
A BILL FOR AN ACT

RELATING TO AQUATIC LIFE.

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

1 SECTION 1. The United States Coral Reef Task Force has
2 reported that severe over-harvesting of coral by the aquarium
3 industry occurs in Hawaii. Hawaii's reefs are the world's
4 third-largest source of wildlife for aquarium hobbyists. This
5 loss of wildlife threatens Hawaii's reef environments and the
6 socioeconomic benefits they provide, including to tourism--a
7 crucial contributor to the State's economy, and as sustenance
8 for local families.

9 The aquarium industry has operated for over fifty years
10 with no limits on the volume of take and no limits on the
11 number of permits. Species targeted by the industry are three
12 to ten times more abundant in areas protected from aquarium-
13 collecting than in areas where the industry operates, which
14 represents the vast majority of Hawaii's coral reefs.

15 Regulations have thus far failed to maintain populations of
16 crucial species at levels necessary to protect Hawaii's coral
17 reefs. The aquarium industry primarily targets herbivorous



1 species like the yellow tang. The species that have been most
2 heavily collected have also experienced the greatest declines in
3 population. As the most heavily targeted species, the
4 population of yellow tang has now been depleted in many areas,
5 decreasing by seventy to ninety per cent.

6 A decline in herbivorous fish are a known stressor to coral
7 reefs. Recent research shows that two-thirds of Hawaii reefs
8 are now dominated by the type of algae upon which herbivorous
9 fish would typically feed. Abundant and diverse communities of
10 herbivorous fish are vital for coral reefs to recover from
11 events like the recent unprecedented coral bleaching that
12 occurred throughout the State. Without herbivorous fish, the
13 long-term stability of these fragile ecosystems is in jeopardy.

14 Fewer than one hundred of the more than two hundred
15 individuals with commercial aquarium fish permits are actually
16 engaged in such activity and file reports with the department of
17 land and natural resources. Most of these nearly one hundred
18 aquarium collectors work part-time, collecting wildlife three
19 days per week. These part-time jobs appear to be the only
20 identifiable economic benefit. Reported annual sales of less
21 than \$2,300,000 generate less than \$100,000 in general excise



1 taxes--far less than the amount of funding required for permit
2 administration and adequate enforcement by the division of
3 conservation and resource enforcement of the department of land
4 and natural resources.

5 Wildlife left on reefs benefits the reefs. Restoring
6 herbivorous fish populations is essential for the protection of
7 Hawaii's coral reefs and the current and future socioeconomic
8 well-being of Hawaii's people, which is tied to this unique
9 marine environment.

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- Selling of aquatic life for aquarium purposes
14 prohibited; penalties; fines. (a) It shall be unlawful for any
15 person at any time to knowingly or intentionally sell or offer
16 to sell, for aquarium purposes, aquatic life taken from any of
17 the waters within the jurisdiction of the State.

18 (b) This section shall not apply to a person exercising a
19 customary and traditional right for subsistence, cultural, or
20 religious purposes, subject to the right of the State to
21 regulate that right, including native Hawaiian gathering rights



1 and traditional cultural practices as authorized by law, or as
2 permitted by the State pursuant to article XII, section 7, of
3 the Hawaii State Constitution.

4 (c) This section shall not apply to the taking of aquatic
5 life for human consumption or for sale for human consumption,
6 including the use of bait.

7 (d) This section shall not prohibit special activity
8 permits allowed under section 187A-6; provided that the permit
9 issued is for bona fide scientific or public display purposes.

10 (e) Any person violating this section or any rule adopted
11 pursuant to this section shall be guilty of a misdemeanor, and:

12 (1) For a first offense, shall be fined not more than
13 \$1,000 or thirty days of imprisonment, or both;

14 (2) For a second offense within five years of a previous
15 violation, shall be fined not more than \$2,000 or
16 sixty days of imprisonment, or both; and

17 (3) For a third or subsequent offense within five years of
18 a previous violation, shall be fined not more than
19 \$3,000 or ninety days of imprisonment, or both.

