
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL 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 play important
16 ecological roles, but are also valued figures in Hawaiian
17 culture and are important economically to ocean recreation



1 industries and to tourism in Hawaii. 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 existing prohibition on knowingly capturing
13 or killing a manta ray to apply to all rays to include
14 knowingly capturing, taking, possessing, abusing, or
15 entangling a ray, whether alive or dead, or killing a
16 ray, within state marine waters.

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

20 "§188- Sharks; mano; prohibitions; penalties and fines;
21 exceptions. (a) Except as provided in subsection (e), or as



1 otherwise provided by law, no person shall knowingly capture,
2 take, possess, abuse, or entangle any shark, whether alive or
3 dead, or kill any shark, within state marine waters.

4 (b) Any person violating this section or any rule adopted
5 pursuant to this section shall be guilty of a misdemeanor;
6 provided that the fine for violating this section shall be:

- 7 (1) \$500 for a first offense;
- 8 (2) \$2,000 for a second offense; and
- 9 (3) \$10,000 for a third or subsequent offense.

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

- 12 (1) An administrative fine of no more than \$10,000 for
13 each shark captured, killed, taken, possessed, abused,
14 or entangled in violation of this section;
- 15 (2) Seizure and forfeiture of any captured sharks,
16 commercial marine license, vessel, and fishing
17 equipment; and
- 18 (3) Assessment of administrative fees and costs, and
19 attorney's fees and costs.



1 (d) The criminal penalties and administrative fines, fees,
2 and costs shall be assessed per shark captured, killed, taken,
3 possessed, abused, or entangled in violation of this section.

4 (e) This section shall not apply to:

5 (1) Special activity permits allowed under section 187A-6
6 or research permits authorized by law; provided that
7 the permit issued does not allow a take that exceeds
8 the potential biological removal level; provided

9 further that the department of land and natural
10 resources may adopt rules to define "take" for
11 purposes of this subsection and determine when a take
12 exceeds the potential biological removal level;

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

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.



1 (f) Nothing in this section shall be construed to restrict
 2 the exercise of traditional and customary rights protected
 3 pursuant to article XII, section 7, of the Hawaii State
 4 Constitution.

5 (g) For the purposes of this section, "shark" means any
 6 species of shark within the subclass *Elasmobranchii*.

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

9 "~~[] §188-39.5 []—Manta rays,~~ Rays; hihimanu;
 10 prohibitions~~[]~~; penalties and fines~~[]~~; exceptions. (a) ~~[No]~~
 11 Except as provided in subsection (e), no person shall knowingly
 12 capture ~~[or kill]~~, take, possess, abuse, or entangle a ~~[manta]~~
 13 ray, whether alive or dead, or kill any ray, within state marine
 14 waters.

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

- 18 (1) \$500 for a first offense;
- 19 (2) \$2,000 for a second offense; and
- 20 (3) \$10,000 for a third or subsequent offense.



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

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

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

10 (3) Assessment of administrative fees and costs, and
11 attorney's fees and costs.

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

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



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

3 (f) Nothing in this section shall be construed to restrict
4 the exercise of traditional and customary rights protected
5 pursuant to article XII, section 7, of the Hawaii State
6 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, 2019.

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H.B. NO. 853

Report Title:

Sharks; Rays; Prohibitions; Exemptions

Description:

Establishes penalties and fines for the knowing capture, taking, possession, abuse, entanglement, or killing of sharks in state marine waters. Expands existing prohibition on knowingly capturing or killing manta rays to include all rays and to include taking, possession, abuse, and entanglement of rays.

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