

JAN 18 2019

A BILL FOR AN ACT

RELATING TO MARINE AQUARIUM FISHING.

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

1 SECTION 1. The legislature finds that the commercial
2 capture of Hawai'i's reef wildlife for sale to the aquarium pet
3 trade is incompatible with kanaka maoli values such as living in
4 harmony and balance with nature, mālama 'āina, kuleana for the
5 surrounding environment, the concept of aloha 'āina, and other
6 Native Hawaiian traditional and customary gathering rights and
7 cultural practices. The commercial trade is contrary to pono
8 fishing practices, such as taking only what is needed for
9 subsistence.

10 The legislature further finds that in 1988 the State
11 prohibited the taking of sand, dead coral or coral rubble,
12 rocks, soil, and other marine deposits. Extending prohibitions
13 to encompass the commercial collection and sale of reef wildlife
14 for the aquarium pet trade is now needed to protect the
15 traditional cultural practices of kanaka maoli and kama'āina, and
16 the preservation of natural resources for the benefit of all
17 state residents. The legislature recognizes that these



1 obligations and protections are enshrined in the state
2 constitution, specifically in article XI, section 1,
3 conservation and development of resources, article XI, section
4 9, environmental rights, and article XII, section 7, traditional
5 and customary rights.

6 The purpose of this Act is to prohibit all commercial
7 capture of aquatic life for aquarium purposes, regardless of the
8 method of collection. This Act is intended to allow the
9 following practices to continue:

- 10 (1) Issuance of special activity permits pursuant to
11 section 187A-6, Hawaii Revised Statutes;
- 12 (2) Issuance of recreational permits for non-commercial
13 capture of aquatic life for aquarium purposes, in
14 accordance with existing laws and rulings regarding
15 compliance with environmental assessments; and
- 16 (3) Captive-breeding and aquaculture efforts, as regulated
17 by section 187A-3.5, Hawaii Revised Statutes.

18 Nothing in this Act should be construed to prohibit the
19 exercise of traditional and customary practices, the lawful
20 taking of fish for consumption or bait, or the lawful management
21 or taking of aquatic life from fishponds.



1 SECTION 2. Chapter 189, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§189- Harvesting aquatic life for commercial aquarium
5 purposes; definitions; prohibition. (a) No person shall
6 harvest aquatic life for commercial aquarium purposes.

7 (b) This section shall not apply to the issuance of a
8 license or permit for activities permitted in sections 187A-3.5
9 and 187A-6; provided that the requirements of those sections are
10 met.

11 (c) For the purposes of this section:

12 "Aquarium purposes" means to hold salt water fish,
13 freshwater nongame fish, or other aquatic life alive in a state
14 of captivity as pets, for scientific study, for public
15 exhibition or display, or for sale for these purposes.

16 "Aquatic life" means any type or species of mammal, fish,
17 amphibian, reptile, mollusk, crustacean, arthropod,
18 invertebrate, coral, or other animal that inhabits the
19 freshwater or marine environment and includes any part, product,
20 egg, or offspring thereof; or marine plants, including seeds,
21 roots, products, and other parts thereof.



1 "Commercial" means to take aquatic life for profit or gain
2 or where the aquatic life is sold, offered for sale, possessed
3 with intent to sell, bartered, landed, or transported for sale.

4 "Harvest" means to take and retain aquatic life by any
5 means whatsoever."

6 SECTION 3. Section 189-11, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§189-11 Receipts in duplicate.** Every commercial marine
9 dealer shall issue receipts to the person from whom marine life
10 is obtained and shall provide the following information in the
11 receipt:

- 12 (1) The date of the issuance;
- 13 (2) The name of the person to whom the receipt is issued;
- 14 (3) The following information with respect to each of the
15 varieties of marine life as the department shall
16 require including:
- 17 (A) The weight in pounds of each of the varieties
18 received;
- 19 (B) The numbers of marine life when they average a
20 pound or more; and
- 21 (C) The price per pound paid; and



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1 ~~[(D) With regard to aquarium fish, regardless of~~
2 ~~weight, the number and species of the fishes,~~
3 ~~and]~~

4 (4) The signature of the dealer who issues the receipt.
5 Any dealer taking the dealer's own marine life or handling any
6 marine life taken by commercial marine licensees working for or
7 with the dealer, shall make out the same receipt, giving market
8 price for the marine life as prevails on the date of receipt. A
9 duplicate copy of this receipt shall be kept on file at the
10 premise where the marine life was sold by the dealer issuing the
11 same for a period of twelve months from the date of issuance,
12 and the duplicate copy shall be available for inspection upon
13 the demand of any conservation officer authorized to enforce the
14 laws of the State."

15 SECTION 4. Section 188-31.5, Hawaii Revised Statutes, is
16 repealed.

17 ~~["~~§188-31.5~~ Aquarium fish for export, monthly count.~~
18 ~~The department of land and natural resources shall adopt rules~~
19 ~~in accordance with chapter 91 to monitor the aquarium fish catch~~
20 ~~report and fish dealer's report for export of aquarium fish~~
21 ~~taken from the waters of the State for aquarium purposes~~



1 ~~pursuant to section 188-31. A monthly count of the quantities~~
2 ~~taken of each individual species of aquarium fish exported shall~~
3 ~~be reported to the board."]~~

4 SECTION 5. If there is any conflict with section 188-31,
5 Hawaii Revised Statutes, this Act shall supersede.

6 SECTION 6. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

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

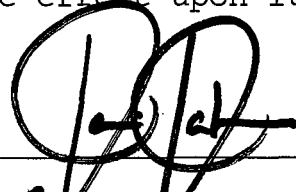
15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect upon its approval.

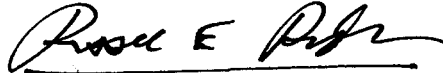
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INTRODUCED BY:











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Report Title:

Marine Aquarium Fishing

Description:

Prohibits all commercial capture of aquatic life for aquarium purposes, regardless of the method of collection.

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

