

ACT 112

H.B. NO. 3174

A Bill for an Act Relating to Federal Fisheries Regulations.

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

SECTION 1. Chapter 187A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§187A- Consistency of state and federal fisheries regulations. (a)

The department shall adopt administrative rules pursuant to chapter 91 for fisheries located in both state and federal waters, that are equivalent to and consistent with federal fisheries regulations for the same waters, to create uniform, complementary, and comprehensive management measures to improve efficiencies in management and effectiveness of enforcement, under the following conditions:

(1) A federal agency with responsibility for the management of fisheries in federal marine waters around the Hawaiian Islands has:

- (A) Declared that a fishery is in a state of overfishing, is overfished, or is in some other state of unsustainability; and
- (B) Promulgated or amended federal fisheries regulations to correct the decline in the fishery;

and

(2) The fishery occurs in both state and federal marine waters.

(b) The board shall annually establish a fishing season, a total fishing quota, or individual fishing quotas, or adopt rules pursuant to chapter 91 relating to bag, size, and gear limits, consistent with federal fisheries regulations that are adopted or declared by the federal government to prevent overfishing and with similar state rules adopted under subsection (a).

(c) If the federal fisheries agency declares a fishery to be sustainable and amends or repeals its regulations accordingly, the department shall amend or repeal any rules for that fishery adopted under subsection (a).

(d) Nothing contained in this section shall be construed to prohibit any person from exercising native Hawaiian gathering rights or traditional cultural practices authorized by law or permitted by the department pursuant to article XII, section 7, of the Hawaii Constitution.

(e) This section shall not apply to the Papahānaumokuākea Marine National Monument.

(f) As used in this section, unless the context clearly indicates otherwise:

“Declared” or “declares” means a public announcement made by a federal agency with the responsibility for the management of fisheries in federal marine waters around the Hawaiian Islands pursuant to the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265), as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act

of 2006 (P.L. 109-479), that a fishery in state marine waters is in a state of overfishing, overfished, or in some other state of unsustainability.

“Federal fisheries regulations” means regulations relating to the management of marine fisheries adopted by federal agencies such as the National Marine Fisheries Service or the United States Department of Commerce, and codified in the Code of Federal Regulations.

“Federal marine waters” means the Exclusive Economic Zone established by Presidential Proclamation 5030, 3 Code of Federal Regulations 22, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from a baseline starting at the seaward boundary of state territorial seas extending seaward two hundred nautical miles.

“Fishery” or “fisheries” means one or more stocks of marine resources other than marine mammals and birds that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and any fishing for such stocks.

“Overfishing” or “overfished” means a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 2008.)

Note

1. Edited pursuant to HRS §23G-16.5.