

JAN 23 2009

A BILL FOR AN ACT

RELATING TO FISHING.

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

1 SECTION 1. The legislature finds that according to a
2 recent report by the National Oceanic and Atmospheric
3 Administration, forty-two per cent of fifty-five reef species
4 studied in the main Hawaiian Islands were in critical condition
5 and thirty-three per cent were in depleted condition, compared
6 to fish stocks in the relatively unfished Northwest Hawaiian
7 Islands. Populations of food fishes around the main Hawaiian
8 Islands have dropped more than seventy-five per cent in the last
9 century, according to the International Coral Reef Initiative.

10 The legislature further finds that the use of lay gill nets
11 is a destructive fishing method because lay gill nets are
12 efficient but indiscriminate in the way they catch fish and
13 other marine life. In addition, abandoned lay gill nets
14 continue to kill marine life, can break off or destroy coral
15 formations, and create marine debris.

16 In 2007, the department of land and natural resources
17 amended title 13, chapter 75 of the Hawaii Administrative Rules,



1 which regulates lay gill nets, among other fishing gear. The
2 amended rules are meant to protect nearshore waters from over
3 fishing and the indiscriminate taking of marine life. However,
4 the legislature finds that the department's conservation and
5 resources enforcement division is short of manpower with fewer
6 than one hundred fifteen conservation enforcement officers to
7 respond to fifty to one hundred reports of conservation
8 violations per day, including violations on land as well as in
9 the ocean.

10 Currently, lay gill nets are banned around the entire
11 island of Maui, along portions of the west coast of the island
12 of Hawaii, and portions of the south and east shores of the
13 island of Oahu.

14 The purpose of this Act is to extend throughout the State,
15 the ban on the use of lay gill nets measuring over a certain
16 size for fishing.

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

20 "§188- Fishing with lay gill nets; prohibited. (a) It
21 is unlawful for any person to possess or use for fishing any lay
22 gill net in the waters of the State.



1 (b) As used in this section, "lay gill net" means a
 2 curtainlike net suspended in the water and measuring at least
 3 feet in length and in stretched height with
 4 mesh openings large enough to permit only the heads of the fish
 5 to pass through, ensnaring them around the gills when they
 6 attempt to escape.

7 (c) Notwithstanding section 188-70 and any other law to
 8 the contrary, any person violating this section is guilty of a
 9 petty misdemeanor and, in addition to any other penalties, shall
 10 be subject to immediate forfeiture of the lay gill net and be
 11 fined not less than:

- 12 (1) \$ for a first offense;
- 13 (2) \$ for a second offense; and
- 14 (3) \$ for a third or subsequent offense.

15 (d) The department shall destroy any lay gill net acquired
 16 pursuant to subsection (c)."

17 SECTION 3. Section 188-22.9, Hawaii Revised Statutes, is
 18 amended by amending subsection (b) to read as follows:

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



- 1 (1) Any activities with a commercial purpose, as defined
- 2 in section 187A-1;
- 3 (2) The issuance of any commercial marine license, as
- 4 defined in section 187A-1;
- 5 (3) The issuance of any aquarium fish permits, pursuant to
- 6 section 188-31;
- 7 (4) ~~[Fishing with the use of gill nets;~~
- 8 ~~(5)]~~ Fishing with self-contained underwater breathing
- 9 apparatus and spears; and
- 10 ~~[(6)]~~ (5) Any other use or activity that the department of
- 11 land and natural resources, in consultation with the
- 12 inhabitants of the ahupua'a of Ha'ena and other
- 13 interested parties, deems appropriate."

14 SECTION 4. Section 188-70, Hawaii Revised Statutes, is

15 amended by amending subsection (a) to read as follows:

16 "(a) Any person violating any provision of this chapter,

17 excepting ~~[section]~~ sections 188-23 ~~[7]~~ and 188- , or any rule

18 adopted pursuant thereto, is guilty of a petty misdemeanor and,

19 in addition to any other penalties, shall be fined not less

20 than:

- 21 (1) \$100 for a first offense;
- 22 (2) \$200 for a second offense; and



1 (3) \$500 for a third or subsequent offense."

2 SECTION 5. Section 188F-4, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "[~~+~~§188F-4~~+~~] **West Hawaii regional fishery management**
5 **area plan.** The department shall develop a West Hawaii regional
6 fishery management area plan that identifies and designates
7 appropriate areas of the management area as follows:

8 (1) Designates a minimum of thirty per cent of coastal
9 waters in the West Hawaii regional fishery management
10 area as fish replenishment areas in which aquarium
11 fish collection is prohibited;

12 (2) Establishes a day-use mooring buoy system along the
13 coastline of the West Hawaii regional fishery
14 management area and designates some high-use areas
15 where no anchoring is allowed; and

16 (3) Establishes a portion of the fish replenishment areas
17 as fish reserves where no fishing of reef-dwelling
18 fish is allowed~~[; and~~

19 ~~(4) Designates areas where the use of gill nets as set~~
20 ~~nets shall be prohibited]."~~

21 SECTION 6. Within ninety days of the effective date of
22 this Act, any person who owns a lay gill net in good condition



1 and duly registered with the department of land and natural
2 resources may present the lay gill net to the department for
3 reimbursement of a portion of the cost of the lay gill net, as
4 determined by the department. The department shall destroy any
5 lay gill net acquired pursuant to this section.

6 SECTION 7. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2009-2010 for
9 reimbursement of a portion of the cost of any lay gill net,
10 pursuant to section 6 of this Act.

11 The sum appropriated shall be expended by the department of
12 land and natural resources for the purposes of this Act.

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on January 1, 2010,
16 and shall be repealed on December 31, 2014, and section
17 188-22.9, Hawaii Revised Statutes, section 188-70, Hawaii
18 Revised Statutes, and section 188F-4, Hawaii Revised Statutes,
19 shall be reenacted in the form in which they read on



1 December 31, 2009; provided that section 7 shall take effect on
2 July 1, 2009.

3

INTRODUCED BY:

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Report Title:

Fishing; Lay Gill Nets; Prohibition; Appropriation

Description:

Bans the use of lay gill nets over a certain size for fishing; establishes penalties, including forfeiture of the lay gill net; authorizes the department of land and natural resources to reimburse a portion of the costs for registered lay gill nets; appropriates funds for the reimbursement; effective 1/1/2010; sunset 12/31/2014.

