

ACT 134

S.B. NO. 2284

A Bill for an Act Relating to Aquaculture.

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

SECTION 1. The legislature finds that diversification of the State's economy is necessary to lessen economic dependence on tourism and respond to the economic downturn exacerbated by the coronavirus disease 2019 pandemic. Supporting local aquacultural production can help the State move toward greater food sustainability and expand a home-based workforce. The legislature further finds that seafood demand outpaces supply, and world fishery resources are quickly depleting. There is significant growth potential for the aquaculture industry in the State and for aspiring entrepreneurs looking to establish themselves in this global emerging industry.

Accordingly, the purpose of this Act is to:

- (1) Establish provisions relating to the department of agriculture's governing of the business of aquaculture;

- (2) Grant exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by brood stock acquisition;
- (3) Authorize the department of agriculture to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be necessary to protect indigenous species; and
- (4) Require the department of agriculture to prepare programmatic environmental impact reports.

SECTION 2. Chapter 141, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . AQUACULTURE

§141-A Definitions. As used in this part:

“Aquaculture” means any form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. The term “aquaculture” does not include species of ornamental marine or freshwater plants and animals that are not utilized for human consumption or bait purposes and that are maintained in closed systems for personal, pet industry, or hobby purposes.

“Chairperson” means the chairperson of the board of agriculture.

“Department” means the department of agriculture.

“Indigenous species” means any aquatic life, wildlife, or land plant species growing or living naturally in Hawaii without having been brought to Hawaii by humans.

“Person” means any natural person or any partnership, corporation, limited liability company, trust, or other type of association.

§141-B Aquaculture program. (a) There is established within the department an aquaculture program that shall:

- (1) Monitor actions taken by industry and by federal, state, county, and private agencies in activities relating to aquaculture, and promote and support worthwhile aquaculture activities;
 - (2) Serve as an information clearinghouse for aquaculture activities;
 - (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial potential;
 - (4) Actively seek federal funding for aquaculture activities;
 - (5) Undertake activities required to develop and expand the aquaculture industry; and
 - (6) Perform other functions and activities that may be assigned by law.
- (b) The chairperson may employ temporary staff exempt from chapter 76 for the aquaculture program.

§141-C Fees for aquaculture services. The department of agriculture may establish and assess fees pursuant to chapter 91 for:

- (1) Aquatic animal and plant health diagnostic services; and
- (2) Any items or expert services purchased from the department related to aquaculture planning, aquaculture disease management, and the marketing of seafood products;

provided that the assessment of these fees does not violate any provisions of this chapter.

§141-D Aquaculture development special fund. (a) There is established in the state treasury the aquaculture development special fund into which shall be deposited:

- (1) Appropriations from the legislature;
- (2) Moneys collected as fees for special microbiological and histological procedures and expert aquaculture-related services;
- (3) Moneys collected from the sale of any item related to aquaculture development that is purchased from the department;
- (4) Moneys directed to the aquaculture program from any other sources, including but not limited to grants, gifts, and awards; and
- (5) Moneys derived from interest, dividend, or other income from the above sources.

(b) Moneys in the aquaculture development special fund shall be used to:

- (1) Implement the aquatic disease management programs and activities of the department, including the provision of state funds to match federal grants; and
- (2) Support research and development programs and activities relating to the expansion of the state aquaculture industry. Research and development programs and activities funded under this paragraph may be conducted by department personnel or through contracts with the University of Hawaii or other qualified persons.

§141-E Powers, duties, and activities of the department. (a) The business of aquaculture shall be governed by this part and shall be exempt from any other provisions relating to the harvesting, processing, and marketing of cultured aquatic life.

(b) Except as provided in this part, the business of aquaculture processing, distribution, and marketing shall be administered by the chairperson.

(c) The chairperson may enter into an agreement with the chairperson of the board of land and natural resources for the resolution of any conflict regarding jurisdiction that arises under this part.

(d) Any costs incurred by the department in implementing this part shall be recovered pursuant to this part.

§141-F Brood stock acquisition; exclusive property rights. The cultured progeny of wild plants and animals lawfully obtained by brood stock acquisition are the exclusive property of the person who cultured them or that person's successor in interest.

§141-G Protection of indigenous species. (a) When necessary for the protection of indigenous species, the department may regulate the transportation, purchase, possession, and sale of specific aquaculture products as provided for in this section.

(b) The department may determine that aquaculture products shall be accompanied by a document containing any of the following information:

- (1) The name, address, and registration number of the aquaculture producer;
- (2) The species;
- (3) The weight, volume, or count within the container;
- (4) The date of the shipment; and
- (5) The name and address of the intended receiver.

(c) The department may require that certain aquaculture products be additionally identified as having been produced by aquaculture.

§141-H Programmatic environmental impact reports. (a) The department shall prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the State if both of the following conditions are met:

- (1) Funds are appropriated to the department for this purpose; and
- (2) Matching funds are provided by the aquaculture industry.

(b) For purposes of this section, “matching funds” includes but is not limited to any funds expended by the aquaculture industry before January 1, 2022, for the preparation of a programmatic environmental impact report.

§141-I Rulemaking authority. The department shall adopt rules pursuant to chapter 91 to effectuate the purpose of this part.”

SECTION 3. Section 26-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall:

- (1) Promote the conservation, development, and utilization of agricultural resources in the State;
- (2) Assist the farmers of the State and any others engaged in agriculture by research projects, dissemination of information, crop and livestock reporting service, market news service, and any other means of improving the well-being of those engaged in agriculture and increasing the productivity of the lands;
- (3) Administer the programs of the State relating to animal husbandry, entomology, farm credit, development and promotion of agricultural products and markets, and the establishment and enforcement of the rules on the grading and labeling of agricultural products; and
- (4) Administer the aquaculture program under section [~~141-2.5~~] 141-B.”

SECTION 4. Section 141-2.5, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 141-2.6, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 141-2.7, Hawaii Revised Statutes, is repealed.

SECTION 7. The department of agriculture shall acquire land for the purposes of aquaculture.

SECTION 8. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 9. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved June 27, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.