
A BILL FOR AN ACT

RELATING TO FISHING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that 2008 was designated
2 as the international year of the reef. The health of Hawaii's
3 reefs and the ecosystems associated with them are an integral
4 part of the health of Hawaii's economy. Ornamental reef fish
5 that are critical to the health of Hawaii's reefs are being
6 collected for aquarium use, thereby impacting fish populations
7 and habitats. With limited regulation for effective management
8 in place, the reef habitats around Maui and Oahu are being
9 degraded and fish populations are decreasing. The legislature
10 acknowledges that fish left on the reef benefit the reef, as
11 well as Hawaii's economy.

12 The legislature further finds that there are increasing and
13 competing interests between people who want to view marine
14 ornamental or aquarium species in the wild and people who want
15 to collect or make a living from the sale of these ornamental
16 marine species. There is a need for comprehensive and



1 sustainable strategies to manage the taking of ornamental marine
2 species, as well as for species conservation in the wild.

3 The legislature further finds that the aquarium fishery is
4 the most highly valued commercial fishery in state waters, with
5 nearly two hundred commercial fishers presently holding valid
6 aquarium permits for this fishery. Similarly, snorkeling and
7 scuba diving, particularly among Hawaii's visitors, are
8 important activities that contribute significantly to Hawaii's
9 economy and that depend upon healthy marine environments. For
10 instance, a 2003 study of Kihei reefs in South Maui by the
11 Hawaii Coral Reef Initiative concluded that those reefs alone
12 contributed a net of \$28,000,000 per year to the State's
13 economy, with twenty-nine per cent coming from the snorkeling
14 and diving industry. A healthy and vibrant fishery supports
15 Hawaii's economic well-being.

16 The legislature further finds that the aquarium fishery in
17 West Hawaii has been managed by previous legislative mandate
18 through Act 306, Session Laws of Hawaii 1998. Act 306
19 established the West Hawaii regional fisheries management area,
20 extending from Upolu Point to South Point, and created a network
21 of fish replenishment areas, comprising thirty-five per cent of



1 this coastline. The collecting of marine ornamental species is
2 prohibited within fish replenishment areas.

3 The results of the management in West Hawaii are clear.
4 Compared to the period before the fish replenishment areas were
5 in effect, 1999 to 2000, recent data indicates that the overall
6 number of yellow tangs along the West Hawaii coast has increased
7 by thirty-five per cent and the number of yellow tangs within
8 the fish replenishment areas has increased by ninety-five per
9 cent. These increases have occurred in conjunction with an
10 expansion of the aquarium fishery. Fishery reports note the
11 total number of yellow tangs collected has increased by
12 eighty-one per cent; the value of the yellow tang catch has
13 increased by one hundred sixty-four per cent and the price paid
14 to the fisherman for each yellow tang has increased by forty-six
15 per cent. These results have proven positive for the reef
16 ecosystem and beneficial to snorkeling, diving, and other
17 non-extractive activities that rely upon abundant marine life,
18 while at the same time sustaining a viable commercial marine
19 ornamental fishery.

20 The purpose of this Act is to establish a similar, but
21 regionally appropriate, fishery management strategy for the
22 islands of Maui and Oahu.



1 SECTION 2. Chapter 188F, Hawaii Revised Statutes, is
2 amended by amending its title to read as follows:

3 "~~WEST~~ HAWAII REGIONAL FISHERY MANAGEMENT ~~AREA~~ AREAS"

4 SECTION 3. Chapter 188F, Hawaii Revised Statutes, is
5 amended by designating sections 188F-1 through 188F-5 as part I,
6 entitled:

7 "PART I. WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA"

8 SECTION 4. Section 188F-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§~~188F-4~~§~~ West Hawaii regional fishery management
11 area plan. The department shall develop a West Hawaii regional
12 fishery management area plan that identifies and designates
13 appropriate areas of the management area as follows:

14 (1) Designates a minimum of thirty per cent of coastal
15 waters in the West Hawaii regional fishery management
16 area as fish replenishment areas in which aquarium
17 fish collection is prohibited;

18 (2) Establishes a day-use mooring buoy system along the
19 coastline of the West Hawaii regional fishery
20 management area and designates some high-use areas
21 where no anchoring is allowed;



- 1 (3) Establishes a portion of the fish replenishment areas
2 as fish reserves where no fishing of reef-dwelling
3 fish is allowed; [and]
- 4 (4) Designates areas where the use of gill nets as set
5 nets shall be prohibited[-];
- 6 (5) Conducts a continuing stock assessment for yellow
7 tangs in West Hawaii waters every two years beginning
8 in 2010, based upon the best available data, and seeks
9 to extend the stock assessment to a statewide scope if
10 sufficient data is available;
- 11 (6) Begins implementation of a limited entry program for
12 aquarium fishing in West Hawaii before June 1, 2009,
13 and establishes criteria for documenting and
14 certifying participation in the fishery; and
- 15 (7) Develops appropriate criteria for classifying species
16 as being of sufficient concern for a harvest
17 prohibition. A listing of the species of special
18 concern for West Hawaii shall be completed before
19 January 1, 2009."

