

JAN 21 2009

A BILL FOR AN ACT

RELATING TO OPIHI.

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

1 SECTION 1. In the past century, there was a ten-fold
2 decline in the amount of opihi available in markets, and the
3 average amount of opihi has further been halved in the past
4 forty years. The people of Hawaii, opihi harvesters, university
5 scientists, and marine resource managers agree that the
6 popularity of opihi as a delicacy has led to overharvesting
7 statewide and the decline of natural populations. Notably, the
8 island of Oahu has been hit especially hard, where *Cellana*
9 *exarata* and *Cellana sandwicensis* are rare, and *Cellana talcosa*
10 is functionally absent.

11 Opihi comprise four species of saltwater Hawaiian limpets
12 and are found nowhere else on earth. The blackfoot opihi
13 (*Cellana exarata*), also known as "opihimakaiauli", is found on
14 the upper portion of wave-washed intertidal shores from Puhahonu
15 (Gardner Pinnacles) to the island of Hawaii. The yellowfoot
16 opihi (*Cellana sandwicensis*), also known as "opihialinalina",
17 is found on the middle-low portion of wave-washed intertidal



S.B. NO. 1

1 shores from Mokuapapa (French Frigate Shoals) to the island of
2 Hawaii. Opihi koele, also known as the "kneecap" opihi (*Cellana*
3 *talcosa*), is found from the shallow subtidal to the middle
4 intertidal zone on shores from Niihau and Kauai to Hawaii. The
5 greenfoot opihi (*Cellana melanostoma*) is commonly observed
6 throughout the intertidal zone from Puhahonu to Nihoa, and is
7 less commonly observed in the main Hawaiian Islands.

8 Although opihi can be collected year-round, opihi shells
9 must be at least one and one-fourth inches in the longest
10 dimension, or the meat must be at least a half-inch in length,
11 to be legally harvested in Hawaii.

12 The key to increasing the sustainable harvest of opihi
13 populations is protecting a portion of the populations so that
14 they may reproduce and create the next generation. Fisheries
15 replenishment/management areas are a promising management tool
16 to protect breeding populations, while allowing harvest in
17 unprotected areas. The life history characteristics of opihi
18 are perfectly suited to this management strategy because the
19 adults will stay within the protected areas, and the opihi
20 larvae can disperse within an island and replenish both
21 harvested and protected areas.



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1 The purpose of this Act is to rehabilitate the natural
2 populations of all Hawaiian opihi species and establish a new
3 direction for the management of the fishery. This Act is
4 intended to increase both long-term standing-stock opihi
5 abundance, as well as the amount of opihi available for use by
6 the people of Hawaii.

7 SECTION 2. Chapter 188, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§188- Opihi harvesting and possession, restricted. (a)
11 Except as provided in this section, it shall be unlawful for any
12 person at any time to take, harvest, or possess opihi from any
13 coastal area or nearshore waters of off-shore islets in the
14 State, including, but not limited to those islands listed in the
15 Atlas of Hawaii, Third Edition (1998), man-made jetties and
16 breakwaters, as well as fishery management areas (FMA),
17 fisheries replenishment areas (FRA), natural area reserves
18 (NAR), refuges, and marine life conservation districts (MLCD)
19 established by the department of land and natural resources,
20 division of aquatic resources.

21 (b) It shall be unlawful for any person at any time of the
22 year to take, harvest, or possess opihi from below the waterline



1 of any coastal area or nearshore waters of the islands of the
2 State.

3 (c) It shall be unlawful for a person to be in possession
4 of at least one item from each of the following paragraphs, at
5 the same time:

6 (1) Equipment or any apparatus that would allow a person
7 to see and remain underwater, such as a swimming mask,
8 snorkel, or self-contained underwater breathing
9 apparatus;

10 (2) An instrument that is commonly used as a tool to
11 harvest or take opihi such as an opihi knife; and

12 (3) Live opihi.

13 (d) It shall be unlawful for any person to take or harvest
14 opihi from above the waterline of the coastal areas or nearshore
15 waters of the State or be in possession of opihi within the
16 State during the closed season from April 1st through September
17 30th, provided that opihi taken or harvested from above the
18 waterline during the open season from October 1st to March 31st
19 may be possessed for sale or consumption during the closed
20 season.

21 (e) The division of aquatic resources of the department of
22 land and natural resources shall monitor the population size and



1 demography of each species of opihi to determine the
 2 effectiveness of this section and shall submit an annual report
 3 to the legislature not later than twenty days prior to each
 4 regular session.

5 (f) As used in this section, "opihi" means all known
 6 Hawaiian opihi species, including Cellana exarata (blackfoot),
 7 Cellana sandwicencis (yellowfoot), Cellana talcosa (koele), and
 8 Cellana melanostoma (greenfoot).

9 (g) The Kahoolawe island reserve commission shall govern
 10 the taking, harvesting, or possessing of opihi in the Kahoolawe
 11 island reserve, including the islands of Puukoa and Aleale.

12 (h) This section shall not affect any right, customarily
 13 and traditionally exercised for subsistence, cultural, and
 14 religious purposes and possessed by ahupuaa tenants who are
 15 descendants of native Hawaiians who inhabited the Hawaiian
 16 Islands prior to 1778, subject to the right of the State to
 17 regulate such rights; provided that this section shall not apply
 18 to the taking of opihi from below the waterline at anytime."

19 SECTION 3. Chapter 188, Hawaii Revised Statutes, is
 20 amended by adding a new section to be appropriately designated
 21 and to read as follows:



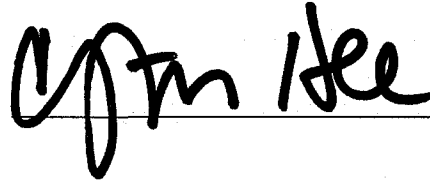
1 "§188- Opihi harvesting or taking; Oahu; prohibited.
2 Except as provided in section 188- (h), and notwithstanding any
3 other provision to the contrary, it shall be unlawful for any
4 person at any time to take or harvest opihi from the coastal
5 areas or nearshore waters of the island of Oahu."

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval;
8 provided that section 3 shall be repealed on June 30, 2014.

9

INTRODUCED BY:





Report Title:

Conservation and Resources; Resource Management; Opihi

Description:

Establishes a five year moratorium on the harvesting of opihi on Oahu. Establishes a ban on taking or harvesting opihi statewide, subject to open and closed seasons and the traditional rights of certain ahupuaa tenants.

