

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO AQUARIUM AQUATIC LIFE.

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

1           SECTION 1. The legislature finds that the aquarium aquatic  
2 life collecting industry has operated for over fifty years  
3 without limits or constraints on its catch or the number of  
4 collectors in the State.

5           The aquarium industry focuses on juvenile reef fish and  
6 small invertebrates and exports eighty-two per cent of their  
7 catch to the mainland United States. However, with expanding  
8 Asian markets, collectors are targeting more remote and deeper  
9 reefs as evidenced by the species sold on many internet  
10 websites. Endemic species such as the bandit angelfish and the  
11 masked angelfish sell for hundreds or even thousands of  
12 dollars each, with no regulation or limit.

13           Home aquaria in China reflect the new prosperity there,  
14 with large aquariums covering multiple walls that display adult  
15 eels and other large animals from Hawaii's reefs. Aquarium  
16 collecting is having major impacts on Oahu and Hawaii reefs and  
17 moderate impacts on Maui reefs where over-harvesting is  
18 occurring reducing the marine tourism experience. Many coral



1 reef fish and invertebrates have complicated relationships to  
2 the overall ecology of the reef. Their removal may affect the  
3 long-term stability of these ecosystems. Significant population  
4 declines and major shifts in species diversity are now evident  
5 in coral reef areas where collection is occurring. The aquarium  
6 catch is mostly herbivore. Their removal could result in  
7 increased algal growth, due to a lack of grazers to keep the  
8 algae in check, with a corresponding decrease in coral cover.

9 No constraint on collecting allows the industry to meet the  
10 growing demand for color, shape, and rarity. The Hawaiian  
11 cleaner wrasse is one of the most popular fish species  
12 collected and is known for its radiant color and lively  
13 movement. These fish pick parasites from many other fish, are  
14 found nowhere else in the world, and are collected and shipped  
15 without limitation daily. The Hawaiian cleaner wrasse will not  
16 eat fish food in captivity and eventually dies of starvation.  
17 Likewise, coral-eating butterfly fishes, prized by aquarists for  
18 their beauty, starve in a short period of time.

19 The purpose of this Act is to enhance and improve the  
20 regulation of aquarium aquatic life collecting to protect and  
21 preserve Hawaii's aquatic life and marine environment.



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

4 "§188- Aquarium aquatic life; collection. (a) As used  
5 in this section, unless the context requires otherwise:

6 "Aquarium collecting gear" means any equipment used to  
7 collect aquarium fish or animals including, but not limited to,  
8 hand nets, fence or barrier nets, fiberglass or metal "tickle  
9 sticks", catch buckets, keeps, or baskets.

10 "Aquarium purpose" means to hold saltwater fish,  
11 freshwater non-game fish, or other aquatic life alive in a  
12 state of captivity as pets, for scientific study, or for public  
13 exhibition or display, or for sale for these purposes.

14 "Collect" means to take, catch, harvest, confine, or to  
15 attempt to take, catch, harvest, or confine aquatic life. The  
16 use of any aquarium collecting gear to take, catch, capture,  
17 harvest, or confine, or to attempt to take, catch, capture,  
18 harvest, or confine aquatic life by any person who is on or  
19 about the shores of Hawaii or in a vessel in Hawaiian waters  
20 shall be construed as collecting under this section.

21 "Department" means the department of land and natural  
22 resources.



1       "Endemic" or "endemic species" means any aquatic life  
2 specimen found nowhere else other than Hawaii.

3       (b) The department shall develop and maintain an aquarium  
4 collecting white list of aquatic species for each county. No  
5 aquatic species shall be collected or sold for aquarium  
6 purposes in the State unless the species appears on the aquarium  
7 collecting white list of the county where the species is  
8 collected or sold.

9       (c) The aquarium collecting white list shall only include  
10 species that are shown by an official, published department  
11 or equivalent federal agency study that meets the following  
12 criteria:

- 13       (1) The species can survive capture, transport, and  
14 captivity for at least one hundred eighty days; and  
15       (2) Based on historical evidence, the specie is part of a  
16 stable or increasing population trend in the area the  
17 species is being collected.

18       (d) In addition to the requirements of subsection (c), the  
19 following criteria shall apply:

- 20       (1) The collection of the species in a county shall not  
21 exceed the average annual collection in that county



1           for the calendar years 2005 through 2007, based on  
2           department collection reports for those years;  
3        (2) The removal of the specie does not negatively impact  
4           the reef ecosystem by contributing to algae overgrowth  
5           for herbivores, parasite overload on other reef fishes  
6           for cleaner wrasses and cleaner shrimps, or other  
7           harmful results; and  
8        (3) The specie is not endemic to Hawaii.  
9        (e) Native Hawaiian (kanaka maoli) traditional and  
10       customary rights with regard to marine resources for  
11       subsistence, cultural, or religious purposes may be recognized  
12       pursuant to rules adopted by the department.  
13       (f) The department shall inform all permit holders under  
14       section 188-31 (both commercial and recreational), of the  
15       species included in the aquarium collecting white list and the  
16       penalties for failure to comply with the restrictions  
17       regarding the collection of aquatic life.  
18       (g) Any person who collects or possesses aquatic life for  
19       aquarium purposes not on the aquarium collecting white list  
20       shall be fined \$ 1,000 for each specimen collected or possessed.



1        (h) In addition to any other penalty or fine provided by  
2 law, any person violating this section shall be sentenced as  
3 follows:

4        (1) For a first violation, a fine of not more than \$1,000  
5 or thirty days imprisonment, or both;

6        (2) For a second violation within five years of a  
7 previous violation, a fine of not more than \$2,000 or  
8 sixty days imprisonment, or both; and

9        (3) For a third or subsequent violation within five years  
10 of a previous violation, a fine of not more than  
11 \$3,000 or ninety days imprisonment, or both."

12        SECTION 3. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun, before its effective date.

15        SECTION 4. New statutory material is underscored.

16        SECTION 5. This Act shall take effect on June 1, 2009.

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INTRODUCED BY: Clarence W. Dushik

Rosalyn H. Baker  
J. Alan Egger

[Signature]  
[Signature]  
Mike Hubbard  
[Signature]

**Report Title:**

Aquarium Aquatic Life; DLNR

**Description:**

Enhances the regulation of aquarium aquatic life collection in the State.

