

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO SHARK PROTECTION.

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

1           SECTION 1. The legislature finds that sharks, known as  
2 "mano" in the Hawaiian language, are extremely important to  
3 ocean ecosystems. As ocean predators near the top of the food  
4 chain, sharks keep the ecosystem balanced, regulate populations  
5 of other marine life, and ensure healthy fish stock and reefs.

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

15           The legislature further finds that sharks on the reefs not  
16 only play important ecological roles, but are also valued  
17 figures in Hawaiian culture and are important economically to



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

4 The purpose of this Act is to protect sharks for ecological  
5 purposes, for their value to the ocean recreation industry, and  
6 for their value to Native Hawaiian cultural practices by  
7 establishing fines and penalties for knowingly capturing,  
8 taking, possessing, abusing, or entangling a shark, whether  
9 alive or dead, or killing a shark, within state marine waters.

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

13 "§188- Sharks; mano; prohibitions; exceptions; penalties  
14 and fines. (a) Except as provided in subsection (e), or as  
15 otherwise provided by law, no person shall knowingly capture,  
16 take, possess, abuse, or entangle any shark, whether alive or  
17 dead, or kill any shark, within state marine waters.

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

21 (1) \$500 for a first offense;



1        (2) \$2,000 for a second offense; and

2        (3) \$10,000 for a third or subsequent offense.

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

5        (1) An administrative fine of no more than \$10,000 for  
6 each shark captured, taken, possessed, abused,  
7 entangled, or killed in violation of this section;

8        (2) Seizure and forfeiture of any captured sharks,  
9 commercial marine license, vessel, and fishing  
10 equipment; and

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

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

17        (e) This section shall not apply to:

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



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1           further that the department of land and natural  
2           resources may adopt rules to define "take" for  
3           purposes of this subsection and determine when a take  
4           exceeds the potential biological removal level;  
5           (2) The department of land and natural resources or its  
6           designated agent if the capture, taking, possession,  
7           abuse, entanglement, or killing is for the protection  
8           of public safety;  
9           (3) Sharks taken outside of state marine waters and  
10           possessed on a vessel in state marine waters pursuant  
11           to any federally managed fishery, for the purpose of  
12           landing the catch in the State; and  
13           (4) Any person if the capture, taking, possession, abuse,  
14           entanglement, or killing is the result of defense of  
15           the person's self or of another against death or  
16           bodily harm.  
17           (f) Nothing in this section shall be construed to restrict  
18           the exercise of traditional and customary rights protected  
19           pursuant to article XII, section 7, of the Hawaii State  
20           Constitution.



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1        (g) For the purposes of this section, "shark" means any  
2 species of shark within the subclass Elasmobranchii."

3        SECTION 3. Section 188-70, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5        "§188-70 Penalties. (a) Any person violating any  
6 provision of or any rule adopted pursuant to this chapter,  
7 except sections 188-23 [~~and~~], 188-39.5, and 188- , is guilty of  
8 a petty misdemeanor and, in addition to any other penalties,  
9 shall be fined not less than:

10        (1) \$100 for a first offense;


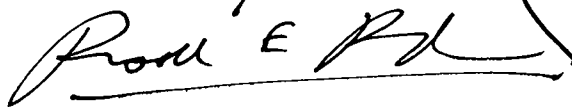
11        (2) \$200 for a second offense; and

12        (3) \$500 for a third or subsequent offense."

13        SECTION 4. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16        SECTION 5. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18        SECTION 6. This Act shall take effect upon its approval.

19  
INTRODUCED BY:   


*Francis R. Mowse*



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**Report Title:**

Sharks; Prohibitions; Exemptions

**Description:**

Establishes an offense of knowingly capturing, taking, possessing, abusing, entangling, or killing a shark in state marine waters, along with penalties and fines. Provides certain exemptions.

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

