

## ACT 51

H.B. NO. 553

A Bill for an Act Relating to the Protection of Sharks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that sharks, known as manō in the Hawaiian language, 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.

The legislature further finds that there have been numerous incidents reported where young sharks, such as hammerhead shark pups, are killed by being entangled in gill nets set in shark nursery habitats. The legislature also finds that prohibiting the placement of gill nets in areas determined to be shark nursery habitats would be an effective tool to protect shark populations.

The purpose of this Act is to protect sharks for their ecological value while not criminalizing the accidental capture and release of sharks that may be captured while fishing for other species as allowed by statute or rule.

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

**“§188- Sharks; manō; prohibitions; exceptions; penalties and fines.** (a) Except as provided in subsection (f), or as otherwise provided by law, no person shall intentionally or knowingly capture or entangle any shark, whether alive or dead, or kill any shark, within state 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:

## ACT 51

- (1) \$500 for a first offense;
- (2) \$2,000 for a second offense; and
- (3) \$10,000 for a third or subsequent offense.
- (c) A person convicted of violating this section may be sentenced to pay a civil fine not exceeding \$10,000 per offense.
- (d) 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 or entangled, whether alive or dead, or killed in violation of this section;
  - (2) Seizure and forfeiture of any captured sharks or any part or product therefrom, commercial marine license, vessel, and fishing equipment; and
  - (3) Assessment of administrative fees and costs, and attorney's fees and costs.
- (e) The criminal penalties and administrative fines, fees, and costs shall be assessed per shark captured or entangled, whether dead or alive, or killed in violation of this section.
- (f) This section shall not apply to:
  - (1) Special activity permits issued under section 187A-6;
  - (2) The department of land and natural resources or its designated agent if the capture or entanglement, whether alive or dead, or killing is for the protection of public safety;
  - (3) Sharks taken outside of state marine waters and possessed on a vessel in state marine waters pursuant to any federally managed fishery, with the required documentation of the location where the capture occurred;
  - (4) Any person if the capture or entanglement, whether alive or dead, or killing is the result of self-defense, or the defense of another, against death or bodily harm; and
  - (5) Any person who captures or kills a shark pursuant to a permit issued by the department of land and natural resources under subsection (i).
- (g) 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 Hawaii State Constitution.
- (h) The department of land and natural resources may adopt rules pursuant to chapter 91 to implement this section for purposes including but not limited to:
  - (1) Ensuring that the incidental capture and release of sharks while targeting other species is not a violation;
  - (2) Preventing the wanton waste of sharks; and
  - (3) Limiting gear, such as gill nets, in areas identified as shark nursery habitats.
- (i) The department of land and natural resources may issue a non-commercial permit for the take of sharks, subject to permit conditions that shall include native Hawaiian cultural protocol, size and species restrictions, and a prohibition on species listed as endangered or threatened pursuant to section 195D-4.
- (j) For the purposes of this section, "shark" means any species of shark within the subclass Elasmobranchii."

SECTION 3. 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~~] no less than:

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

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on January 1, 2022.

(Approved June 8, 2021.)

**Note**

1. Edited pursuant to HRS §23G-16.5.