

**ACT 49**

H.B. NO. 1020

A Bill for an Act Relating to Adaptive Natural Resource Management.

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

SECTION 1. The legislature finds that the department of land and natural resources is responsible for managing and administering the aquatic and

terrestrial wildlife resources of the State. These natural resources are impacted by a variety of environmental and anthropogenic factors, some of which may change rapidly and frequently. To effectively manage these natural resources, the department needs the flexibility to quickly and efficiently implement temporary adaptive management measures that are based on the best available scientific information.

The legislature further finds that the administrative rule-making process prescribed by chapter 91, Hawaii Revised Statutes, serves the important function of providing opportunity for public review and input. However, it is not designed for implementation of adaptive management measures in response to rapidly changing resource conditions.

The legislature also finds that an alternative process with fewer procedural steps would enable the department of land and natural resources to quickly implement certain temporary adaptive management measures, while also providing opportunity for public review and input.

The purpose of this Act is to:

- (1) Authorize the board of land and natural resources to temporarily adopt, amend, and repeal certain natural resource rules by formal board action at a public noticed meeting if the board finds that such adoption, amendment, or repeal is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions; and
- (2) Require the department of land and natural resources to submit a report, regarding its actions and findings on the temporary adoption, amendment, and repeal of certain natural resource rules through formal action at public meetings, to the legislature no later than twenty days prior to the convening of the regular session of 2023.

SECTION 2. Section 183D-3, Hawaii Revised Statutes, is amended to read as follows:

**“§183D-3 Rules.** (a) Subject to chapter 91, the department shall adopt, amend, and repeal rules:

- (1) Concerning the preservation, protection, regulation, extension, and utilization of, and conditions for entry into wildlife sanctuaries, game management areas, and public hunting areas designated by the department;
- (2) Protecting, conserving, monitoring, propagating, and harvesting wildlife;
- (3) Concerning size limits, bag limits, open and closed seasons, and specifications of hunting gear which may be used or possessed; and
- (4) Setting fees for activities permitted under this chapter, unless otherwise provided for by law.

The rules may vary from county to county or in any part of the county and may specify certain days of the week or certain hours of the day in designating open and closed hunting seasons, except that any fees established by rule shall be the same for each county. All rules shall have the force and effect of law.

(b) Notwithstanding any law to the contrary, the board may adopt, amend, or repeal any rule pertaining to bag limits, size limits, open or closed hunting seasons, or gear restrictions by formal board action at a publicly noticed meeting; provided that:

- (1) The board finds that the timely adoption, amendment, or repeal of the rule is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions;
- (2) Notice of the rulemaking shall:

- (A) Be given at least once statewide at least thirty days in advance of the public meeting;
  - (B) Include a statement of the topic of the proposed rule to be adopted, amended, or repealed or a general description of the subjects involved;
  - (C) Include a statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy and pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;
  - (D) Include a statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed;
  - (E) Include the date, time, and place where the public meeting will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal; and
  - (F) Be mailed to all persons who have made a timely written request of the board for advance notice of its rule-making proceedings; and
- (3) The adoption, amendment, or repeal of the rule shall be effective for an initial period of no longer than two years, subject to legislative approval and renewal by the board; provided that renewal by the board shall extend for up to one year at a time.

Each rule hereafter adopted, amended, or repealed under this subsection shall become effective ten days after formal action by the board; provided that if a later effective date is specified in the rule, the later date shall be the effective date. The department shall post the final adopted, amended, or repealed rule on its website for the duration of time that the rule is in effect.

Any such rule established by such action of the board pursuant to this subsection shall have the force and effect of law. Any person who violates any rule established by such action of the board shall be subject to administrative penalties as provided by section 183D-12.”

SECTION 3. Section 187A-5, Hawaii Revised Statutes, is amended to read as follows:

**“§187A-5 Rules.** (a) Subject to chapter 91, the department shall adopt, amend, and repeal rules for and concerning the protection and propagation of introduced and transplanted aquatic life, or the conservation and allocation of the natural supply of aquatic life in any area. The rules may include the following:

- (1) Size limits;
- (2) Bag limits;
- (3) Open and closed fishing seasons;
- (4) Specifications and numbers of fishing or taking gear which may be used or possessed; and
- (5) 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]~~ county to county or in any part of a county and may specify certain days of the week or certain hours of the day in designating open and closed fishing seasons. All rules shall have the force and effect of law. ~~[Any]~~ Except as provided by subsection (b), 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 by section 188-70.

(b) Notwithstanding any law to the contrary, the board may adopt, amend, or repeal any rule pertaining to bag limits, size limits, open or closed fishing seasons, or gear restrictions by formal board action at a publicly noticed meeting; provided that:

- (1) The board finds that the timely adoption, amendment, or repeal of the rule is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions;
- (2) Notice of the rulemaking shall:
  - (A) Be given at least once statewide at least thirty days in advance of the public meeting;
  - (B) Include a statement of the topic of the proposed rule to be adopted, amended, or repealed or a general description of the subjects involved;
  - (C) Include a statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy and pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;
  - (D) Include a statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed;
  - (E) Include the date, time, and place where the public meeting will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal; and
  - (F) Be mailed to all persons who have made a timely written request of the board for advance notice of its rule-making proceedings; and
- (3) The adoption, amendment, or repeal of the rule shall be effective for an initial period of no longer than two years, subject to legislative approval and renewal by the board; provided that renewal by the board shall extend for up to one year at a time.

Each rule hereafter adopted, amended, or repealed under this subsection shall become effective ten days after formal action by the board; provided that if a later effective date is specified in the rule, the later date shall be the effective date. The department shall post the final adopted, amended, or repealed rule on its website for the duration of time the rule is in effect.

Any such rule established by such action of the board pursuant to this subsection shall have the force and effect of law. Any person who violates any rule established by such action of the board shall be subject to administrative penalties as provided by section 187A-12.5.”

SECTION 4. The department of land and natural resources shall submit a report, regarding its actions and findings on the temporary adoption, amendment, and repeal of certain natural resource rules through formal action at public meetings over the past two years, to the legislature no later than twenty days prior to the convening of the regular session of 2023.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on October 1, 2021.

(Approved June 8, 2021.)