A BILL FOR AN ACT

RELATING TO AQUATIC BIOSECURITY.

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

SECTION 1. The legislature finds that the introduction and
spread of alien aquatic organisms poses an unprecedented threat
to Hawaii's marine ecosystems, harbors, recreational activities,
and economy. Alien aquatic organisms can cause the collapse of
native ecosystems and negatively impact coral reefs' resilience
to climate change. In order to combat the introduction and
spread of alien aquatic organisms it is imperative that the
State assess and regulate the vectors of introduction.

The introduction of alien aquatic organisms has been linked
to the movement of unmanaged or improperly managed ballast
water, vessel biofouling, biofouling on marine debris that
washes ashore, and the escape or release of species from
aquaculture, scientific research, and the aquarium trade or
hobbyists. The two main vectors of alien aquatic organism
introduction are vessel ballast water and biofouling. Ballast
water is the seawater pumped into and out of ballast tanks to
stabilize vessels and biofouling is the growth of marine species on the hulls and in the niche areas of vessels.

The legislature further finds that the Hawaii Interagency Biosecurity Plan 2017-2027 recognizes that up to seventy-eight per cent of the non-native marine algae and invertebrate species in Hawaii waters arrived through biofouling or a combination of biofouling and ballast water, and that the presence of alien species in unmanaged or undermanaged ballast water and on vessel hulls remains a high risk factor for the arrival and spread of invasive marine species. The Hawaii Interagency Biosecurity Plan 2017-2027 also recognizes that regulating these vectors is exponentially more cost effective than post-introduction control and eradication programs.

The legislature further finds that recent developments in technology used in other states and countries provide opportunities to assess and mitigate the risk of introduction of alien aquatic organisms. In order for emerging technologies and systems to properly provide protections for Hawaii’s waters, it is critical that the State embark on a program aimed at testing these technologies and demonstrating proof of concept, that may be followed by regulation and oversight of their use.
The legislature further finds that on December 4, 2018, the Vessel Incidental Discharge Act, Title IX of the Frank LoBiondo Coast Guard Authorization Act of 2018, was signed into law as Public Law Number 115-282. The Vessel Incidental Discharge Act has far-reaching implications for how states may regulate certain discharges that are considered incidental to the normal operations of a vessel. Once the federal law, which has a four-year implementation timeline, comes into full force and effect, states will be preempted from setting or enforcing rules and regulations related to the treatment and discharge of ballast water and the effluent resulting from the cleaning of vessel hulls in state waters that are more stringent than federal regulations. However, there is ample evidence of the risk posed by the discharge of unmanaged or undermanaged ballast water and by the arrival and movement of vessels that are fouled with species that can cause harm when moved to new locations beyond their native range. Further, the legislature finds that the United States Coast Guard does not currently test vessel ballast water to assess treatment efficacy or risk, or as a means of assessing compliance with ballast water management regulations.
Section 187A-32, Hawaii Revised Statutes, designates the department of land and natural resources as the lead agency for preventing the introduction of alien aquatic organisms. To successfully meet this responsibility, the legislature finds that the department requires additional capacity to develop and maintain a program to assess, monitor, and regulate vectors of alien aquatic organisms.

The purpose of this Act is to:

(1) Require the department of land and natural resources to impose an aquatic biosecurity risk assessment service fee for assessment of activities that are recognized as a potential vector source for the introduction or spread of alien aquatic organisms; and

(2) Appropriate funds to support staff and operational costs associated with aquatic biosecurity inspection, investigation, monitoring, management, compliance, and enforcement.

SECTION 2. Section 187A-32, Hawaii Revised Statutes, is amended to read as follows:

"[¶]§187A-32[¶] Alien aquatic organisms; lead agency; fees; rules. (a) The department is designated as the lead
state agency for preventing the introduction and carrying out
the destruction of alien aquatic organisms through the
regulation of ballast water discharges and hull fouling
organisms. The department may establish an interagency team to
address the concerns relating to alien aquatic organisms.

(b) The department may adopt rules in accordance with
chapter 91, including penalties, to carry out the purposes of
this part. The rules may include standards for the department
and the United States Coast Guard to use as part of their
respective inspection protocols. The rules may also include
implementation of a course of action in relation to the arrival
or pending arrival of a high risk vessel. The rules may also
include fees and regulations for all other non-military vessels
not subject to the aquatic biosecurity risk assessment service
fee under subsection (c).

