

MAR 06 2012

A BILL FOR AN ACT

RELATING TO OPIHI HARVESTING AND POSSESSION RESTRICTIONS.

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

1 SECTION 1. In the past century, the amount of opihi
2 available in markets has declined ten-fold and in the past forty
3 years, the average opihi amount has reduced by half. The
4 public, opihi harvesters, university scientists, and marine
5 resource managers agree that the popularity of opihi as a
6 delicacy has led to statewide overharvesting and the decline of
7 natural populations. The most notable impact is on Oahu where
8 *Cellana exarata* and *Cellana sandwicensis* are rare, and *Cellana*
9 *talcosa* is functionally absent.

10 Opihi comprises four species of saltwater Hawaiian limpets
11 and are found nowhere else on earth. The blackfoot opihi
12 (*Cellana exarata*), also known as "opihī makaiauli," is found on
13 the upper portion of wave washed intertidal shores from Puhahonu
14 (Gardner Pinnacles) to the island of Hawaii. The yellowfoot
15 opihi (*Cellana sandwicensis*), also known as "opihī alinalina,"
16 is found on the middle-low portion of wave washed intertidal
17 shores from Mokuapapapa (French Frigate Shoals) to the island of
18 Hawaii. Opihi koele, also known as the "kneecap" opihi (*Cellana*



1 *talcosa*), is found from the shallow subtidal to the middle
2 intertidal zone on shores from Niihau and Kauai to Hawaii. The
3 greenfoot opihi (*Cellana melanostoma*) is commonly observed
4 through the intertidal zone from Puhahonu to Nihoa, and is less
5 commonly observed in the main Hawaiian Islands.

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

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

20 The purpose of this Act is to rehabilitate the natural
21 populations of all Hawaiian opihi species and establish a new
22 direction for the management of the fishery. This Act is



1 intended to increase both long-term standing-stock opihi
2 abundance, as well as the amount of opihi available for use by
3 the people of Hawaii.

4 SECTION 2. Chapter 188, Hawaii Revised Statutes, is
5 amended by adding two new sections to be appropriately
6 designated and to read as follows:

7 "§188-A Opihi harvesting and possession; restricted. (a)

8 Except as provided in this section, it shall be unlawful for any
9 person at any time to take, harvest, or possess opihi from off-
10 shore islets in the State, including those islands listed in the
11 Atlas of Hawaii, Third Edition (1998), man-made jetties and
12 breakwaters, as well as fishery management areas, fisheries
13 replenishment areas, natural area reserves, refuges, and marine
14 life conservation districts established by the department of
15 land and natural resources, division of aquatic resources.

16 (b) It shall be unlawful for any person at any time of the
17 year to take or harvest opihi from below the waterline, or
18 possess opihi taken from below the waterline, of any coastal
19 area or nearshore waters of the islands of the State.

20 (c) It shall be unlawful for any person to take or harvest
21 opih from above the waterline of the coastal areas or nearshore



1 waters of the State or be in possession of opihi within the
2 State during closed seasons; provided that:

3 (1) Opihi taken or harvested for noncommercial purposes
4 from above the waterline during the open seasons may
5 be possessed for sale or consumption during the closed
6 seasons; and

7 (2) The division of aquatic resources of the department of
8 land and natural resources and the Hawaii institute of
9 marine biology of the University of Hawaii shall
10 jointly determine the dates for open and closed opihi
11 harvesting seasons.

12 (d) The division of aquatic resources of the department of
13 land and natural resources shall submit an annual report on the
14 effectiveness and enforcement of this section to the legislature
15 no later than twenty days prior to each regular session,
16 commencing with the regular session of 2014 and continuing
17 through the regular session of 2017.

18 (e) The Kaho'olawe island reserve commission shall govern
19 the taking, harvesting, or possessing of opihi in the Kaho'olawe
20 island reserve, including the islands of Puukoe and Aleale.

21 (f) This section shall not apply to any person exercising
22 native Hawaiian gathering rights and traditional practices as



1 authorized by law, or as permitted by the department of land and
2 natural resources pursuant to article XII, section 7, of the
3 Hawaii State Constitution.

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

8 **§188-B Opihi harvesting or taking; Oahu; prohibited.**

9 Except as provided in section 188-A(f), and notwithstanding any
10 other provision to the contrary, until June 30, 2017, it shall
11 be unlawful for any person at any time to take or harvest opihi
12 for commercial purposes from the coastal areas or nearshore
13 waters of the island of Oahu."

14 SECTION 3. Section 188-42.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§188-42.5[+] **Hihiwai, hapawai, [and], opae kala'ole,**
17 **and opihi selling prohibited.** (a) It shall be unlawful for any
18 person at any time to sell or offer for sale any hihiwai,
19 hapawai, and opae kala'ole taken from any of the waters within
20 the jurisdiction of the State[-]; provided that it shall be
21 unlawful to sell or offer for sale for commercial purposes any



1 opihi taken from any of the waters within the jurisdiction of
2 the State.

3 (b) As used in this section, "opihi" means all known
4 Hawaiian opihi species, including *Cellana exarata* (blackfoot),
5 *Cellana sandwicensis* (yellowfoot), *Cellana talcosa* (koele), and
6 *Cellana melanostoma* (greenfoot)."

7 SECTION 4. In codifying the new sections added by section
8 2 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 5. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Conservation; Resources; Resource Management; Opihi

Description:

Establishes a ban on taking or harvesting opihi statewide, subject to open and closed sessions and traditional gathering rights and practices. Requires the department of land and natural resources to submit an annual report regarding effectiveness and enforcement. Establishes until 06/30/17 a moratorium on the harvesting of opihi on Oahu. Bans the commercial sale of opihi. (SD3)

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