



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 11, 2017

**GOV. MSG. NO. 1274**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith SB1240 SD2 HD1 CD1, without my approval and with the statement of objections relating to the measure.

SB1240 SD2 HD1 CD1

RELATING TO AQUATIC LIFE

Sincerely,

DAVID Y. IGE

Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 11, 2017

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1240

Honorable Members  
Twenty-Ninth Legislature  
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, Senate Bill No. 1240, entitled "A Bill for an Act Relating to Aquatic Life."

The purposes of this bill are to:

(1) Require the Department of Land and Natural Resources (DLNR) to define "sustainable" and establish a policy for sustainable collection practices and a process for determining limits for certain species, for legislative adoption, to ensure the sustainability of Hawai'i native near shore aquatic life; and

(2) Prohibit the DLNR from issuing new aquarium fish permits to use fine meshed traps or fine meshed nets, other than throw nets, to take aquatic life and from transferring or renewing existing permits except under certain conditions.

This bill is objectionable for the following reasons:

1. The State of Hawai'i, by its DLNR, is in agreement that sustainable policies and practices are paramount where state aquatic resources are concerned. However, the focus of this bill on the aquarium fishery, by requiring collection limits for the "top forty" species and phasing out the use of aquarium fish permits, does not appear to be correct.

The State established the West Hawai'i Regional Fishery Management Area almost two decades ago, as the aquarium fish collection industry is strongly concentrated in West Hawai'i island. DLNR established fishery replenishment areas in West Hawai'i island as protected areas to allow fish to grow to full mature reproductive potential and repopulate fish stocks both inside and outside of the fishery replenishment areas.

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Scientific data, involving more than 6,700 coral reef survey transects by DLNR in West Hawai'i island taken in the course of over seventeen years, show that aquarium fish populations are generally stable or increasing due to the spillover effect of the fishery replenishment areas. Populations of yellow tang and kole, two of the most heavily collected species in the aquarium industry, have not declined either inside or outside of the fishery replenishment areas, notwithstanding the concentration of fishing pressure in the areas outside of the fishery replenishment areas.

In contrast, food fish – which represents over ninety percent of all fish caught in Hawai'i – have decreased dramatically statewide. Reasons for this decline include overfishing, destructive fishing practices (including lay gill nets or night spearing with scuba), and decreases in coral reef habitat. Coral health is imperiled by the lack of such large herbivores as uhu (parrotfish), surgeonfish (such as pāku'iku'i or Achilles tang), and sea urchins that keep algae in check, allowing room for more coral growth. Other pertinent impacts to the reef include coral bleaching events.

Despite the premise of the bill that the primary problem is from the aquarium fishery, the actual scientific data do not support that conclusion. The bill cites a 2015 article in the journal Nature. No actual mention of the impact of aquarium fisheries is made in the article.

2. Numerous technical problems with this bill appear to have been established by the wording adopted by the conference committee. These include the requirement that DLNR develop a process for establishing sustainable catch limits by the 2019 regular session for a top forty of near shore aquatic species currently collected. No guidance is given as to whether the top forty should be constituted by number, size, biomass, economic value, fisheries landings, ecological trophic level, or other factors. There is no indication that establishing catch limits for the “top forty” species will advance the bill's stated primary purpose of reef recovery.

Even given this undetermined quality, the goal established in the bill

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SENATE BILL NO. 1240  
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appears unrealistic as DLNR indicates that such individual catch limits would take years of data and millions of dollars to establish.

3. The wording in section 3 of the bill that prohibits the issuance of new permits and limits the transfer of permits beyond five years would create a safety issue for permit holders who continue to operate. Permit holders would be unable to employ other permitted companions who can act as safety “dive buddies.”

Given the willingness of DLNR to work with the proponents of this bill, legislators, industry representatives, and the public and the availability of management tool resources such as limited entry regulations (e.g., permit caps, open and closed seasons), marine managed areas (e.g., fishery replenishment areas), and other collection restrictions, it appears that these means can achieve fisheries resources that are sustainable without eliminating one of the State's public fisheries.

For the foregoing reasons, I am returning Senate Bill No. 1240 without my approval.

Respectfully,



DAVID Y. IGE  
Governor of Hawai'i

P R O C L A M A T I O N

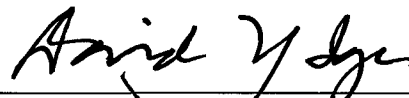
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawai'i, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1240, entitled "A Bill for an Act Relating to Aquatic Life," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1240 is unacceptable to the Governor of the State of Hawai'i;

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawai'i, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawai'i, giving notice of my plan to return Senate Bill No. 1240 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawai'i, this 11  
day of July, 2017.



