
A BILL FOR AN ACT

RELATING TO SHARK AND RAY PROTECTION.

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

1 SECTION 1. The legislature finds that sharks, known as
2 "manō" in the Hawaiian language, and rays, known variously as
3 "hīhīmanu", "hāhālua", "hailepo", or "lupe" in the Hawaiian
4 language depending on the type of ray, are extremely important
5 to ocean ecosystems. As ocean predators near the top of the
6 food chain, sharks keep the ecosystem balanced, regulate
7 populations of other marine life, and ensure healthy fish stock
8 and reefs.

9 Sharks and rays are more vulnerable than most other fish
10 species. They are long-living and slow-growing, start
11 reproducing at an advanced age, and produce relatively few
12 offspring per year. If the food chain is disrupted by a decline
13 in the shark population, it affects the entire reef system.
14 Protection for sharks and rays ultimately means healthier, more
15 resilient oceans and reefs that are better able to withstand
16 other pressures on the ocean ecosystem from climate change and
17 pollution.



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

7 The purpose of this Act is to protect sharks and rays for
8 ecological purposes, for their value to the ocean recreation
9 industry, and for their value to Native Hawaiian cultural
10 practices by:

11 (1) Establishing fines and penalties for knowingly
12 capturing, taking, possessing, abusing, or entangling
13 a shark, whether alive or dead, or killing a shark,
14 within state marine waters; and

15 (2) Expanding the existing prohibition on knowingly
16 capturing or killing a manta ray to apply to all rays
17 and to also include knowingly taking, possessing,
18 abusing, or entangling a ray, whether alive or dead,
19 within state marine waters.



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

4 "§188- Sharks; manō; prohibitions; exceptions; penalties
5 and fines. (a) Except as provided in subsection (e) or as
6 otherwise provided by law, no person shall knowingly capture,
7 take, possess, abuse, or entangle any shark, whether alive or
8 dead, or kill any shark, within state marine waters.

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

- 12 (1) \$500 for a first offense;
- 13 (2) \$2,000 for a second offense; and
- 14 (3) \$10,000 for a third or any subsequent offense.

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

- 17 (1) An administrative fine of no more than \$10,000 for
18 each shark captured, taken, possessed, abused, or
19 entangled, whether alive or dead, or killed in
20 violation of this section;



- 1 (2) Seizure and forfeiture of any captured sharks,
2 commercial marine license, vessel, and fishing
3 equipment; and
- 4 (3) Assessment of administrative fees and costs and
5 attorney's fees and costs.
- 6 (d) The criminal penalties and administrative fines, fees,
7 and costs imposed pursuant to this section shall be assessed per
8 shark captured, taken, possessed, abused, or entangled, whether
9 alive or dead, or killed in violation of this section.
- 10 (e) This section shall not apply to:
- 11 (1) Special activity permits allowed under section 187A-6
12 or research permits authorized by law; provided that
13 the permit issued does not allow a take that exceeds
14 the potential biological removal level; provided
15 further that the department of land and natural
16 resources may adopt rules pursuant to chapter 91 to
17 define "take" for purposes of this subsection and to
18 determine when a take exceeds the potential biological
19 removal level;
- 20 (2) The department of land and natural resources or its
21 designated agent if the capture, taking, possession,



1 abuse, or entanglement, whether alive or dead, or
2 killing is for the protection of public safety;

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

7 (4) Any person if the capture, taking, possession, abuse,
8 entanglement, or killing is the result of defense of
9 the person's self or of another against death or
10 bodily harm.

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

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

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

18 "~~[+]§188-39.5[+]—Manta rays;~~ Rays; hīhimanu; hāhālua;
19 hailepo; lupe; prohibitions, penalties, and fines. (a) [Nø]

20 Except as provided in subsection (e), no person shall knowingly
21 capture [~~or kill~~], take, possess, abuse, or entangle a [~~manta~~]



1 ray, whether alive or dead, or kill any ray, within state marine
2 waters.

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

6 (1) \$500 for a first offense;

7 (2) \$2,000 for a second offense; and

8 (3) \$10,000 for a third or subsequent offense.

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

11 (1) An administrative fine of not more than \$10,000 for
12 each [~~manta~~] ray captured, taken, possessed, abused,
13 or entangled, whether alive or dead, or killed in
14 violation of this section;

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

18 (3) Assessment of administrative fees and costs[7] and
19 attorney's fees and costs.

20 (d) The criminal penalties and administrative fines and
21 costs shall be assessed per [~~manta~~] ray captured, taken,



1 possessed, abused, or entangled, whether alive or dead, or
2 killed in violation of this section.

3 (e) This section shall not [~~prohibit~~] apply to special
4 activity permits allowed under section 187A-6[7] or research
5 permits authorized by law; provided that the permit issued does
6 not allow a take that exceeds the potential biological removal
7 level; and provided further that the department [~~shall~~] may
8 adopt rules pursuant to chapter 91 to define a "take" and
9 determine when a take exceeds the potential biological removal
10 level.

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

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

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

18 "(a) Any person violating any provision of or any rule
19 adopted pursuant to this chapter, except sections 188-23 [~~and~~],
20 188-39.5, and 188- , is guilty of a petty misdemeanor and, in
21 addition to any other penalties, shall be fined not less than:



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

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

7 SECTION 6. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

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

15 SECTION 8. This Act shall take effect on September 1,
16 2019.



Report Title:

Sharks; Rays; Prohibitions; Exemptions

Description:

Establishes an offense of knowingly capturing, taking, possessing, abusing, entangling, or killing a shark in state marine waters, along with penalties and fines. Expands the existing prohibition on knowingly capturing or killing a manta ray in state marine waters to apply to all rays and to also include knowingly taking, possessing, abusing, or entangling a ray. Provides certain exemptions. Effective 9/1/2019. (SD2)

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