

ACT 74

H.B. NO. 191

A Bill for an Act Relating to Aquatic Resources and Wildlife.

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

SECTION 1. Title 12, subtitle 6, Hawaii Revised Statutes, is amended by adding a new chapter to be designated as chapter 197 and to read:

**“CHAPTER 197
GENERAL PROVISIONS RELATING TO
AQUATIC RESOURCES AND WILDLIFE**

§197-1 Definitions. As used in this chapter, unless the context indicates otherwise:

“Aquatic life” means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral or other animal that inhabits the freshwater and marine environment and includes any part, product, egg or offspring thereof; or freshwater and marine plants, including seeds, roots, and other parts thereof.

“Board” means the board of land and natural resources.

"Commission" means the animal species advisory commission.

"Committee" means the aquatic life and wildlife advisory committee established in each of the counties of the State.

"Conservation" means to use and the use of all methods and procedures for the purpose of managing populations of aquatic life and wildlife and their habitats.

"Department" means the department of land and natural resources.

"Habitat" means a locality or environment in which aquatic life, wildlife or land plants (as defined in chapter 195D) grow or live.

"Indigenous species" means any aquatic life, wildlife, or land plant (as defined in chapter 195D) growing or living naturally in Hawaii without having been brought directly or indirectly to Hawaii.

"Introduction" means an act of establishing aquatic life or wildlife into a habitat to which it is not indigenous.

"Take" means to fish, trap, hook, net, spear, harvest, pick or withdraw aquatic life from the water, or to injure, hunt, shoot, wound, kill, trap, net, capture, or possess wildlife.

"Wildlife" means any non-domesticated member of the animal kingdom, including game birds and mammals designated by law or rules for hunting, whether reared in captivity or not, and includes any part, product, egg or offspring thereof, except aquatic life as defined in this section.

§197-2 Animal species advisory commission. (a) There is established within the department an animal species advisory commission which may serve in an advisory capacity to the board. 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 three members of the department designated by the chairperson of the department, one each from the professional fields of aquatic life, wildlife, and conservation and resources enforcement 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 commission may advise the board on every proposal for the deliberate introduction of aquatic life and wildlife 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 commission may also advise the board on any matter affecting the taking and conservation of aquatic life and wildlife 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.

§197-3 Introduction of aquatic life and wildlife. (a) No species of aquatic life and wildlife shall be deliberately introduced by the department under this chapter 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 department and authorized by rules of the department pursuant to chapter 91.

(b) The department, in determining whether to recommend the deliberate introduction of aquatic life and wildlife, 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 aquatic life or wildlife is introduced, under 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 aquatic life or wildlife is deliberately introduced into a habitat under this section, and until the species becomes established there on a stable basis, the department 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 adopted pursuant to this section shall be subject to the penalties provided in section 197-5.

§197-4 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 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 taking 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 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 the taking and conservation of aquatic life and wildlife 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 department.

§197-5 General penalty. Any person violating any of the provisions of this chapter, or any rule adopted pursuant to this chapter, shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished as provided by law."

SECTION 2. Section 187-1.2, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 187-1.3, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 187-1.4, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 4, 1985.)

Note

1. Edited pursuant to HRS §23G-16.5