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# A BILL FOR AN ACT

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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 Act will expand the  
15 existing freshwater game fishing license into a comprehensive  
16 non-commercial fishing license that covers freshwater and  
17 saltwater activity for non-commercial purposes.

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



1 commercial fishing. Similar to freshwater game fishers, non-  
2 commercial marine fishers will also be required to pay a  
3 reasonable annual fee. Fees will be deposited into the sport  
4 fish special fund, which restricts the use of funds to programs  
5 and activities related to aquatic resources. The resident fee  
6 for the combined non-commercial license will be capped at \$5 per  
7 year for the first three years that the licensure requirement to  
8 catch marine life for non-commercial purposes is in effect.

9 However, while the department of land and natural resources is  
10 required to set the licensing fee at a specific amount, this Act  
11 does not specify the duration for which a license is valid and  
12 the department may issue short-term non-commercial fishing  
13 licenses, such as one-day or seven-day licenses.

14 A further benefit of expanding the freshwater game fishing  
15 license to include non-commercial marine fishing is that it may  
16 increase the State's share of matching federal funds from the  
17 Federal Aid in Sport Fish Restoration (Dingell-Johnson/Wallop-  
18 Breaux) Act, which is based in part on the number of the State's  
19 paid recreational fishing license holders. Currently Hawai'i  
20 receives one per cent of eligible federal match funds; the cap



1 is five per cent, with most states receiving between one and  
2 four per cent.

3 The purpose of this Act is to require the department of  
4 land and natural resources to license non-commercial marine  
5 fishing, effective June 1, 2020, by expanding the existing  
6 freshwater game fishing license to include non-commercial marine  
7 fishing.

8 SECTION 2. Section 188-50, Hawaii Revised Statutes, is  
9 amended to read as follows:

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



1 (b) The licenses [~~may~~] shall be issued by agents of the  
2 department of land and natural resources upon written  
3 application in such form as may be prescribed by the department  
4 together with payment of a fee. The fees for licenses and  
5 duplicate licenses shall be established by the department by  
6 rules adopted in accordance with chapter 91[-]; provided that:

7 (1) The resident fee for a license issued beginning  
8 June 1, 2020, and ending May 31, 2023, shall be set at  
9 no more than \$5 per year;

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

12 (3) Waivers or exemptions are prohibited unless otherwise  
13 required by law.

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



1       The department, upon written application, may issue a  
2   permit to a club or group of minors, [~~not~~] no less than five in  
3   number, for unlicensed freshwater fishing where such activity  
4   will be supervised by responsible adults. All adults  
5   accompanying the excursions, however, shall themselves be  
6   licensed. The application shall state the area to be visited,  
7   the dates for the excursion, the name of the organization or  
8   group, and shall be signed by an adult advisor of the group.  
9   The permits shall expire and become void thirty days after  
10   issuance. The department may determine other terms and  
11   conditions of the permits.

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

19       (e) The department may suspend or revoke any license for  
20   any infraction of the terms and conditions of the license. Any  
21   person whose license has been revoked shall not be eligible to



1 apply for another license until expiration of one year from the  
2 date of revocation.

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

14 (g) Any licensee or applicant who has been convicted of,  
15 pled guilty or nolo contendere to, or been granted a deferred  
16 acceptance of a guilty plea to a violation of this chapter in  
17 the preceding five years shall not be eligible to obtain or  
18 renew a non-commercial freshwater and marine fishing license.

19 (h) Nothing in this section shall be construed to restrict  
20 the exercise of traditional and customary rights protected  
21 pursuant to article XII, section 7, of the Hawaii State



Constitution; provided that the rules adopted pursuant to subsection (a) shall allow for the exercise of traditional and customary practices by minimizing, to the extent practicable, any burden on practitioners, including burdens associated with obtaining a license or paying applicable fees, if any; provided further that the exercise of a constitutionally-protected traditional and customary practice shall be a complete defense to a violation of subsection (a).

(i) In the adoption of rules pursuant to subsection (a) and in the implementation of the licensing requirement under this section, the department shall explicitly consider and ensure reasonable opportunities for all residents to apply for and obtain a non-commercial freshwater and marine fishing license, including:

- (1) Persons residing in remote or rural communities;
- (2) Persons who may be limited English proficient;
- (3) Persons with limited transportation capacity; and
- (4) Persons who may face disproportionate burdens in obtaining a license.





1        (j) Violation of this section shall be a petty  
2 misdemeanor; provided that a violation of subsection (a) shall  
3 be a misdemeanor."

4        SECTION 3. The department of land and natural resources  
5 shall engage in robust public outreach prior to the  
6 implementation of the non-commercial marine license, which shall  
7 include at least one meeting on each of the seven inhabited  
8 islands of the State, which are Ni'ihau, Kaua'i, O'ahu, Maui,  
9 Moloka'i, Lāna'i, and Hawai'i.

10       SECTION 4. The department of land and natural resources  
11 shall submit a report to the legislature no later than twenty  
12 days prior to the convening of the regular sessions of 2019 and  
13 2020. The report shall:

- 14       (1) Describe the actions taken by the department to  
15       implement this Act;
- 16       (2) Make recommendations for any proposed legislation,  
17       including any additional resources required by the  
18       department;
- 19       (3) State the annual aggregated numbers of applications  
20       received, granted, and denied and the number of  
21       licenses suspended, revoked, refused to renew,



1 reinstated, and restored pursuant to section 188-50,  
2 Hawaii Revised Statutes; and

3 (4) Describe any enforcement actions and their  
4 disposition.

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

8 SECTION 6. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect upon its approval;  
11 provided that the requirement to obtain a license to catch  
12 marine life for non-commercial purposes shall not be enforced  
13 until June 1, 2020.



**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. Prohibits enforcement of requirement to obtain a license to catch marine life for non-commercial purposes until 6/1/2020. (SD1)

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

