

JAN 18 2018

S.B. NO. 2052

A BILL FOR AN ACT

RELATING TO FISHING.

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

1 SECTION 1. The legislature finds that of the twenty-three
2 coastal states in the United States, Hawai'i is the only state
3 that does not require a non-commercial marine fishing registry,
4 permit, or license. The State has required a license for
5 commercial fishing since 1925, a license for freshwater game
6 fishing since 1949, and a license to hunt since 1907.

7 The legislature also finds that there is very limited data
8 available about the non-commercial marine fishing activity that
9 occurs in Hawai'i, including the number of fishers, type and
10 amount of species caught, and uses of the marine life. The
11 United States Fish and Wildlife Service estimated that in 2011
12 there were 155,000 non-commercial marine fishers active in the
13 State. In comparison, there were 3,715 commercial marine
14 licensees and 5,189 freshwater game fishing licensees in 2015.
15 Although the non-commercial marine fishing activity vastly
16 outweighs that of commercial marine and freshwater fishers



1 combined, most fishery managers would agree that data about the
2 non-commercial marine fishing activity is almost non-existent.

3 The legislature further finds that intertwined with the
4 public's right to access and use public fisheries in state
5 waters is the duty of the State to manage these fisheries and
6 protect their long term use. While the Hawai'i State
7 Constitution and state law do not prevent the State from
8 creating a non-commercial marine fishing license, the department
9 of land and natural resources does not have the statutory
10 authority to do so.

11 The legislature therefore concludes that the lack of a
12 system to oversee non-commercial marine fishing deprives the
13 State of a means to effectively manage the use of its salt water
14 fisheries for non-commercial purposes. This measure will expand
15 the existing freshwater game fishing license into a
16 comprehensive non-commercial fishing license that covers
17 freshwater and saltwater activity.

18 A combined non-commercial fishing license will allow for
19 better management of fishing across the State. This includes
20 generating needed revenue for department of land and natural
21 resources projects that support non-commercial fishing. Similar



1 to freshwater fishers, non-commercial marine fishers will also
2 be required to pay a reasonable annual fee. Fees will be
3 deposited into the sport fish special fund, which restricts the
4 use of funds to programs and activities related to aquatic
5 resources. The resident license fee will be capped at \$15 per
6 year for the first three years of the license.

7 A further benefit of establishing a non-commercial marine
8 fishing license is that it may increase the State's share of
9 matching federal funds from the Federal Aid in Sport Fish
10 Restoration (Dingell-Johnson/Wallop-Breaux) Act, which is based
11 in part on the number of the State's paid recreational fishing
12 license holders. Currently Hawai'i receives one per cent of
13 eligible federal match funds; the cap is five per cent, with
14 most states receiving between one and four per cent.

15 The purpose of this Act is to require the department of
16 land and natural resources to license non-commercial marine
17 fishing along with freshwater fishing.

18 SECTION 2. Section 187A-9.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§187A-9.5 Sport fish special fund. (a) There is
21 established in the department a sport fish special fund.



1 (b) The following proceeds shall be retained by or
2 transmitted to the department for deposit into the sport fish
3 special fund:

4 (1) Moneys collected as fees for sport fishing licenses
5 and permits, attendance of aquatic resources education
6 programs, use of public fishing areas or other fishing
7 grounds for sport fishing purposes, and use of sport
8 fisheries-related facilities;

9 (2) Moneys collected under the provision of any law or
10 rule relating to the importation, taking, catching, or
11 killing of any sport fish;

12 (3) Moneys, other than informers' fees authorized under
13 section 187A-14, collected as fines or bail
14 forfeitures for sport fishing violations of this
15 chapter and chapters 188, 189, and 190;

16 (4) Moneys collected from the sale of any article
17 purchased from the department related to sport fish or
18 sport fishing;

19 (5) Any monetary contributions or moneys collected from
20 the sale of non-monetary gifts to benefit sport fish
21 or sport fishing; and



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(6) Moneys derived from interest, dividend, or other income from the above sources.

(c) Expenditures from the sport fish special fund shall be limited to the following:

(1) For programs and activities to implement title 12, subtitle 5, including the provision of state funds to match federal grants under the Federal Aid in Sport Fish Restoration (Dingell-Johnson/Wallop-Breaux) Act (64 Stat. 430, 16 U.S.C. §777), as amended, for projects concerning sport fish;

(2) For acquisition of the use, development, or maintenance of trails ~~[and]~~, accessways, and small boat harbors into public fishing areas, fishery management areas, marine life conservation districts, or private lands where public sport fishing is authorized; ~~[and]~~

(3) For research programs and activities concerning sport fish conservation and management. Research programs and activities conducted under this paragraph may be conducted by personnel of the department or through grants-in-aid to or contracts with the University of



1 Hawaii system or other qualified organizations or
2 individuals[-]; and

3 (4) For enforcement activities specific to fish and other
4 aquatic life conservation.

5 (d) The proceeds of the sport fish special fund shall not
6 be used as security for, or pledged to the payment of principal
7 or interest on, any bonds or instruments of indebtedness.

8 (e) In addition to subsection (c), the department may use
9 moneys in the sport fish special fund for the importation into,
10 and the management, preservation, propagation, enforcement, and
11 protection of sport fishes in, the State; provided that the
12 department, prior to authorizing expenditures or expending funds
13 from the sport fish special fund, first shall attempt to use
14 those funds to maximize the State's participation to secure
15 federal funds under the Federal Aid in Sport Fish Restoration
16 (Dingell-Johnson/Wallop-Breaux) Act, as amended.