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DAVID Y. IGE  
Governor of Hawai'i

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# A BILL FOR AN ACT

RELATING TO AQUATIC LIFE.

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

1           SECTION 1. The legislature finds that, except for limited  
2 protected areas, state law allows an unlimited number of permits  
3 to collect aquarium fish to be issued, and there is no limit on  
4 the amount collected for many species. The legislature further  
5 finds that "sustainable" as it relates to aquatic life remains  
6 undefined, and sustainability is not a factor that is considered  
7 by the State when issuing licenses for commercial collection of  
8 aquatic life.

9           The legislature finds that herbivorous fish play a  
10 significant role in maintaining the resiliency of coral reefs as  
11 they exert strong top-down pressure on macro algae growth on the  
12 reef, and the decline in wild herbivore populations is a known  
13 stressor to coral reefs. Scientists estimate in "Recovery  
14 Potential of the World's Coral Reef Fishes", MacNeil et al.,  
15 Nature, April 2015, that the time needed for a moderately fished  
16 coral reef to recover is approximately thirty-five years and as  
17 many as fifty-nine years for more depleted reefs. Their



1 findings demonstrate that a range of fisheries restrictions can  
2 help reefs recover.

3 The legislature finds that it is critical that the State  
4 leave healthy aquatic life on the reefs. The State's economy is  
5 inextricably tied to its marine environment, and the economic  
6 and environmental benefits of reef protection go far beyond  
7 tourist dollars that currently drive the economy. Herbivore  
8 populations that have declined or disappeared in Hawaii must be  
9 restored to promote reef recovery and the socioeconomic well-  
10 being of our people.

11 The purpose of this Act is to:

- 12 (1) Require the department of land and natural resources  
13 to define "sustainable" and establish a policy for  
14 sustainable collection practices and a process for  
15 determining limits for certain species, for  
16 legislative adoption, to ensure the sustainability of  
17 Hawaii's native near shore aquatic life; and
- 18 (2) Prohibit the department of land and natural resources  
19 from issuing new aquarium fish permits to use fine  
20 meshed traps or fine meshed nets other than throw nets



1 to take aquatic life and from transferring or renewing  
2 existing permits except under certain conditions.

3 SECTION 2. (a) The department of land and natural  
4 resources shall submit proposed legislation to the legislature  
5 including a definition of "sustainable", a policy for  
6 sustainable collection practices of near shore aquatic life, a  
7 process for determining annual catch limits for each of the top  
8 forty species of near shore aquatic life for sustainable rates  
9 of collection, and any additional resources required by the  
10 department no later than twenty days before the convening of the  
11 regular session of 2019.

12 (b) The department of land and natural resources shall  
13 promote research and education on the State's near shore aquatic  
14 life and work to increase aquatic life health and numbers to  
15 historical levels.

16 (c) For purposes of this section:  
17 "Aquatic life" has the same meaning as defined in section  
18 187A-1, Hawaii Revised Statutes.

19 "Near shore" means up to three miles from the shoreline.

20 SECTION 3. The department of land and natural resources  
21 shall not issue any new aquarium fish permits to use fine meshed





1 traps or fine meshed nets other than throw nets to take aquatic  
2 life pursuant to section 188-31, Hawaii Revised Statutes;  
3 provided that all existing permits:

4 (1) Shall not be transferrable to other persons; provided  
5 that permits may be transferred prior to July 1, 2022,  
6 if the permit is not deemed lapsed at the time of  
7 transfer; provided further that a permit is deemed  
8 lapsed if the permit has not been renewed for five or  
9 more years immediately preceding the time of transfer,  
10 including any duration prior to the effective date of  
11 this Act; and

12 (2) May continue to be renewed by the department of land  
13 and natural resources for current permit holders;  
14 provided that a permit shall be deemed lapsed and  
15 shall not be renewed if the permit has not been  
16 renewed for five or more years immediately preceding  
17 the time of application for renewal, including any  
18 duration prior to the effective date of this Act.

19 SECTION 4. 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



1 applications of the Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

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


APPROVED this                      day of                      , 2017


GOVERNOR OF THE STATE OF HAWAII

**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2017  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.

  
President of the Senate

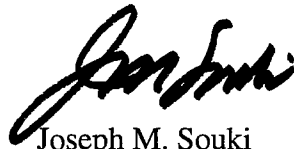
  
Clerk of the Senate

SB No. 1240, SD 2, HD 1, CD 1


THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives