

ACT 241

S.B. NO. 2501

A Bill for an Act Relating to Fishing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to create and amend fishing provisions that affect the communities of Ha'ena, Kauai and Kahului, Maui. Specifically, part I of this Act establishes a community-based subsistence fishing area for the ahupua'a of Ha'ena to protect the fish stocks and coral reef habitats. Part II of this Act extends the effective date of Act 218, Session Laws of Hawaii 2005, to allow the department of land and natural resources time to adopt necessary rules regulating user conflicts in Kahului harbor.

PART I

SECTION 2. The ahupua'a of Ha'ena is the westernmost land in the moku of Halele'a on the northwest coast of Kauai. The public highway ends in this ahupua'a, a land filled with many wahi pana or storied places, sites that are sacred to native Hawaiians and important to the whole state. The ahupua'a of Ha'ena and its offshore waters, since time immemorial, have been an important subsistence fishery resource for native Hawaiians and local families of the ahupua'a. However, the beauty of the land and sea and the proximity to the end of the public highway in the ahupua'a of Ha'ena attract hundreds of thousands of visitors to the area every year. As a result of this influx of visitors and a growing problem of indiscriminate fishing practices,

there has been an adverse impact to the fish stocks and the integrity of the coral reef habitats in the area.

The legislature finds that a traditionally managed fishery wherein the inhabitants of the ahupua'a develop and assist in development and enforcement of traditional regulations for the maintenance of the fishery is needed for the ahupua'a of Ha'ena.

The purpose of this Act is to establish a community-based subsistence fishing area in the ahupua'a of Ha'ena.

SECTION 3. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§188- Ha'ena community-based subsistence fishing area; restrictions; regulations. (a) There is designated the Ha'ena community-based subsistence fishing area on the northwestern coast of Kauai, which shall consist of all state waters and submerged lands bounded by:

- (1) The shoreline of the Haena district;
- (2) A line that follows an imaginary extension of the boundary between Hae'na state park and Na Pali state park that extends seaward for one mile from the shoreline;
- (3) An irregular line one mile offshore that is parallel to the contours of the shoreline; and
- (4) A line that follows an imaginary extension of the boundary between Hae'na and Wainiha, as specified in the tax map of the county of Kauai, that extends seaward for one mile from the shoreline.

(b) In addition to the provisions of this chapter, the following uses or activities shall be regulated in the Ha'ena community-based subsistence fishing area:

- (1) Any activities with a commercial purpose, as defined in section 187A-1;
- (2) The issuance of any commercial marine license, as defined in section 187A-1;
- (3) The issuance of any aquarium fish permits, pursuant to section 188-31;
- (4) Fishing with the use of gill nets;
- (5) Fishing with self-contained underwater breathing apparatus and spears; and
- (6) Any other use or activity that the department of land and natural resources, in consultation with the inhabitants of the ahupua'a of Ha'ena and other interested parties, deems appropriate.

(c) The department of land and natural resources, as soon as practical, shall consult with as broad a base as possible, group of inhabitants of the ahupua'a of Ha'ena and other interested parties to establish rules for the Ha'ena community-based subsistence fishing area, to include but not be limited to:

- (1) A determination of fishing practices that are customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion in the fishing area;
- (2) A management plan recognizing existing marine activities permitted by the department of land and natural resources and containing a description of specific activities to be conducted in the fishing area, including evaluation and monitoring processes and methods of funding and enforcement;
- (3) Limits on the harvest of aquatic life, as those terms are defined in section 187A-1, in the fishing area;

- (4) The establishment of no harvesting zones within the fishing area without depriving ahupua'a inhabitants of access to traditional sources of subsistence; and
- (5) A process for the expansion of the fishing area to include other ahupua'a. The department of land and natural resources shall adopt rules pursuant to chapter 91 necessary for the purpose of this section."

PART II

SECTION 4. The legislature finds that the department of land and natural resources is in the process of adopting rules regulating user conflicts in Kahului harbor and upon the adoption of the rules, the provision of Act 218, Session Laws of Hawaii 2005, will be unnecessary. The legislature further finds that the rule making process should be completed prior to June 2007.

The purpose of this part is to extend the effective date of Act 218, Session Laws of Hawaii 2005, to allow the department of land and natural resources time to adopt necessary rules prior to June 2007.

SECTION 5. Act 218, Session Laws of Hawaii 2005, is amended by amending section 3 to read as follows:

"SECTION 3. This Act shall take effect on ~~December 31, 2006.~~ June 30, 2007; provided that this Act shall be repealed upon the effective date of administrative rules adopted by the department of land and natural resources regarding user conflicts at Kahului harbor; and provided further that upon repeal of this Act, section 188-34, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act."

PART III

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved June 26, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.