A BILL FOR AN ACT

RELATING TO SHARK AND RAY PROTECTION.

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

SECTION 1. The legislature finds that sharks and rays are extremely important to ocean ecosystems. As ocean predators near the top of the food chain, sharks keep the ecosystem balanced, regulate populations of other marine life, and ensure healthy fish stock and reefs.

Sharks and rays are more vulnerable than most other fish species. They are long-living and slow-growing, start reproducing at an advanced age, and produce relatively few offspring per year. If the food chain is disrupted by a decline in the shark population, it affects the entire reef system.

Protection for sharks and rays ultimately means healthier, more resilient oceans and reefs that are better able to withstand other pressures on the ocean ecosystem from climate change and pollution.

Sharks and rays on the reefs not only have significant ecological roles, but they are also valued figures in Hawaiian culture and are economically important to ocean recreation.
industries and tourism in the State. The benefits of
maintaining viable populations greatly outweigh any value that
would be gained by killing these species.

The purpose of this Act is to:

(1) Protect sharks and rays for ecological purposes, for
their value to the ocean recreation industry, and for
their value to native Hawaiian cultural practices;

(2) Establish fines and penalties for knowingly capturing,
taking, possessing, abusing, or entangling a shark,
whether alive or dead, or killing a shark, within
state marine waters;

(3) Expand the existing prohibition on knowingly capturing
or killing a manta ray to apply to all rays; and

(4) Expand the prohibition regarding rays to include
knowingly capturing, taking, possessing, abusing, or
entangling a ray, whether alive or dead, or killing a
ray, within state marine waters.

SECTION 2. Chapter 188, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:
Sharks; mano; prohibitions; exceptions; penalties and fines.  

(a) Except as provided in subsection (e) or as otherwise provided by law, no person shall knowingly capture, take, possess, abuse, or entangle any shark, whether alive or dead, or kill any shark, within marine waters.

(b) Any person violating this section or any rule adopted pursuant to this section shall be guilty of a misdemeanor; provided that the fine for violating this section shall be:

(1) $500 for a first offense;

(2) $2,000 for a second offense; and

(3) $10,000 for a third or any subsequent offense.

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

(1) An administrative fine of no more than $10,000 for each shark captured, killed, taken, possessed, abused, or entangled in violation of this section;

(2) Seizure and forfeiture of any captured sharks, commercial marine license, vessel, and fishing equipment; and

(3) Assessment of administrative fees and costs and attorney's fees and costs.
(d) The criminal penalties and administrative fines, fees, and costs imposed pursuant to this section shall be assessed per shark captured, killed, taken, possessed, abused, or entangled in violation of this section.

(e) This section shall not apply to:

(1) Special activity permits allowed under section 187A-6 or research permits authorized by law; provided that the permit issued does not allow a take that exceeds the potential biological removal level; provided further that the department of land and natural resources may adopt rules pursuant to chapter 91 to define "take" for purposes of this subsection and to determine when a take exceeds the potential biological removal level;

(2) The department of land and natural resources or its designated agent if the capture, killing, taking, possession, abuse, or entanglement is for the protection of public safety; and

(3) Sharks taken outside of state marine waters and possessed on a vessel in state marine waters pursuant
to any federally managed fishery, for the purpose of
landing the catch in the State.

(f) Nothing in this section shall be construed to restrict
the exercise of traditional and customary rights protected
pursuant to article XII, section 7, of the state constitution.

(g) For the purposes of this section, "shark" means any
species of shark within the subclass elasmobranchii."

SECTION 3. Section 188-39.5, Hawaii Revised Statutes, is
amended to read as follows:

"[§188-39.5] Manta rays; hihimanu; prohibitions,
penalties, and fines. (a) Except as provided in
subsection (e), no person shall knowingly capture [or kill],
take, possess, abuse, or entangle a [manta] ray, whether alive
or dead, or kill any ray, within state marine waters.

(b) Any person violating this section or any rule adopted
pursuant to this section shall be guilty of a misdemeanor and
shall be fined:

(1) $500 for a first offense;
(2) $2,000 for a second offense; and
(3) $10,000 for a third or subsequent offense.
(c) In addition to any other penalty imposed under this section, a person violating this section shall be subject to:

(1) An administrative fine of not more than $10,000 for each [manta] ray captured [or], killed, taken, possessed, abused, or entangled in violation of this section;

(2) Seizure and forfeiture of any captured [manta] rays, commercial marine license, vessel, and fishing equipment; and

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

(d) The criminal penalties and administrative fines and costs shall be assessed per [manta] ray captured [or], killed, taken, possessed, abused, or entangled in violation of this section.

(e) This section shall not [prohibit] apply to special activity permits allowed under section 187A-6[7] or research permits authorized by law; provided that the permit issued does not allow a take that exceeds the potential biological removal level; and provided further that the department [shall] may adopt rules pursuant to chapter 91 to define a "take" and
(f) Nothing in this section shall be construed to restrict the exercise of traditional and customary rights protected pursuant to article XII, section 7, of the state constitution.

(g) For the purposes of this section, "ray" means any species of ray within the subclass elasmobranchii."

SECTION 4. Section 188-70, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person violating any provision of or any rule adopted pursuant to this chapter, except sections 188-23 [and] 188-39.5, and 188-___, is guilty of a petty misdemeanor and, in addition to any other penalties, shall be fined not less than:

(1) $100 for a first offense;
(2) $200 for a second offense; and
(3) $500 for a third or subsequent offense."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. 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 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

INTRODUCED BY:

JAN 22 2019
Report Title:
Sharks; Rays; Prohibitions; Exemptions

Description:
Establishes penalties and fines for any person who knowingly captures, takes, possesses, abuses, or entangles any shark, whether alive or dead, or kills any shark, within state marine waters. Makes it a misdemeanor to knowingly capture, taking, possession, abuse, or entanglement of any shark, whether dead or alive, or killing of any shark, within state marine waters. Expands the existing prohibition on knowingly capturing or killing a manta ray to include all rays. Expands the prohibition regarding rays to cover knowingly capturing, taking, possessing, abusing, or entangling a ray, whether alive or dead, or killing a ray, within state marine waters. Provides certain exemptions.

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