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# A BILL FOR AN ACT

RELATING TO SHARK AND RAY 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 keep the ecosystem  
4 balanced, regulate populations of other marine life, and ensure  
5 healthy fish stock and reefs.

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

15           Sharks and rays on the reefs not only have significant  
16 ecological roles, but they are also valued figures in Hawaiian  
17 culture and are economically important to ocean recreation



1 industries and tourism in the State. The benefits of  
2 maintaining viable populations greatly outweigh any value that  
3 would be gained by killing these species.

4 The purpose of this Act is to:

- 5 (1) Protect sharks and rays for ecological purposes, for  
6 their value to the ocean recreation industry, and for  
7 their value to native Hawaiian cultural practices;
- 8 (2) Establish fines and penalties for knowingly capturing,  
9 taking, possessing, abusing, or entangling a shark,  
10 whether alive or dead, or killing a shark, within  
11 state marine waters; and
- 12 (3) Expand the prohibition on knowingly capturing, taking,  
13 possessing, abusing, entangling, or killing a ray  
14 within state marine waters.

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

18 "§188- Sharks; mano; prohibitions; exceptions; penalties  
19 and fines. (a) Except as provided in subsection (e) or as  
20 otherwise provided by law, no person shall knowingly capture,



1 take, possess, abuse, or entangle any shark, whether alive or  
2 dead, or kill any shark, 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;  
5 provided that the fine for violating this section shall be:

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

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

8 (3) \$10,000 for a third or any 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 no more than \$10,000 for  
12 each shark captured, killed, taken, possessed, abused,  
13 or entangled in violation of this section;

14 (2) Seizure and forfeiture of any captured sharks,  
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, fees,  
20 and costs imposed pursuant to this section shall be assessed per



1 shark captured, killed, taken, possessed, abused, or entangled  
2 in violation of this section.

3 (e) This section shall not apply to:

4 (1) Special activity permits allowed under section 187A-6  
5 or research permits authorized by law; provided that  
6 the permit issued does not allow a take that exceeds  
7 the potential biological removal level; provided  
8 further that the department of land and natural  
9 resources may adopt rules pursuant to chapter 91 to  
10 define "take" for purposes of this subsection and to  
11 determine when a take exceeds the potential biological  
12 removal level;

13 (2) The department of land and natural resources or its  
14 designated agent if the capture, killing, taking,  
15 possession, abuse, or entanglement is for the  
16 protection of public safety;

17 (3) Sharks taken outside of state marine waters and  
18 possessed on a vessel in state marine waters pursuant  
19 to any federally managed fishery, for the purpose of  
20 landing the catch in the State; and



1        (4) Any person if the capture, taking, possession, abuse,  
2        entanglement, or killing is the result of defense of  
3        the person's self or of another against death or  
4        bodily harm.

5        (f) Nothing in this section shall be construed to restrict  
6        the exercise of traditional and customary rights protected  
7        pursuant to article XII, section 7, of the state constitution.

8        (g) For the purposes of this section, "shark" means any  
9        species of shark within the subclass elasmobranchii."

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

12       "[+]§188-39.5 [~~]- Manta rays,~~] Rays; hihimanu; prohibitions,  
13 penalties, and fines. (a) [~~No~~] Except as provided in  
14 subsection (e), no person shall knowingly capture [~~or kill~~],  
15 take, possess, abuse, or entangle a [~~manta~~] ray, whether alive  
16 or dead, or kill any ray, within state marine waters.

17       (b) Any person violating this section or any rule adopted  
18 pursuant to this section shall be guilty of a misdemeanor and  
19 shall be fined:

20       (1) \$500 for a first offense;

21       (2) \$2,000 for a second offense; and



1 (3) \$10,000 for a third or subsequent offense.

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

4 (1) An administrative fine of not more than \$10,000 for  
5 each [~~manta~~] ray captured [~~or~~], killed, taken,  
6 possessed, abused, or entangled in violation of this  
7 section;

8 (2) Seizure and forfeiture of any captured [~~manta~~] rays,  
9 commercial marine license, vessel, and fishing  
10 equipment; and

11 (3) Assessment of administrative fees and costs[~~7~~] and  
12 attorney's fees and costs.

13 (d) The criminal penalties and administrative fines and  
14 costs shall be assessed per [~~manta~~] ray captured [~~or~~], killed,  
15 taken, possessed, abused, or entangled in violation of this  
16 section.

17 (e) This section shall not [~~prohibit~~] apply to special  
18 activity permits allowed under section 187A-6[~~7~~] or research  
19 permits authorized by law; provided that the permit issued does  
20 not allow a take that exceeds the potential biological removal  
21 level; and provided further that the department [~~shall~~] may



1 adopt rules pursuant to chapter 91 to define a "take" and  
2 determine when a take exceeds the potential biological removal  
3 level.

4 (f) Nothing in this section shall be construed to restrict  
5 the exercise of traditional and customary rights protected  
6 pursuant to article XII, section 7, of the state constitution.

7 (g) For the purposes of this section, "ray" means any  
8 species of ray within the subclass elasmobranchii."

9 SECTION 4. Section 188-70, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) Any person violating any provision of or any rule  
12 adopted pursuant to this chapter, except sections 188-23 [~~and~~],  
13 188-39.5, and 188- , is guilty of a petty misdemeanor and, in  
14 addition to any other penalties, shall be fined not less than:

- 15 (1) \$100 for a first offense;  
16 (2) \$200 for a second offense; and  
17 (3) \$500 for a third or subsequent offense."

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



1 SECTION 6. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

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

9 SECTION 8. This Act shall take effect on July 1, 2050.





**Report Title:**

Sharks; Rays; Prohibitions; Exemptions

**Description:**

Prohibits, establishes criminal penalties, and establishes administrative fines for any person who knowingly captures, takes, possesses, abuses, entangles, or kills any shark within state marine waters. Expands the existing protection for rays within state marine waters. Provides certain exemptions.

(HB808 HD1)

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