

JAN 22 2016

A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCES.

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

1 SECTION 1. The legislature finds that traditional Hawaiian
2 stewardship practices include the careful management of ocean
3 and marine life resources. Today, many Hawaiian communities,
4 especially in the county of Maui, are revitalizing and
5 implementing traditional marine stewardship, such as at Ko'ie'ie
6 fish pond in Kihei and at Ali'i and Kalokoeli fish ponds on
7 Molokai. Despite these efforts to help replenish aquatic life,
8 declines in various marine species have resulted from the taking
9 of excess fish and other aquatic life. Unfortunately, damage to
10 marine resources is often not well documented or understood
11 until irreversible or severe damage occurs. These impacts can
12 be reversed by proactive stewardship. For the sake of
13 preservation of the environment, the economy, and the social and
14 cultural importance to the people of Hawaii and their future
15 generations, the taking of marine life must be regulated.
16 Spearfishing is an ancient method of fishing that has been used
17 throughout the world for millennia; however, spearfishing for



1 commercial purposes does not perpetuate the tradition as
2 implemented within Hawaiian history and culture.

3 The purpose of this Act is to prohibit the sale of marine
4 life that has been secured by the use of a spear.

5 SECTION 2. Chapter 188, Hawaii Revised Statutes, is
6 amended by adding two new sections to be appropriately
7 designated and to read as follows:

8 "§188- Definitions. As used in this chapter, the
9 following terms shall have the following respective meanings,
10 unless the context requires otherwise:

11 "Aquatic life" means any type or species of mammal, fish,
12 amphibian, reptile, mollusk, crustacean, arthropod,
13 invertebrate, coral, or other animal that inhabits the ocean and
14 freshwater environments.

15 "Sell" means to transfer, prescribe, give, or deliver to
16 another, or to offer or agree to do the same to another, for
17 consideration.

18 "Speared" means pierced, impaled, penetrated, struck, or
19 run through by a sharp, pointed implement.



1 "Spearfishing" means fishing by the use of a speargun,
2 polespear or handspear, Hawaiian sling, elastic-powered speargun
3 and sling, pneumatic speargun, or mechanically powered speargun.

4 §188- Selling of aquatic life secured by spearfishing,
5 prohibited; penalties and fines. (a) It shall be unlawful for
6 any person at any time to knowingly or intentionally sell or
7 offer to sell aquatic life acquired by spearfishing and removed
8 from any of the waters within the jurisdiction of the State.

9 (b) This section shall not apply to a person exercising a
10 customary and traditional right for subsistence, cultural, or
11 religious purposes, subject to the right of the State to
12 regulate that right, including native Hawaiian gathering rights
13 and traditional cultural practices as authorized by law or as
14 permitted pursuant to article XII, section 7, of the Hawaii
15 state constitution.

16 (c) This section shall not apply to individuals who
17 spearfish for personal use, such as for human consumption or for
18 bait, and have no intention to sell the aquatic life.

19 (d) Any person who violates this section or any rule
20 adopted pursuant to this section shall be guilty of a



1 misdemeanor; provided that the fine for violating this section
2 shall be as follows:

3 (1) \$500 for a first offense;

4 (2) \$2,000 for a second offense; and

5 (3) \$10,000 for a third or subsequent offense.

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

8 (1) An administrative fine of not more than \$1,000 for
9 each aquatic life specimen sold;

10 (2) Seizure and forfeiture of any taken aquatic life
11 specimens, fishing and commercial marine license,
12 vessel, and equipment; and

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

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. New statutory material is underscored.



S.B. NO. 2225

1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY: *AMM N. M.*
BY REQUEST



S.B. NO. 2225

Report Title:

Maui County Package; Aquatic Life; Spearfishing

Description:

Makes it unlawful for a person to sell aquatic life acquired through spearfishing.

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