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## A BILL FOR AN ACT

RELATING TO AQUACULTURE AND MARICULTURE.

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

1           SECTION 1. The legislature finds that open ocean commercial  
2 finfish mariculture is a specialized branch of aquaculture. Open  
3 ocean commercial finfish mariculture in netpens or cages is a  
4 type of mariculture that has expanded in Hawaii since 1999, when  
5 amendments to chapter 190D, Hawaii Revised Statutes, allowed  
6 commercial leasing of publicly owned oceans and submerged ceded  
7 lands.

8           With the recent discovery of a deadly virus transmitted from  
9 farmed fish to wild fish in the Pacific Northwest, it is clear  
10 the State must take care with its wild fisheries. Existing open  
11 ocean finfish netpen or cage mariculture facilities in Hawaii  
12 have been associated with escaped farmed fish, contaminated fish  
13 feed, pollution from fish fecal contamination, experimental  
14 antibiotic use, and interference with other marine wildlife,  
15 including federally-protected marine mammals.

16           Studies have proven that netpen finfish held in densely-  
17 populated captive environments are more susceptible to diseases  
18 and parasites and therefore require periodic treatment with



1 antibiotics. In addition, open ocean netpens and cages require  
2 chemical treatment to address the build-up of algae and other  
3 organic materials on cages. This combination of diseases,  
4 parasites, excessive feed, fish excrement, antibiotics, and  
5 chemicals have polluting effects on wild marine species and  
6 Hawaii's pristine marine environment. Studies have also proven  
7 that wastes from commercial finfish netpen and cage mariculture  
8 operations can carry far from facilities and impact nearshore  
9 areas.

10 The protection and preservation of Hawaii's pristine marine  
11 environment is essential to the perpetuation of traditional and  
12 customary native Hawaiian fishing practices and rights.

13 The legislature also finds that the open ocean commercial  
14 finfish mariculture industry is not yet economically viable and,  
15 as a consequence, has been relying upon taxpayer-funded grants  
16 from government agencies for its existence.

17 The purpose of this Act is to protect pristine marine  
18 environmental resources, native Hawaiian rights, and coastal  
19 communities by prohibiting the leasing of state marine waters  
20 along the north Kohala coast of the island of Hawaii for the  
21 construction, expansion, or transfer of any open ocean  
22 commercial finfish mariculture facility.



1 SECTION 2. Chapter 190D, Hawaii Revised Statutes is  
2 amended by adding a new section to be appropriately designated  
3 and read as follows:

4 "§190D- Open ocean commercial finfish mariculture. (a)  
5 Notwithstanding any law to the contrary, the board shall not  
6 lease state marine waters along the north Kohala coast of the  
7 island of Hawaii for the construction, expansion, or transfer of  
8 any open ocean commercial finfish mariculture facility.

9 (b) Any lease or permit issued prior to the effective date  
10 of this Act for an open ocean commercial finfish mariculture  
11 facility shall remain in effect subject to the terms and  
12 conditions established under the lease or permit and shall not  
13 be transferable to another person or entity; provided that no  
14 lease that expires after the effective date of this Act shall be  
15 renewed.

16 (c) This section shall apply to:

17 (1) The placement, installation, or use of an open ocean  
18 commercial finfish mariculture facility; and

19 (2) The operation of finfish mariculture facilities  
20 involved in the propagation or rearing, or attempted  
21 propagation or rearing, of finfish species for profit.



1        (d) For the purposes of this section, "open ocean  
2 commercial finfish mariculture facility" means a structure,  
3 installation, or other complex used, in whole or in part, for  
4 commercial finfish mariculture activities."

5        SECTION 3. Section 171-1, Hawaii Revised Statutes, is  
6 amended by adding a new definition to be appropriately inserted  
7 and to read as follows:

8        "Mariculture" shall have the same meaning as defined in  
9 section 190D-3."

10       SECTION 4. Section 190D-3, Hawaii Revised Statutes, is  
11 amended by amending the definition of "mariculture" to read as  
12 follows:

13       "Mariculture" means the aquaculture, cultivation, and  
14 production for research, development, demonstration, and  
15 commercial purposes of aquatic plants and animals within state  
16 marine waters, [~~but excludes~~] including floating structures that  
17 are not anchored[-], but excludes Hawaiian fishponds as defined  
18 in section 183B-1."

19       SECTION 5. If any provision of this Act, or the  
20 application thereof to any person or circumstance, is held  
21 invalid, the invalidity does not affect other provisions or  
22 applications of the Act that can be given effect without the




1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 6. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.


5 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 23 2012



# H.B. NO. 2781

**Report Title:**

Commercial Finfish Mariculture; Moratorium

**Description:**

Prohibits the leasing of state marine waters along the north Kohala coast of the island of Hawaii for the construction, expansion, or transfer of any open ocean commercial finfish mariculture facility. Amends the definition of mariculture.

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