

JAN 21 2011

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# A BILL FOR AN ACT

RELATING TO AQUARIUM FISH.

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

1           SECTION 1. 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 fish; taking or harvesting prohibited.

5           (a) Except as provided in subsection (b), it shall be unlawful  
6 for any person at any time to take or harvest aquarium fish from  
7 the coastal areas, nearshore waters, or freshwater areas of the  
8 islands of the State, for the purpose of selling the aquarium  
9 fish.

10           (b) This section shall not affect any right to take or  
11 harvest aquarium fish that is customarily and traditionally  
12 exercised for subsistence, cultural, and religious purposes,  
13 subject to the right of the State to regulate such rights, or  
14 for scientific or educational research purposes.

15           (c) For the purposes of this section:

16           "Aquarium fish" means salt water fish, freshwater nongame  
17 fish, or other aquatic life for aquarium purposes.



1       "Aquarium purposes" means to hold salt water fish,  
2 freshwater nongame fish, or other aquatic life alive in a state  
3 of captivity as pets, for scientific study, or for public  
4 exhibition or display, or for sale for these purposes.

5       "Take" means to fish for, catch, capture, confine, or  
6 harvest, or to attempt to fish for, catch, capture, confine, or  
7 harvest aquatic life.

8       (d) The division of aquatic resources of the department of  
9 land and natural resources shall submit an annual report on the  
10 effectiveness and enforcement of this section to the legislature  
11 not later than twenty days prior to each regular session."

12       SECTION 2. Section 188-22.9, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14       "(b) In addition to the provisions of this chapter, the  
15 following uses or activities shall be regulated in the Ha'ena  
16 community-based subsistence fishing area:

17       (1) Any activities with a commercial purpose, as defined  
18           in section 187A-1;

19       (2) The issuance of any commercial marine license, as  
20           defined in section 187A-1;

21       ~~[(3) The issuance of any aquarium fish permits, pursuant to~~  
22       ~~section 188-31;~~



- 1       ~~(4)~~ (3) Fishing with the use of gill nets;
- 2       ~~(5)~~ (4) Fishing with self-contained underwater breathing
- 3               apparatus and spears; and
- 4       ~~(6)~~ (5) Any other use or activity that the department of
- 5               land and natural resources, in consultation with the
- 6               inhabitants of the ahupua'a of Ha'ena and other
- 7               interested parties, deems appropriate."

8               SECTION 3. Section 188F-4, Hawaii Revised Statutes, is

9       amended to read as follows:

10              "~~(H)~~§188F-4~~(H)~~   **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 SECTION 4. Section 189-11, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§189-11 Receipts in duplicate. Every commercial marine  
9 dealer shall issue receipts to the person from whom marine life  
10 is obtained and shall provide the following information in the  
11 receipt:

12 (1) The date of the issuance;  
13 (2) The name of the person to whom the receipt is issued;  
14 (3) The following information with respect to each of the  
15 varieties of marine life as the department shall  
16 require including:

17 (A) The weight in pounds of each of the varieties  
18 received;

19 (B) The numbers of marine life when they average a  
20 pound or more; and

21 (C) The price per pound paid; and



1           ~~[(D) With regard to aquarium fish, regardless of~~  
2                           ~~weight, the number and species of the fishes,~~  
3                           ~~and]~~

4           (4) The signature of the dealer who issues the receipt.  
5 Any dealer taking the dealer's own marine life or handling any  
6 marine life taken by commercial marine licensees working for or  
7 with the dealer, shall make out the same receipt, giving market  
8 price for the marine life as prevails on the date of receipt. A  
9 duplicate copy of this receipt shall be kept on file at the  
10 premise where the marine life was sold by the dealer issuing the  
11 same for a period of twelve months from the date of issuance,  
12 and the duplicate copy shall be available for inspection upon  
13 the demand of any conservation officer authorized to enforce the  
14 laws of the State."