17 (f) Nothing in this section shall be construed as
18 prohibiting the funding with general funds or other funds of
19 programs and activities to implement or enforce title 12,
20 subtitle 5, concerning sport fish management and



1 conservation[~~-~~], including non-commercial fishing management and
2 conservation.

3 (g) For purposes of this section, "sport fishing" and
4 "sport fish" shall include non-commercial freshwater and marine
5 fishing and non-commercial freshwater and marine fish."

6 SECTION 3. Section 188-50, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§188-50 [~~License;~~] Non-commercial freshwater and marine
9 fishing license; application; fees; restrictions. (a) It is
10 unlawful for any person, except children below nine years of
11 age, to fish, take, or catch any introduced freshwater game fish
12 or marine life without first obtaining a non-commercial
13 freshwater and marine license. Children exempt by this section
14 may fish, provided they are accompanied by a licensed person.
15 The department of land and natural resources may adopt rules
16 pursuant to chapter 91 necessary for the purposes of this
17 chapter and to set fees for [~~freshwater game fish fishing.~~] non-
18 commercial freshwater and marine licenses.

19 (b) The licenses may be issued by agents of the department
20 of land and natural resources upon written application in such
21 form as may be prescribed by the department together with



1 payment of a fee. The fees for licenses and duplicate licenses
2 shall be established by the department by rules adopted in
3 accordance with chapter 91[-]; provided that:

4 (1) The resident fee for licenses issued beginning
5 August 1, 2019, and ending June 30, 2021, shall not be
6 set at more than \$15 per year;

7 (2) The non-resident fee shall be at least five times the
8 amount of the resident fee; and

9 (3) Waivers or exemptions are prohibited unless otherwise
10 required by law.

11 (c) No person to whom a license has been issued under this
12 section shall permit any other person to carry, display, or use
13 the license for any purpose. Every person to whom a license has
14 been issued under this section shall show the license upon
15 demand of any officer authorized to enforce the fishing laws of
16 the State. No person shall refuse any officer the examination
17 or inspection of any bag or container of any kind used to carry
18 fish or any vehicle or conveyance used to transport fish.

19 The department, upon written application, may issue a
20 permit to a club or group of minors, not less than five in
21 number, for unlicensed freshwater fishing where such activity



1 will be supervised by responsible adults. All adults
2 accompanying the excursions, however, shall themselves be
3 licensed. The application shall state the area to be visited,
4 the dates for the excursion, the name of the organization or
5 group, and shall be signed by an adult advisor of the group.
6 The permits shall expire and become void thirty days after
7 issuance. The department may determine other terms and
8 conditions of the permits.

9 (d) Where a bag limit is specified for the [~~catching of~~
10 ~~freshwater fish,~~] catch, each licensee may take only one bag per
11 day. This restriction to one bag applies to each minor
12 participating in unlicensed group excursions for which permits
13 have been issued under this section. The catch of a child below
14 the age of nine years shall be deemed part of the catch of the
15 licensed adult accompanying the child.

16 (e) The department may revoke any license for any
17 infraction of the terms and conditions of the license. Any
18 person whose license has been revoked shall not be eligible to
19 apply for another license until expiration of one year from the
20 date of revocation.



1 (f) The department shall suspend, refuse to renew,
2 reinstate, or restore, or deny any license or application if the
3 department has received certification from the child support
4 enforcement agency pursuant to section 576D-13 that the licensee
5 or applicant is not in compliance with an order of support as
6 defined in section 576D-1 or has failed to comply with a
7 subpoena or warrant relating to a paternity or child support
8 proceeding. The department shall issue, renew, restore, or
9 reinstate a license only upon receipt of an authorization from
10 the child support enforcement agency, the office of child
11 support hearings, or the family court.

12 (g) Nothing in this section shall be construed to infringe
13 on the traditional and customary rights protected pursuant to
14 article XII, section 7, of the Hawaii State Constitution.

15 (h) Violation of this section shall be a misdemeanor."

16 SECTION 4. The department of land and natural resources
17 shall engage in robust public outreach prior to the
18 implementation of the non-commercial marine license.

19 SECTION 5. The department of land and natural resources
20 shall submit a report to the legislature no later than twenty



1 days prior to the convening of the regular sessions of 2019 and
2 2020. The report shall:

- 3 (1) Describe the actions taken by the department to
4 implement this Act;
- 5 (2) Make recommendations for any proposed legislation,
6 including any additional resources required by the
7 department;
- 8 (3) State the annual aggregated numbers of applications
9 received, granted, and denied and the number of
10 licenses suspended, revoked, refused to renew,
11 reinstated, and restored; and
- 12 (4) Describe any enforcement actions and their
13 disposition.

14 SECTION 6. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19



1 SECTION 8. This Act shall take effect upon its approval;
2 provided that the requirement for a non-commercial marine
3 license shall not be enforced until August 1, 2019.

4

INTRODUCED BY:

Karl Rhoads

Stacy



S.B. NO. 2052

Report Title:

Department of Land and Natural Resources; Non-commercial
Freshwater and Marine License

Description:

Requires the Department of Land and Natural Resources to license non-commercial marine fishing along with freshwater fishing, engage in public outreach prior to implementing the combined non-commercial freshwater and marine fishing license, and submit reports to the legislature.

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

