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# A BILL FOR AN ACT

RELATING TO MARINE LIFE PROTECTION.

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

1           SECTION 1. The legislature finds that sharks and rays are  
2 extremely important to ocean ecosystems. As ocean predators  
3 near the top of the food chain, sharks and rays keep the  
4 ecosystem balanced, regulate populations of other marine life,  
5 and ensure healthy fish stock and reefs.

6           Sharks and rays are more vulnerable to fishing pressures  
7 than most other fish species. They are long-lived and slow-  
8 growing, start reproducing at an advanced age, and produce  
9 relatively few offspring per year. If over-fished, these  
10 populations take a long time to recover. If the food chain is  
11 disrupted by a decline in the shark population, it affects the  
12 entire reef system. Protection for sharks and rays ultimately  
13 means healthier, more resilient oceans and reefs that are better  
14 able to withstand other pressures on the ocean ecosystem from  
15 climate change and pollution.

16           Sharks and rays on the reefs not only play important  
17 ecological roles but are also valued figures in Hawaiian culture



1 and are important economically to ocean recreation industries  
2 and to tourism in Hawaii. The benefits of maintaining viable  
3 populations greatly outweigh any value that would be gained by  
4 killing these species.

5 The purpose of this Act is to:

- 6 (1) Protect sharks and rays for ecological purposes, for  
7 their value to the ocean recreation industry, and for  
8 their value to native Hawaiian cultural practices; and
- 9 (2) Establish fines and penalties for knowingly capturing,  
10 killing, or taking a shark within state waters.

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

14 "§188- Sharks; prohibitions; exceptions; penalties and  
15 fines. (a) Except as provided in subsection (e), or as  
16 otherwise provided by law, no person shall knowingly capture,  
17 kill, or take any shark within state marine waters.

18 (b) Any person violating this section or any rule adopted  
19 pursuant to this section shall be guilty of a misdemeanor;  
20 provided that the fine for violating this section shall be:

- 21 (1) \$500 for a first offense;



- 1        (2) \$2,000 for a second offense; and  
2        (3) \$10,000 for a third or subsequent offense.  
3        (c) In addition to any other penalty imposed under this  
4 section, a person violating this section shall be subject to:  
5        (1) An administrative fine of not more than \$10,000;  
6        (2) Seizure and forfeiture of any captured sharks,  
7        commercial marine license, vessel, and fishing  
8        equipment; and  
9        (3) Assessment of administrative fees and costs, and  
10       attorney's fees and costs.  
11       (d) The criminal penalties and administrative fines and  
12 costs shall be assessed per shark captured, killed, or taken in  
13 violation of this section.  
14       (e) This section shall not prohibit:  
15       (1) Special activity permits allowed under section 187A-6;  
16       provided that the permit issued does not allow a take  
17       that exceeds the potential biological removal level;  
18       provided further that the department may adopt rules  
19       to define a "take" and determine when a take exceeds  
20       the potential biological removal level;



- 1        (2) Any person from exercising native Hawaiian gathering  
2        rights and traditional cultural practices as  
3        authorized by law or as permitted by the department  
4        pursuant to article XII, section 7 of the Hawaii State  
5        Constitution;
- 6        (3) The department or its designated agent from capturing,  
7        killing, or taking a shark for the purpose of public  
8        safety;
- 9        (4) Any person from capturing, killing, or taking a shark  
10       outside of state marine waters; or
- 11       (5) Any person from protecting themselves or others from  
12       an attack by a shark.
- 13       (f) For the purposes of this section, "shark" means any  
14       species of the subclass *Elasmobranchii* and the order  
15       *Orectolobiformes*, *Carcharhiniformes*, *Lamniformes*,  
16       *Hexanchiformes*, or *Squaliformes*."

17       SECTION 3. Section 188-39.5, Hawaii Revised Statutes, is  
18       amended to read as follows:

19       "[~~§~~188-39.5~~]—Manta rays,~~ Rays; prohibitions, penalties  
20       and fines. (a) [~~Ne~~] Except as provided in subsection (e), or



1 as otherwise provided by law, no person shall knowingly capture,  
2 take, or kill a [manta] ray within state marine waters.

3 (b) Any person violating this section or any rule adopted  
4 pursuant to this section shall be guilty of a misdemeanor and  
5 shall be fined:

6 (1) \$500 for a first offense;

7 (2) \$2,000 for a second offense; and

8 (3) \$10,000 for a third or subsequent offense.

9 (c) In addition to any other penalty imposed under this  
10 section, a person violating this section shall be subject to:

11 (1) An administrative fine of not more than \$10,000 for  
12 each [manta] ray captured, taken, or killed in  
13 violation of this section;

14 (2) Seizure and forfeiture of any captured [manta] rays,  
15 commercial marine license, vessel, and fishing  
16 equipment; and

17 (3) Assessment of administrative fees and costs, and  
18 attorney's fees and costs.

19 (d) The criminal penalties and administrative fines and  
20 costs shall be assessed per [manta] ray captured, taken, or  
21 killed in violation of this section.



- 1 (e) This section shall not prohibit:
- 2 (1) ~~[special]~~ Special activity permits allowed under
- 3 section 187A-6; provided that the permit issued does
- 4 not allow a take that exceeds the potential biological
- 5 removal level; and provided further that the
- 6 department ~~[shall]~~ may adopt rules to define a "take"
- 7 and determine when a take exceeds the potential
- 8 biological removal level ~~[=]~~ ;
- 9 (2) Any person from exercising native Hawaiian gathering
- 10 rights and traditional cultural practices as
- 11 authorized by law or as permitted by the department of
- 12 land and natural resources pursuant to article XII,
- 13 section 7 of the Hawaii State Constitution; or
- 14 (3) Any person from capturing, killing, or taking a ray
- 15 outside of state marine waters.
- 16 (f) For the purposes of this section, "ray" means any
- 17 species of the subclass *Elasmobranchii* and the order
- 18 *Torpediniformes* or *Myliobatiformes*."

19 SECTION 4. Section 188-70, Hawaii Revised Statutes, is

20 amended by amending subsection (a) to read as follows:



1           "(a) Any person violating any provision of or any rule  
2 adopted pursuant to this chapter, except sections 188-23 [~~and~~],  
3 188-39.5, and 188- [~~is~~] shall be guilty of a petty misdemeanor  
4 and, in addition to any other penalties, shall be fined not less  
5 than:

- 6           (1) \$100 for a first offense;
- 7           (2) \$200 for a second offense; and
- 8           (3) \$500 for a third or subsequent offense."

9           SECTION 5. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12           SECTION 6. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

18           SECTION 9. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20           SECTION 10. This Act shall take effect on February 19,  
21 2022.



**Report Title:**

Sharks; Rays; Poaching and Commercial Fishing Prohibited

**Description:**

Creates administrative penalties for any person who knowingly captures, kills, or takes any shark or ray within state marine waters. Provides exemptions for native Hawaiian gathering rights and cultural practices, research purposes, and public and personal safety. (HB1734 HD1)

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