20 SECTION 5. Chapter 188F, Hawaii Revised Statutes, is
21 amended by adding a new section to part I to be appropriately
22 designated and to read as follows:



1 "§188F-A West Hawaii regional fishery management area;
2 exemptions. The West Hawaii regional fishery management area
3 shall be exempt from any aquarium management provisions for
4 other regional fishery management areas unless the provisions
5 specifically apply to the entire State."

6 SECTION 6. Chapter 188F, Hawaii Revised Statutes, is
7 amended by adding four new parts to be appropriately designated
8 and to read as follows:

9 "PART . OAHU REGIONAL FISHERY MANAGEMENT AREA

10 **§188F-B Definitions.** As used in this part, unless the
11 context requires otherwise:

12 "Management area" means the Oahu regional fishery
13 management area established in section 188F-C.

14 "Plan" means the Oahu regional fishery management area plan
15 established in section 188F-E.

16 **§188F-C Oahu regional fishery management area;**
17 **establishment.** The department shall establish the Oahu regional
18 fishery management areas to improve the management of
19 consumptive and nonconsumptive uses of aquatic resources
20 encompassing the State's marine waters surrounding the island of
21 Oahu.



1 **§188F-D Oahu regional fishery management area; purpose.**

2 The purpose of the Oahu regional fishery management area shall
3 be to:

- 4 (1) Ensure the sustainability of the State's nearshore
5 ocean resources;
- 6 (2) Provide management plans utilizing the full range of
7 management measures based upon the best available
8 scientific information, as well as implementing rules
9 for minimizing user conflicts and resource depletion
10 in the commercial aquarium fishery on the island of
11 Oahu;
- 12 (3) Identify areas and resources of statewide significance
13 for protection;
- 14 (4) Carry out scientific research and monitoring of the
15 nearshore resources and environment; and
- 16 (5) Provide for substantive involvement of community
17 stakeholders and representatives of the city and
18 county of Honolulu and the community in resource
19 management decisions for this area through facilitated
20 dialogues with community residents and resource users.

21 **§188F-E Oahu regional fishery management area plan.** The
22 department shall:



- 1 (1) Establish a network of fish replenishment areas on
2 Oahu that comprise at least thirty per cent of the
3 coastline, but no more than thirty-five per cent,
4 before January 1, 2010. Aquarium fish collecting
5 shall be prohibited within the fish replenishment
6 areas;
- 7 (2) Designate the specific areas for aquarium closure
8 within fish replenishment areas and other restrictions
9 after consultation and substantive dialogue with
10 community stakeholders and resource users;
- 11 (3) Develop appropriate criteria for classifying species
12 as being of sufficient concern for a harvest
13 prohibition; provided that the listing of these
14 species of special concern for Oahu shall be completed
15 before January 1, 2010;
- 16 (4) Implement a limited entry program for aquarium fishing
17 on Oahu before June 1, 2010; and
- 18 (5) Establish criteria for documenting and certifying
19 participation in the fishery.

20 **§188F-F Review.** A review of the effectiveness of the Oahu
21 regional fishery management area plan shall be conducted every
22 five years by the department in cooperation with the University



1 of Hawaii. Based upon its review, the department shall submit a
2 report of its findings and recommendations to the legislature no
3 later than twenty days prior to the convening of each regular
4 session following the review.

5 **PART . MAUI REGIONAL FISHERY MANAGEMENT AREA**

6 **§188F-G Definitions.** As used in this part, unless the
7 context requires otherwise:

8 "Management area" means the Maui regional fishery
9 management area established in section 188F-H.

10 "Plan" means the Maui regional fishery management area plan
11 established in section 188F-J.

12 **§188F-H Maui regional fishery management area;**
13 **establishment.** The department shall establish the Maui regional
14 fishery management area to improve the management of consumptive
15 and nonconsumptive uses of aquatic resources encompassing the
16 State's marine areas surrounding the island of Maui.

