taken within, or adjacent to, the waters of the State, who receives marine life or products from any person, shall issue receipts to the person from whom marine life is received and shall give in the receipt (1) the date of the issuance; (2) the name of the person to whom the receipt is issued; (3) the following information with respect to each of the varieties of marine life as the department of land and natural resources shall require: the weight in pounds of each of the varieties received, the numbers of marine life when they average a pound or more, the price per pound paid; and (4) the signature of the dealer who issues the receipt. Any dealer taking his own marine life or handling any marine life taken by commercial marine licensees working for or with him, shall make out the same receipt, giving market price for the marine life as prevails on the date of receipt. A duplicate copy of this receipt shall be kept on file by the dealer

issuing the same for a period of six months, and the duplicate copy shall be available for inspection at any time within six months, upon demand of the department.”

SECTION 86. Section 189-12, Hawaii Revised Statutes, is repealed.

SECTION 87. Section 189-14, Hawaii Revised Statutes, is amended to read:

“**§189-14 Rights of entry, penalties.** The department of land and natural resources may board any vessel used in taking marine life, or enter any place of business where marine life is sold, stored, processed, cooked, canned, or cured, for purposes of investigation and inspection, and inspect any and all books and records containing account of the marine life taken, bought, or sold.

Any person who fails to permit an inspection as provided in this section, or who refuses to produce any book or record containing any information of the marine life taken, bought, or sold, and any person who interferes with any officer or agent of the department in the performance of his duty as authorized in this section, shall be guilty of a petty misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$500, or imprisoned not less than five nor more than thirty days, or both.”

SECTION 88. Chapter 191, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**§191- Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

- (1) “Department” means the department of land and natural resources.
- (2) “Game birds” means birds designated by law or rule for hunting.
- (3) “Game mammals” mean mammals designated by law or rule for hunting.
- (4) “Wild birds” means birds, other than game birds, living in a wild and undomesticated state, and the young and eggs of such birds.
- (5) “Wild mammals” means mammals, other than game mammals, living in a wild and undomesticated state and the young of such mammals.”

SECTION 89. Section 191-2, Hawaii Revised Statutes, is amended to read:

“**§191-2 Application and issuance of licenses; fees.** Hunting licenses shall be issued by agents of the department of land and natural resources upon written application in the form prescribed by the department and the payment of a fee as hereinafter provided. The application shall require a statement under oath of the applicant’s name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes. The fee shall be (1) \$7.50 for any person who has resided in the State for one year or longer, or who is a member of the armed forces of the United States on active duty and the spouse and children thereof; and (2) \$15 for all other persons.”

SECTION 90. Section 191-3, Hawaii Revised Statutes, is amended to read:

“**§191-3 Licenses, expire when.** (a) All licenses shall expire and become void on June 30 next following the date of issuance, excepting that where anyone is convicted of violating any of the game laws of the State his license shall immediately be forfeited, and anyone convicted for a second offense shall not again be granted a license to hunt for a period of three years after the date of the second conviction.

(b) Subsection (a) to the contrary notwithstanding, no fees or charges shall be

made for licenses issued to persons sixty-five years of age and older.”

SECTION 91. Section 191-4, Hawaii Revised Statutes, is amended to read:

“**§191-4 Duplicate licenses.** Duplicate licenses may be issued upon application stating under oath that the original license has been lost or destroyed and upon payment of a fee of 50 cents.”

SECTION 92. Section 191-5, Hawaii Revised Statutes, is amended to read:

“**§191-5 Licenses; display thereof.** No person to whom a hunting license has been issued shall permit any other person to carry, display, or use the license in any way. Every person to whom a hunting license has been issued shall carry the license upon his person when hunting, and shall show the license upon the demand of any officer authorized to enforce the game laws of the State. No person, upon the request of an officer, shall refuse to show his license or withhold permission to inspect his game bag, container, hunting coat or jacket, or carrier or vehicle of any kind where game might be concealed.”

SECTION 93. Section 191-6, Hawaii Revised Statutes, is hereby repealed.

SECTION 94. Section 191-8, Hawaii Revised Statutes, is amended to read:

“**§191-8 Game birds declaration by department.** The department of land and natural resources may declare, by rule adopted pursuant to chapter 91, any bird which has been or may be introduced into the State to be propagated for hunting purposes, to be a game bird within the meaning of this chapter.

Nothing contained herein shall be construed as permitting the taking, stalking, pursuing, or killing of any game bird under domestication or in the legal possession or control of any person, or where otherwise prohibited by law or rule of the department.”

SECTION 95. Section 191-9, Hawaii Revised Statutes, is amended to read:

“**§191-9 Open and closed seasons and bag limits on game birds.** It is unlawful to take, kill, and pursue or have in possession any bird declared as a game bird by state statute or rule of the department of land and natural resources at any time, except during an open season duly established and designated by the department for taking, killing, or possessing the same, or except as provided in chapter 192. The department may adopt rules, pursuant to chapter 91, for the purpose of protecting, conserving, propagating, and harvesting any variety or species of game birds.

