A BILL FOR AN ACT

RELATING TO MARINE AQUARIUM FISHING.

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

SECTION 1. The legislature finds that the commercial
capture of Hawai‘i's reef wildlife for sale to the aquarium pet
trade is incompatible with kanaka maoli values such as living in
harmony and balance with nature, mālama 'āina, kuleana for the
surrounding environment, the concept of aloha ‘āina, and other
Native Hawaiian traditional and customary gathering rights and
cultural practices. The commercial trade is contrary to pono
fishing practices, such as taking only what is needed for
subsistence.

The legislature further finds that in 1988 the State
prohibited the taking of sand, dead coral or coral rubble,
rocks, soil, and other marine deposits. Extending prohibitions
to encompass the commercial collection and sale of reef wildlife
for the aquarium pet trade is now needed to protect the
traditional cultural practices of kanaka maoli and kama‘āina, and
the preservation of natural resources for the benefit of all
state residents. The legislature recognizes that these
obligations and protections are enshrined in the state
constitution, specifically in article XI, section 1,
conservation and development of resources, article XI, section
9, environmental rights, and article XII, section 7, traditional
and customary rights.

The purpose of this Act is to prohibit all commercial
capture of aquatic life for aquarium purposes, regardless of the
method of collection. This Act is intended to allow the
following practices to continue:

(1) Issuance of special activity permits pursuant to
section 187A-6, Hawaii Revised Statutes;

(2) Issuance of recreational permits for non-commercial
capture of aquatic life for aquarium purposes, in
accordance with existing laws and rulings regarding
compliance with environmental assessments; and

(3) Captive-breeding and aquaculture efforts, as regulated
by section 187A-3.5, Hawaii Revised Statutes.

Nothing in this Act should be construed to prohibit the
exercise of traditional and customary practices, the lawful
taking of fish for consumption or bait, or the lawful management
or taking of aquatic life from fishponds.
SECTION 2. Chapter 189, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§189- Harvesting aquatic life for commercial aquarium purposes; definitions; prohibition. (a) No person shall harvest aquatic life for commercial aquarium purposes.

(b) This section shall not apply to the issuance of a license or permit for activities permitted in sections 187A-3.5 and 187A-6; provided that the requirements of those sections are met.

(c) For the purposes of this section:

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

"Aquatic life" means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof; or marine plants, including seeds, roots, products, and other parts thereof.
"Commercial" means to take aquatic life for profit or gain or where the aquatic life is sold, offered for sale, possessed with intent to sell, bartered, landed, or transported for sale.

"Harvest" means to take and retain aquatic life by any means whatsoever.

SECTION 3. Section 189-11, Hawaii Revised Statutes, is amended to read as follows:

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

(1) The date of the issuance;
(2) The name of the person to whom the receipt is issued;
(3) The following information with respect to each of the varieties of marine life as the department shall require including:
   (A) The weight in pounds of each of the varieties received;
   (B) The numbers of marine life when they average a pound or more; and
   (C) The price per pound paid; and
With regard to aquarium fish, regardless of weight, the number and species of the fishes,
and]

(4) The signature of the dealer who issues the receipt.

Any dealer taking the dealer's own marine life or handling any marine life taken by commercial marine licensees working for or with the dealer, shall make out the same receipt, giving market price for the marine life as prevails on the date of receipt. A duplicate copy of this receipt shall be kept on file at the premise where the marine life was sold by the dealer issuing the same for a period of twelve months from the date of issuance, and the duplicate copy shall be available for inspection upon the demand of any conservation officer authorized to enforce the laws of the State."

SECTION 4. Section 188-31.5, Hawaii Revised Statutes, is repealed.

"[§188-31.5]—Aquarium fish for export; monthly count.
The department of land and natural resources shall adopt rules in accordance with chapter 91 to monitor the aquarium fish catch report and fish dealer's report for export of aquarium fish taken from the waters of the State for aquarium purposes.
pursuant to section 188-31. A monthly count of the quantities
taken of each individual species of aquarium fish exported shall
be reported to the board."

SECTION 5. If there is any conflict with section 188-31, Hawaii Revised Statutes, this Act shall supersede.

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

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

SECTION 9. This Act shall take effect upon its approval.
Report Title:
Marine Aquarium Fishing

Description:
Prohibits all commercial capture of aquatic life for aquarium purposes, regardless of the method of collection.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.