17 **§188F-I Maui regional fishery management area; purpose.**

18 The purpose of the Maui regional fishery management area shall
19 be to:

20 (1) Ensure the sustainability of the State's nearshore
21 ocean resources;



1 (2) Provide management plans utilizing the full range of
2 management measures based upon the best available
3 scientific information, as well as implementing rules
4 for minimizing user conflicts and resource depletion
5 in the commercial aquarium fishery on the island of
6 Maui;

7 (3) Identify areas and resources of statewide significance
8 for protection;

9 (4) Carry out scientific research and monitoring of the
10 nearshore resources and environment; and

11 (5) Provide for substantive involvement of community
12 stakeholders and representatives of the county of Maui
13 and the community in resource management decisions for
14 this area through facilitated dialogues with community
15 residents and resource users.

16 **§188F-J Maui regional fishery management area plan.** The
17 department shall:

18 (1) Establish a network of fish replenishment areas on
19 Maui that comprise at least thirty per cent of the
20 coastline, but no more than thirty-five per cent,
21 before January 1, 2010. Aquarium fish collecting



1 shall be prohibited within the fish replenishment
2 areas;

3 (2) Designate the specific areas for aquarium closure
4 within fish replenishment areas and other restrictions
5 after consultation and substantive dialogue with
6 community stakeholders and resource users;

7 (3) Develop appropriate criteria for classifying species
8 as being of sufficient concern for a harvest
9 prohibition; provided that the listing of these
10 species of special concern for Maui shall be completed
11 before January 1, 2010;

12 (4) Implement a limited entry program for aquarium fishing
13 on Maui before June 1, 2010; and

14 (5) Establish criteria for documenting and certifying
15 participation in the fishery.

16 **§188F-K Review.** A review of the effectiveness of the Maui
17 regional fishery management area plan shall be conducted every
18 five years by the department in cooperation with the University
19 of Hawaii. The department shall submit a report of its findings
20 and recommendations based on the review to the legislature no
21 later than twenty days prior to the convening of each regular
22 session following the review.



1 **PART . OTHER REGIONAL FISHERY MANAGEMENT AREAS**

2 **§188F-L Other regional fishery management areas.** The
3 department, by rule, may establish other regional fishery
4 management areas and limited entry programs on additional
5 islands within the State if the department deems it warranted by
6 future circumstances.

7 **PART . OTHER AQUARIUM MANAGEMENT PROVISIONS**

8 **§188F-M Other aquarium management provisions.** The
9 department of land and natural resources shall:

- 10 (1) Evaluate and, if necessary, revise the statewide
11 aquarium catch report required by section 189-3 to
12 provide more accurate information on daily catch and
13 the effort with enhanced geographic resolution;
- 14 (2) Seek to verify all aquarium catch reports with
15 wholesaler purchase reports. The department shall
16 have the authority to examine the books, records, and
17 holding facilities of all aquarium wholesalers to
18 provide an accurate estimate of the catch in the
19 Hawaii aquarium fishery;
- 20 (3) Institute a series of sequentially escalating
21 penalties, which may include suspension or revocation
22 of aquarium or wholesale dealer permits by civil



1 proceedings, for individuals found to be in violation
2 of monthly reporting requirements; and
3 (4) Reexamine the language of its commercial marine
4 license to ensure that it contains a clear right to
5 inspection of catch and suitable consequences for
6 failing to submit monthly catch reports so that the
7 department can more effectively and responsibly manage
8 the fishery.

9 **§188F-N Rules.** The department shall adopt rules to
10 effectuate the purpose of this chapter in accordance with
11 chapter 91."

12 SECTION 7. Section 188F-6, Hawaii Revised Statutes, is
13 repealed.

14 [~~"[§188F-6] Rules. The department shall adopt rules to~~
15 ~~effectuate the purposes of this chapter in accordance with~~
16 ~~chapter 91."~~]

17 SECTION 8. Chapter 188F, Hawaii Revised Statutes, is
18 amended by adding four new sections to be appropriately
19 designated and to read as follows:

20 "§188F-O Rights of inspection. (a) Notwithstanding
21 section 187A-15, any agent of the department of land and natural
22 resources who has been conferred powers of police officers by



1 the board of land and natural resources and any other duly
2 authorized law enforcement officer of the State shall have the
3 authority to the conduct examinations and inspections of:

4 (1) The contents of any bag or container of any kind that
5 the officer reasonably believes may be used to carry
6 aquatic life for which a commercial marine license or
7 aquarium permit is required under title 12, subtitle
8 5, Hawaii Administrative Rules or any other state or
9 federal statute; and

10 (2) Any area of a conveyance that the officer reasonably
11 believes may be used to transport aquatic life for
12 which a commercial marine license or aquarium permit
13 is required under the rules in paragraph (1) or any
14 other state or federal statute or rule; for compliance
15 with the terms or conditions of the commercial marine
16 license or aquarium permit issued under the rules in
17 paragraph (1) or any statute or rule. Written consent
18 to inspection shall be a condition of the commercial
19 marine license or aquarium permit issued under rules
20 in paragraph (1) by the department. No person shall
21 refuse any enforcement officer of the department or
22 any other enforcement officer of the State an



1 examination and inspection for purposes of determining
2 compliance with the terms of any commercial marine
3 license or aquarium permit relating to aquatic life.
4 Refusal to grant an examination or inspection shall
5 result in immediate revocation of the commercial
6 marine license or aquarium permit.

