

ACT 96

H.B. NO. 2537

A Bill for an Act Relating to Aquatic Resources.

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

SECTION 1. Section 187A-6, Hawaii Revised Statutes, is amended to read as follows:

**“§187A-6 [Permits for taking aquatic life for scientific, educational, or propagation purposes.] Special activity permits.** (a) Notwithstanding the provisions of any other law, the department may take aquatic life or possess or use any fishing gear for scientific, educational, management, or propagation purposes, [except as prohibited by] for removal of aquatic species, or for implementing the powers and duties as described by section 187A-2; subject to chapter 195D. The department shall consider using chemicals or electrofishing devices only when it has determined that no other reasonable alternative would be appropriate. The application of chemicals or operation of electrofishing devices shall be in accordance with

established procedures and with the proper training to ensure that the intended results are achieved.

(b) Notwithstanding the provisions of any other law, the department may issue permits, not longer than one year in duration, to any person to ~~[fish or]~~ take aquatic life, possess or use fishing gear, or engage in any feeding, watching, or other such non-consumptive activity related to aquatic resources, otherwise prohibited by law, in any part of the State, for scientific, educational, management, or propagation purposes, ~~[except as prohibited by]~~ subject to chapter 195D and subject to those restrictions the department deems desirable. 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 Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.

(c) The department may adopt rules pursuant to chapter 91 for the purpose of this section.

(d) For the purposes of this section, unless the context clearly indicates otherwise:

“Fishing gear” means any device, including the use of any chemical or electricity that is either designed to take aquatic life or could be used to take aquatic life.”

SECTION 2. Section 188-23, Hawaii Revised Statutes, is amended to read as follows:

**“§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, in, 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 possession or 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, saponins, or plant materials from Barringtonia acutangula, Barringtonia asiatica, Barringtonia racemosa, Barringtonia longiracemosa, Barringtonia speciosa, Careya australis, Cocculus ferrandianus, Cocculus trilobus, Cocos nucifera, Hura crepitans, Hura polyandra, Piscidia acuminata, Piscidia carthagenensis, Piscidia erythrina, Planchonia careya, Tephrosia purpurea, Tephrosia piscatoria, Wikstroemia; and
- (4) Any other substance or material deleterious to aquatic life; except under the terms and conditions of a permit first obtained by the user from the department.

The department may issue permits to allow the possession or use 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.

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The possession or use of these substances without a permit by any person on, in, or near the water where [~~fish~~] aquatic life 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 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 2002.)