

CHAPTER 190
MARINE LIFE CONSERVATION PROGRAM

Section

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Note

L 2014, c 218, §8 purports to amend this chapter.

Cross References

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

Law Journals and Reviews

Protecting Hawai'i's Fisheries: Creating an Effective Regulatory Scheme to Sustain Hawai'i's Fish Stocks. 29 UH L. Rev. 243.

" **§190-1 Conservation area; administration.** All marine waters of the State are hereby constituted a marine life conservation area to be administered by the department of land and natural resources subject to this chapter and any other applicable laws not inconsistent herewith or with any rules adopted pursuant hereto. No person shall fish for or take any fish, crustacean, mollusk, live coral, algae or other marine life, or take or alter any rock, coral, sand or other geological feature within any conservation district established pursuant to this chapter except in accordance with section 190-4 and rules adopted by the department pursuant hereto. [L 1955, c 192, §2; RL 1955, §21-131; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §190-1; am L 1981, c 16, §1]

Law Journals and Reviews

Protecting Hawai'i's Fisheries: Creating an Effective Regulatory Scheme to Sustain Hawai'i's Fish Stocks. 29 UH L. Rev. 243.

" **[\$190-1.5] State marine waters.** As used in this chapter, state marine waters shall be defined as extending from the upper reaches of the wash of the waves on shore seaward to the limit of the State's police power and management authority, including the United States territorial sea, notwithstanding any law to the contrary. [L 1990, c 126, §4]

" **§190-2 Establishment and modifications of conservation district.** The department of land and natural resources may establish and from time to time modify the limits of one or more conservation districts in each county and may, if it deems necessary, declare all waters within any county a conservation

district. [L 1955, c 192, §5; RL 1955, §21-134; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §190-2]

" **§190-3 Rules.** The department of land and natural resources pursuant to chapter 91, shall adopt rules governing the taking or conservation of fish, crustacean, mollusk, live coral, algae, or other marine life as it determines will further the state policy of conserving, supplementing and increasing the State's marine resources. The rules may prohibit activities that may disturb, degrade, or alter the marine environment, establish open and closed seasons, designate areas in which all or any one or more of certain species of fish or marine life may not be taken, prescribe and limit the methods of fishing, including the type and mesh and other description of nets, traps, and appliances, and otherwise regulate the fishing and taking of marine life either generally throughout the State or in specified districts or areas. The rules shall upon taking effect supersede any state laws inconsistent therewith. [L 1955, c 192, §6; RL 1955, §21-135; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §190-3; am L 1981, c 16, §2]

" **§190-4 Permits.** The department of land and natural resources may, in any conservation district, prohibit the taking of marine life or the engaging in activities prohibited by this chapter and rules adopted thereunder, except by permit issued by it for scientific, education, or other public purposes on such terms and conditions deemed necessary to minimize any adverse effect within the conservation district; provided that the department shall provide written notice of any change in permit conditions ninety calendar days prior to the effective date of the change, except, as determined by the department, when an immediate change in permit conditions is necessary to protect or preserve the conservation district. The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation. [L 1955, c 192, §7; RL 1955, §21-136; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §190-4; am L 1981, c 16, §3; am L 2010, c 77, §1]

" **§190-4.5 Anchoring, boating, and mooring in marine life conservation districts; rules.** (a) The department shall, pursuant to chapter 91, adopt rules for the regulation of anchoring and mooring in each marine life conservation district established under this chapter.

(b) Within its jurisdiction over ocean recreational boating and coastal activities, the department shall adopt rules

pursuant to chapter 91 for the regulation of boating in each marine life conservation district established under this chapter. [L 1988, c 381, §1; am L 1991, c 183, §1]

" **§190-5 Penalty.** (a) Any person violating this chapter, any rule adopted pursuant thereto, or the terms and conditions of any permit issued under section 190-4, shall be guilty of a petty misdemeanor and punished as provided in subsections (b) and (c).

(b) The punishment, in addition to any other penalties, shall be a fine of not less than:

- (1) \$250 for a first offense;
- (2) \$500 for a second offense; and
- (3) \$1,000 for a third or subsequent offense.

(c) The court may require the defendant to complete an aquatic resources educational class administered by the department of land and natural resources in addition to or in lieu of paying all or any part of any monetary fine authorized by this section.

(d) The court may allow the defendant to perform community service as administered by the department of land and natural resources in lieu of paying any monetary fine authorized by this section. [L 1955, c 192, §8; RL 1955, §21-137; HRS §190-5; am L 1981, c 16, §4; am L 1999, c 195, §9; am L 2016, 67, §3]

Cross References

General administrative penalties, see §187A-12.5.