Nothing herein shall be construed as making it unlawful for any person to have in his possession, under refrigeration, a number of game birds, legally killed, greater than that fixed as a bag limit by any rule of the department, but not in excess of the daily bag limit for five days.”

SECTION 96. Section 191-10, Hawaii Revised Statutes, is repealed.

SECTION 97. Section 191-11, Hawaii Revised Statutes, is repealed.

SECTION 98. Section 191-12, Hawaii Revised Statutes, is amended to read:

“**§191-12 Permits to take wild birds.** The department of land and natural resources may adopt rules pursuant to chapter 91:

(1) Authorizing the taking and collecting of wild birds for scientific

- and educational purposes, or for the purpose of distributing wild birds to different localities in the State pursuant to section 187-1.2;
- (2) Authorizing the keeping of wild birds in captivity for the protection, treatment for injury or disease, propagation, and such other similar purposes as are consistent with the preservation, protection, and conservation of wild birds;
  - (3) Authorizing the taking and destruction of such wild birds as the department may have found after investigation to be destructive to crops or otherwise harmful to agriculture, or constitute a nuisance or a health hazard; or
  - (4) Where species of wild birds are generally destructive to crops or otherwise harmful to agriculture within a district, authorizing their destruction within that area without requiring permits or reports.

The rules shall require the person or persons seeking authority to apply for and obtain a written permit from the department. The permits may prescribe terms and conditions the department deems necessary to prevent abuse of the authority granted thereby, and may be canceled by the department, after notice and hearing, for the violation of any term or condition.”

SECTION 99. Section 191-13, Hawaii Revised Statutes, is amended to read:

“§191-13 **Taking, injuring, or destroying wild birds prohibited.** Except with a permit issued under section 191-12, it is unlawful for any person to take, catch, injure, kill, or destroy, or attempt to take, catch, injure, or destroy, any wild bird, or to keep or have possession of any wild bird, dead or alive, or to damage or destroy a nest of any wild bird.”

SECTION 100. Section 191-14, Hawaii Revised Statutes, is amended to read:

“§191-14 **Keeping wild birds in captivity prohibited.** Except as provided in section 191-12, it is unlawful for any person to keep in captivity any wild bird unless the bird was lawfully imported into the State or was bred in captivity from birds lawfully imported.”

SECTION 101. Section 191-15, Hawaii Revised Statutes, is amended to read:

“§191-15 **Transportation of wild birds from the State prohibited.** It is unlawful for any person to transport or cause to be transported by any means any wild bird from any part of the State; provided that specimens of wild birds required for scientific or educational purposes may be exported from the State only when authorized under permits to be issued by the department of land and natural resources.”

SECTION 102. Section 191-16, Hawaii Revised Statutes, is amended to read:

“§191-16 **Shooting certain pigeons prohibited.** It is unlawful for any person, other than the owner thereof, to shoot, maim, kill, or detain any Antwerp, messenger, or homing pigeon.”

SECTION 103. Section 191-17, Hawaii Revised Statutes, is repealed.

SECTION 104. Section 191-18, Hawaii Revised Statutes, is amended to read:

“§191-18 **Hunting on private lands prohibited.** It is unlawful for any person to



enter upon any land or premises belonging to, held or occupied by another, for the purpose of hunting with dogs or to shoot, kill, take, or destroy any kind of animal or game without first having obtained permission from the owner, or his duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

No prosecution shall be had under this section, except upon the sworn complaint of the owner, occupier, or holder of the land or premises, or his duly appointed agent, or if the owner, occupier, or holder is either a corporation or a partnership, then the complaint shall be sworn to by some officer of the corporation or by one of the members of the partnership."

SECTION 105. Section 191-19, Hawaii Revised Statutes, is amended to read:

**"§191-19 Game mammals defined; exception.** For the purposes of enforcing the wildlife laws of the State the following named mammals are hereby designated as game mammals when living in a wild or feral state not under domestication: deer (family cervidae), pronghorn (family antilocapridae), goat (capra hircus), sheep (ovis aries), cattle (bos taurus), pig (sus scrofa), and any other mammal that may be or has been introduced into the State and released for hunting and for which a hunting season is established by legislative act or by rule of the department of land and natural resources.

Nothing contained herein shall be construed as permitting the taking, catching, pursuing, or killing of any mammal in the legal possession or control of any person, or where otherwise prohibited by law or rule of the department."

SECTION 106. Section 191-20, Hawaii Revised Statutes, is repealed.

SECTION 107. Section 191-21, Hawaii Revised Statutes, is amended to read:

**"§191-21 Open and closed seasons, bag limits on game mammals, etc.** The department of land and natural resources may, pursuant to chapter 91, adopt rules for the purpose of protecting, conserving, propagating, and harvesting any species or variety of game mammal."