(c) The department shall charge an aquatic biosecurity
risk assessment service fee for the inspection, investigation,
monitoring, and management of alien aquatic organisms. This fee
shall be charged on all vessels required to pay a port entry fee
when entering harbors under the jurisdiction of the department
of transportation as set forth in rules adopted pursuant to
section 266-2. The aquatic biosecurity risk assessment service fee shall be eighty-five per cent of the port entry fee amount and shall be collected with the port entry fee. The aquatic biosecurity risk assessment service fee shall be deposited into the general fund.

(d) The [governor may enter into an agreement] department shall carry out and enforce the purposes of this part to the extent of its jurisdiction and carry out, enforce, or co-enforce with the United States [Secretary of Transportation to carry out] Coast Guard the purposes of this part, including [but not limited to] the enforcement of [state] federal law."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of $239,376 or so much thereof as may be necessary for fiscal year 2019-2020 and the sum of $478,752 or so much thereof as may be necessary for fiscal year 2020-2021 for the funding of the following positions to support the prevention, detection, and management of aquatic alien and invasive species in ecosystem protection and restoration:

(1) Half-year funding ($32,238 for fiscal year 2019-2020) and full-year funding ($64,476 for fiscal year 2020-
(1) Half-year funding ($29,808 for fiscal year 2019-2020) and full-year funding ($59,616 for fiscal year 2020-2021) for one biologist VI position to oversee the aquatic biosecurity team and operations;

(2) Half-year funding ($26,478 for fiscal year 2019-2020) and full-year funding ($52,956 for fiscal year 2020-2021) for one program specialist V position to analyze and develop regulations and policy related to aquatic biosecurity;

(3) Half-year funding ($26,478 for fiscal year 2019-2020) and full-year funding ($52,956 for fiscal year 2020-2021) for one general professional IV position to develop, manage, and maintain reporting for any database and technology used during aquatic biosecurity risk inspections;

(4) Half-year funding ($52,956 for fiscal year 2019-2020) and full-year funding ($105,912 for fiscal year 2020-2021) for two biologist IV positions to oversee biosecurity risk inspections and compliance testing; and

(5) Half-year funding ($97,896 for fiscal year 2019-2020) and full-year funding ($195,792 for fiscal year 2020-2021) for four biologist III positions to conduct
biosecurity risk inspections, monitoring, and related outreach and education.

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

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of $28,158 or so much thereof as may be necessary for fiscal year 2019-2020 and the sum of $56,316 or so much thereof as may be necessary for fiscal year 2020-2021 for one full-time equivalent (1.0 FTE) conservation and resources enforcement officer IV position to support safety, compliance, and enforcement of aquatic biosecurity laws in conservation and resources enforcement.

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

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of $24,474 or so much thereof as may be necessary for fiscal year 2019-2020 and the sum of $48,948 or so much thereof as may be necessary for fiscal year 2020-2021 for one full-time equivalent (1.0 FTE) accountant III position to support assessment, collection, and accounting
of the aquatic biosecurity risk assessment service fee in
harbors administration.

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

SECTION 6. There is appropriated out of the general
revenues of the State of Hawaii the sum of $540,000 or so much
thereof as may be necessary for fiscal year 2019-2020 and the
sum of $400,000 or so much thereof as may be necessary for
fiscal year 2020-2021 for operating expenditures in the
ecosystem protection and restoration program for aquatic
biosecurity including contracts for specialized laboratory work,
purchase and maintenance of field and laboratory equipment and
supplies, and travel costs.

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

SECTION 7. If any provision of this Act, or the
application thereof to any person or circumstance, is held
invalid, the invalidity does not affect other provisions or
applications of the Act that can be given effect without the
invalid provision or application, and to this end the provisions
of this Act are severable.
SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2019.

INTRODUCED BY: [

JAN 22 2019]
Report Title:
Aquatic Biosecurity; Appropriation

Description:
Requires the Department of Land and Natural Resources to charge an aquatic biosecurity risk assessment service fee and conduct activities to detect and prevent the introduction or spread of alien aquatic organisms. Appropriates funds for staffing and operating expenditures for aquatic biosecurity.

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