15           SECTION 5. Sections 188-31 and 188-31.5, Hawaii Revised  
16 Statutes, are repealed.

17           ~~["§188-31 Permits to take aquatic life for aquarium~~  
18 ~~purposes. (a) Except as prohibited by law, the department,~~  
19 ~~upon receipt of a written application, may issue an aquarium~~  
20 ~~fish permit, not longer than one year in duration, to use fine~~  
21 ~~meshed traps, or fine meshed nets other than throw nets, for the~~



1 ~~taking of marine or freshwater nongame fish and other aquatic~~  
2 ~~life for aquarium purposes.~~

3 ~~(b) Except as prohibited by law, the permits shall be~~  
4 ~~issued only to persons who can satisfy the department that they~~  
5 ~~possess facilities to and can maintain fish and other aquatic~~  
6 ~~life alive and in reasonable health.~~

7 ~~(c) It shall be illegal to sell or offer for sale any fish~~  
8 ~~and other aquatic life taken under an aquarium fish permit~~  
9 ~~unless those fish and other aquatic life are sold alive for~~  
10 ~~aquarium purposes.~~

11 ~~The department may adopt rules pursuant to chapter 91 for~~  
12 ~~the purpose of this section.~~

13 ~~(d) For the purposes of this section:~~

14 ~~(1) "Aquarium purposes" means to hold salt water fish,~~  
15 ~~freshwater nongame fish, or other aquatic life alive~~  
16 ~~in a state of captivity as pets, for scientific study,~~  
17 ~~or for public exhibition or display, or for sale for~~  
18 ~~these purposes; and~~

19 ~~(2) "Aquarium fish permit" means a permit issued by the~~  
20 ~~board for the use of fine mesh nets and traps to take~~  
21 ~~salt water fish, freshwater nongame fish, or other~~  
22 ~~aquatic life for aquarium purposes.~~



1       ~~[\$188-31.5] Aquarium fish for export; monthly count.~~ The  
2 department of land and natural resources shall adopt rules in  
3 accordance with chapter 91 to monitor the aquarium fish catch  
4 report and fish dealer's report for export of aquarium fish  
5 taken from the waters of the State for aquarium purposes  
6 pursuant to section 188-31. A monthly count of the quantities  
7 taken of each individual species of aquarium fish exported shall  
8 be reported to the board." ]

9       SECTION 6. Section 188-31, Hawaii Revised Statutes,  
10 notwithstanding, beginning July 1, 2011, through December 31,  
11 2015, the department of land and natural resources division of  
12 aquatic resources shall issue no new aquarium fish permits;  
13 provided that any permit in effect on June 30, 2011, shall  
14 remain in effect through December 31, 2015.

15       SECTION 7. (a) There is established an aquarium fishing  
16 task force consisting of representatives from the department of  
17 land and natural resources division of aquatic resources, the  
18 University of Hawaii sea grant college program, the West Hawaii  
19 Fishery Council, past and current holders of permits to take  
20 aquarium life for aquarium purposes, and others as appropriate.

21       (b) The task force shall be administratively attached to  
22 the department of land and natural resources and shall adopt



1 rules in accordance with chapter 91, Hawaii Revised Statutes,  
2 for the replenishment of aquarium fish populations statewide, at  
3 a replenishment rate equal to at least ninety per cent of the  
4 aquarium fish catch reports for fiscal years 2008-2010, as  
5 monitored by the department of land and natural resources under  
6 section 188-31.5, Hawaii Revised Statutes.

7       Once the replenishment rate meets or exceeds ninety per  
8 cent, the task force may petition the legislature for a repeal  
9 of the aquarium fish taking or harvesting ban established under  
10 this Act.

11       (c) The task force shall submit an initial report on the  
12 fish replenishment efforts to the legislature no later than  
13 twenty days prior to the convening of the regular session of  
14 2013; interim reports in 2014 and 2015; and a final report no  
15 later than twenty days prior to the convening of the regular  
16 session of 2016.

17       SECTION 8. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19       SECTION 9. This Act shall take effect on June 30, 2011;

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# S.B. NO. 151

1 provided that sections 1 through 5 shall take effect on  
2 January 1, 2016.  
3

INTRODUCED BY:

*Jah Man*

*Heather J*



**Report Title:**

Aquarium Fish; Harvesting Prohibited

**Description:**

Prohibits taking or harvesting aquarium fish from the coastal areas, nearshore waters, or freshwater areas of the islands of the State; allows customary and traditional rights, research purposes; requires annual report to the Legislature; establishes task force to develop rules for ninety per cent fish replenishment; establishes five-year ban on new aquarium permits; current permits to remain in effect; permanent ban to take effect January 1, 2016.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