7 (b) Every individual to whom a commercial marine license
8 or aquarium permit has been issued shall physically possess the
9 license or permit at all times when engaged in commercial
10 fishing activities and shall not permit any other person to
11 carry, display, or use the license or permit in any manner.

12 (c) Any authorized officer may demand that an individual
13 who the officer reasonably believes is engaged in taking aquatic
14 life that requires a commercial marine license or aquarium
15 permit show the license or permit.

16 (d) The applicant shall be informed that the applicant may
17 refuse or withdraw consent to submit to inspection for
18 compliance, but that the applicant's commercial marine license
19 or aquarium permit will be immediately suspended and may be
20 subsequently revoked by the department.

21 (e) Notwithstanding section 187A-13, it shall be grounds
22 for the department to immediately suspend and begin proceedings



1 to revoke any license or permit that a person may have
2 authorizing the taking of aquatic resources if the person:

- 3 (1) Refuses to show a required commercial marine license
4 or aquarium permit; or
- 5 (2) Refuses to give or withdraws consent to an inspection
6 of a bag or other closed container that the officer
7 reasonably believes could be used to take or transport
8 aquatic resources for which a license or permit is
9 required.

10 (f) Before a commercial marine license or aquarium permit
11 may be issued, an applicant shall agree to comply with all terms
12 and conditions of the applicable license or permit and all
13 applicable laws and rules, including consenting to inspection
14 pursuant to this section, for determination of compliance with
15 the terms and conditions of the license or permit by a duly
16 authorized representative of the department.

17 (g) The department shall create a valid administrative
18 commercial aquarium inspection scheme to enforce its aquatic
19 rules.

20 §188F-P South Maui fish replenishment area; interim. (a)
21 The department shall establish an interim fish replenishment



1 area, to take effect immediately, for south Maui comprising the
2 coastline from Kahekili Park to Ahihi Kinau.

3 (b) The department shall develop appropriate criteria for
4 classifying species as being of sufficient concern for a harvest
5 prohibition, including that the fish are rare, at risk, or do
6 not survive well during transport and captivity. The harvest
7 prohibition shall include bandit angelfish, flame angelfish,
8 masked angelfish, Hawaiian longfin anthias, Tinker's
9 butterflyfish, bluestripe butterfly fish, multiband
10 butterflyfish, fourspot butterflyfish, ornate butterflyfish,
11 oval butterflyfish, dragon moray, longnose hawkfish, flame
12 wrasse, Hawaiian cleaner wrasse, psychedelic wrasse, shortnose
13 wrasse, Hawaiian lionfish, Achilles tang, Moorish idol, elegant
14 anthias, Hawaiian yellow anthias, pufferfish, Elizabeth's
15 anthias, sunrise basslet, sunrise wrasse, orangemargin
16 butterflyfish, and brownbarred butterflyfish.

17 **§188F-Q Permits; generally.** Any permit issued pursuant to
18 this chapter shall only be valid for the regional fishery
19 management area for which the permit was issued.

20 **§188F-R Penalty.** (a) Any person violating a fishing
21 limitation or restriction under this chapter, including any rule
22 adopted pursuant thereto, shall be fined:



- 1 (1) \$50 per fish for a first offense;
2 (2) \$100 per fish for a second offense; and
3 (3) \$200 per fish for a third offense.
4 (b) Any person who commits a fourth offense shall have the
5 person's permit revoked."

6 SECTION 9. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun, before its effective date.

9 SECTION 10. In codifying the new sections added by
10 sections 5, 6, and 8 of this Act, the revisor of statutes shall
11 substitute appropriate section numbers for the letters used in
12 designating the new sections in this Act.

13 SECTION 11. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 12. This Act shall take effect on July 1, 2050.



Report Title:

Fish Replenishment Areas; Ornamental Fish

Description:

Requires the department of land and natural resources to establish a network of fish replenishment areas on Maui and Oahu with the option of establishing them on additional islands as warranted in the future. (SB3225 SD2)