20 (f) In addition to any other penalty imposed under this
21 section, a person violating this section shall be subject to:



1 (1) An administrative fine of not more than \$1,000 for
2 each specimen of aquatic life sold;

3 (2) Seizure and forfeiture of any taken specimens of
4 aquatic life, commercial marine license, vessel, and
5 equipment; and

6 (3) Assessment of administrative fees and costs, and
7 attorney's fees and costs.

8 (g) The division of aquatic resources of the department of
9 land and natural resources shall submit an annual report on the
10 effectiveness and enforcement of this section to the legislature
11 no later than twenty days prior to the convening of each regular
12 session.

13 (h) As used in this section:

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

18 "Aquatic life" means any type or species of mammal, fish,
19 amphibian, reptile, mollusk, crustacean, arthropod,
20 invertebrate, coral, or other animal that inhabits the
21 freshwater or marine environment and includes any part, product,



1 egg, or offspring thereof; or freshwater or marine plants,
2 including seeds, roots, products, and other parts thereof.

3 "Sell" means to transfer, prescribe, give, or deliver to
4 another; to leave, barter, or exchange with another; or to offer
5 or agree to do the same to another for consideration.

6 "Take" means to fish for, catch, capture, confine, or
7 harvest, or to attempt to fish for, catch, capture, confine, or
8 harvest, aquatic life."

9 SECTION 2. Section 188-31, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§188-31 Permits to take aquatic life for aquarium**
12 **purposes.** (a) Except as prohibited by law, the department,
13 upon receipt of a written application, may issue an aquarium
14 fish permit, not longer than one year in duration, to take
15 aquatic life and to use fine meshed traps, or fine meshed nets
16 other than throw nets, for the taking of marine or freshwater
17 nongame fish and other aquatic life for aquarium purposes. No
18 person shall take aquatic life for aquarium purposes or use fine
19 meshed traps or fine meshed nets other than throw nets to take
20 marine or freshwater nongame fish and other aquatic life for
21 aquarium purposes without an aquarium fish permit.



1 (b) Except as prohibited by law, the permits shall be
2 issued only to persons who can satisfy the department that they
3 possess facilities to and can maintain fish and other aquatic
4 life alive and in reasonable health.

5 (c) It shall be illegal to sell or offer for sale any fish
6 and other aquatic life taken under an aquarium fish permit
7 [~~unless those fish and other aquatic life are sold alive for~~
8 ~~aquarium purposes~~].

9 The department may adopt rules pursuant to chapter 91 for
10 the purpose of this section.

11 (d) For the purposes of this section:

12 (1) "Aquarium purposes" means to hold salt water fish,
13 freshwater nongame fish, or other aquatic life alive
14 in a state of captivity as pets, for scientific study,
15 or for public exhibition or display[~~, or for sale for~~
16 ~~these purposes, and~~];

17 (2) "Aquarium fish permit" means a permit issued by the
18 board for the taking of aquatic life and for the use
19 of fine mesh nets and traps to take salt water fish,
20 freshwater nongame fish, or other aquatic life for
21 aquarium purposes[~~-~~]; and



1 (3) "Sell" means to transfer, prescribe, give, or deliver
2 to another; to leave, barter, or exchange with
3 another; or to offer or agree to do the same to
4 another for consideration."

5 SECTION 4. Section 189-11, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§189-11 Receipts in duplicate.** Every commercial marine
8 dealer shall issue receipts to the person from whom marine life
9 is obtained and shall provide the following information in the
10 receipt:

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



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

6 SECTION 6. This Act shall take effect on January 1, 2016.

7

INTRODUCED BY: Feldy BR

JAN 26 2015



H.B. NO. 873

Report Title:

Aquatic Life; Protection

Description:

Prohibits the sale of aquatic life for aquarium purposes.

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