SECTION 108. Section 191-22, Hawaii Revised Statutes, is amended to read:

**"§191-22 Game management areas, wildlife sanctuaries, public hunting areas.** For the purpose of preserving, protecting, conserving, and propagating birds and mammals, the department of land and natural resources may establish, maintain, manage, and operate game management areas, wildlife sanctuaries, and public hunting areas on land under its control as it may deem desirable; enter into agreements for the taking of control of privately owned lands for such purposes; and adopt rules pursuant to chapter 91 as it may deem necessary for the regulation of the game management areas, wildlife sanctuaries, and public hunting areas.

It is unlawful for any person to violate any rule adopted by the department governing any game management area, wildlife sanctuary, or public hunting area."

SECTION 109. Section 191-23, Hawaii Revised Statutes, is repealed.

SECTION 110. Section 191-24, Hawaii Revised Statutes, is amended to read:

**"§191-24 Night hunting on private lands; prohibition.** It shall be unlawful for any person to hunt, pursue, capture, take, injure, kill, or possess any game bird,

game mammal, wild bird, or wild mammal at night on privately owned lands. For the purpose of this section, "night" means that period between one-half hour after sunset and one-half hour before sunrise. Violation of this section is a misdemeanor."

SECTION 111. Chapter 191, Hawaii Revised Statutes, is amended by adding a new section to be designated section 191-25 and to read:

**"§191-25 Penalties.** (a) Any person violating section 191-1, 191-2, 191-3, 191-4, 191-5, 191-14, or 191-16 shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a fine of not less than \$50 nor more than \$500, or imprisonment of not more than thirty days, or both;
- (2) For a second conviction within five years of a previous conviction, by a fine of not less than \$150 nor more than \$500, or by imprisonment of not more than thirty days, or both;
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$300 nor more than \$500, or by imprisonment of not more than thirty days, or both.

(b) Any person violating section 191-8, 191-9, 191-13, 191-15, 191-18, 191-21, 191-22, or 191-24 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction by a fine of not less than \$100 nor more than \$1,000, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a fine of not less than \$250 nor more than \$1,000 or by imprisonment of not more than one year, or both;
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not more than one year, or both.

(c) In addition to the above penalties, a fine of \$25 shall be levied for each bird illegally taken under this chapter and a fine of \$100 shall be levied for each mammal illegally taken under this chapter."

SECTION 112. Section 199-3, Hawaii Revised Statutes, is amended to read:

**"§199-3 Conservation and resources enforcement officers, duties.** The conservation and resources enforcement officers, with respect to all state lands, including public lands, state parks, forest reserves, forests, aquatic life and wildlife areas, and any other lands and waters subject to the jurisdiction of the department of land and natural resources, shall:

- (1) Enforce title 12, and chapter 6E, and rules adopted thereunder;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual agreements for conservation and resources enforcement activities within the State;
- (4) Cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs, and mutual aid agreements for search and rescue activities within the State;
- (5) Check and verify all leases, permits, and licenses issued by the department

- of land and natural resources;
- (6) Enforce the laws relating to firearms, ammunition and dangerous weapons contained in chapter 134;
  - (7) Carry out such other duties and responsibilities as the board of land and natural resources may from time to time direct.

SECTION 113. Section 199-5, Hawaii Revised Statutes, is amended to read:

**“§199-5 Summons or citation.** There shall be a form of summons or citation for use in citing violators of title 12, chapter 6E, and rules adopted thereunder, which do not mandate the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citation used in modern methods of arrest and shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and content of the summons or citation shall be adopted or prescribed by the district courts.

In every case where a summons or citation is issued the original of the same shall be given to the violator; provided that the district courts may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies.

Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.”

SECTION 114. Section 199-6, Hawaii Revised Statutes, is amended to read:

**“§199-6 Failure to obey a summons.** Any person who fails to appear at the place and within the time specified in the summons or citation issued by the officers or their agents or subordinates, upon that person’s arrest for violation of title 12, chapter 6E, and rules adopted thereunder, shall be guilty of a petty misdemeanor and, upon conviction, shall be fined not more than \$500 or be imprisoned not more than thirty days, or both.

If any person fails to comply with a summons or citation issued, or if any person fails or refuses to deposit bail as required and within the time permitted, the officers shall cause a complaint to be entered against the person and secure the issuance of a warrant for his arrest.

When a complaint is made to any prosecuting officer of the violation of title 12, chapter 6E, and rules adopted thereunder, the officer who issued the summons or citation shall subscribe to it under oath administered by another official or officials of the department of land and natural resources whose names have been submitted to the prosecuting officer and who have been designated by the chairman of the board of land and natural resources to administer the same.”

SECTION 115. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 116. This Act shall take effect upon its approval.

(Approved May 30, 1981.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.