

SUMMARY OF PROPOSED COMMITTEE DRAFT:

BILL 66 (2020) - RELATING TO AQUATIC LIFE.

PROPOSED CD1 makes the following amendments:

- A. Adds the new article in SECTION 2 to ROH Chapter 7 (relating to animals and fowl) as opposed to ROH Chapter 41, since the measure now only relates to animal life and not plant life and makes conforming amendments throughout the measure. Because of the renumbering of the article, each of the sections referenced in Section B below are now redesignated 41-___, rather than 7-___.
- B. In SECTION 2:
 - 1. Amends Section 7-____.1 ("Definitions") by:
 - a. Clarifying in the definition of "aquarium purposes" that the term does not include holding salt water species for human consumption;
 - b. Removing corals and saltwater plants (such as algae and limu) from the definition of "saltwater species"; and
 - c. Adding a definition for the term "sell";
 - 2. Amends Section 7-____.2(a) by clarifying that the prohibition on inhumane treatment of saltwater species applies to those who harvest or sell such saltwater species;
 - 3. Amends Section 7-____.3 ("Reporting requirement") by:
 - a. Deleting certain reporting requirements (specifically subdivisions (2) through (9)) in subsection (a) and making the report due monthly instead of annually;
 - b. Adding a new monthly reporting requirement (to be submitted to the department) for persons exporting saltwater species for aquarium purposes out of state in new subsection (b) and renumbering existing subsection (b) as subsection (c); and
 - c. Clarifies that reporting requirements in subsection (a) and (b) will not apply to any saltwater species harvested prior to the effective date of the ordinance; and

4. Adds a new Section 7-____.4 (and renumbers subsequent sections accordingly) which expressly exempts the following from the new article being established in SECTION 2 of the bill:
 - a. Persons who harvest saltwater species to be used for bait for fishing or for human consumption or sale for human consumption;
 - b. Persons exercising certain native Hawaiian gathering, cultural, and religious rights; and
 - c. Persons who specialize in the holding of saltwater species in a state of captivity with the City or for scientific study and do not sell or distribute saltwater species for compensation.
- C. Adds a new SECTION 3 to the bill to specify that the Revisor of Ordinances shall, pursuant to the Revisor's authority under ROH Section 1-16.3(b)(1), replace the phrase "effective date of this ordinance" or similar phrase used in the bill, when it is enacted, with the actual date on which the ordinance takes effect, and renumbers former SECTION 3 as SECTION 4.
- D. Makes numerous miscellaneous technical and nonsubstantive amendments.



A BILL FOR AN ORDINANCE

RELATING TO AQUATIC LIFE.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to regulate the treatment of certain aquatic life.

SECTION 2. Chapter 7, Revised Ordinances of Honolulu 1990 ("Animals and Fowl"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Article ____ . Treatment of Aquatic Life

Sec. 7-__1 Definitions.

For purposes of this article unless the context requires otherwise:

"Aquarium purposes" means to hold saltwater species alive in a state of captivity for sale as pets or for sale for public exhibition or display. "Aquarium purposes" does not include holding saltwater species for human consumption.

"Department" means the department designated by the mayor for purposes of administering, enforcing, and implementing the provisions of this article.

"Harvest" means to catch or take saltwater species from its marine environment.

"Saltwater species" means saltwater fish, other saltwater animals (such as marine crustaceans, mollusks, starfish, and urchins).

"Sell" means to transfer, prescribe, give or deliver to another, or to leave, barter, or exchange with another, or to agree to do the same to another for consideration.

Sec. 7-__2 Inhumane treatment of saltwater species—Prohibition.

- (a) It is unlawful for any person who harvests or sells saltwater species for aquarium purposes to treat such saltwater species in an inhumane manner.
- (b) For purposes of this section, "inhumane manner" includes, but is not limited to:
 - (1) Intentionally or knowingly causing injury to saltwater species, including but not limited to:



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- (A) Piercing or deflating a saltwater fish's swim bladder;
 - (B) Cutting or trimming the fin or spine of any saltwater fish; or
 - (C) Withholding food from any saltwater species for more than twenty-four hours for transport purposes, including carrying the species or causing it to be carried upon any vehicle or other conveyance; and
- (2) Intentionally, knowingly, recklessly, or negligently carrying or causing to be carried any saltwater species in or upon any vehicle or other conveyance in a manner that results in injury or death to the saltwater species.

Sec. 7-__3 Reporting requirement.

- (a) Persons harvesting saltwater species for aquarium purposes shall submit to the department monthly a report that includes the following:
 - (1) Mortalities, by species, including cause of death, if known, of all saltwater species under that person's care that have been harvested for aquarium purposes; and
 - (2) Any other information that may be required by the department by rule.
- (b) Persons exporting saltwater species for aquarium purposes out of state shall submit to the department monthly a report that includes the following:
 - (1) Mortalities, by species, including cause of death, if known, of all saltwater species under that person's care that have been harvested in Hawai'i for aquarium purposes;
 - (2) For each shipment out of the state, provide a copy of the packing list, invoice or other document listing the species contained within the shipment by common and scientific name and quantify, and which was attached to one of the containers in the shipment, in accordance with federal Lacey Act (16 United States Code Sections 3371 to 3378) requirements found in 50 Code of Federal Regulations Sections 14.81 and 14.82;
 - (3) State and federal tax clearance certificates for the current year for the business entity selling the saltwater species; and
 - (4) Any other information that may be required by the department by rule.



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- (c) The reporting requirements in subsections (a) and (b) do not apply to any saltwater species harvested prior to the effective date of this ordinance.

Sec. 7-___.4 Exemptions.

This article does not apply to:

- (1) Persons who harvest saltwater species to be used for bait for fishing or for human consumption or for sale for human consumption;
- (2) Persons exercising those rights customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupuaa tenants who are descendants of native Hawaiians who inhabited the Hawaiian islands prior to 1778, as protected by article XII, section 7, of the Hawaii State Constitution; or
- (3) Persons who specialize in the holding of saltwater species in a state of captivity within the city for education or scientific study and do not sell or distribute saltwater species for compensation.

Sec. 7-___.5 Violation—Penalty.

- (a) Any person violating Section 7-___.2 shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than \$_____ nor more than \$_____, or by imprisonment not exceeding ___ days, or by both such fine and imprisonment.
- (b) Any person violating Section 7-___.3 shall be subject to fine of \$_____.
- (c) Each day that a violation of either Section 7-___.2 or Section 7-___.3 continues will constitute a separate offense and will be punishable as such.

Sec. 7-___.6 Rules.

The department shall adopt rules, in accordance with HRS Chapter 91, for the implementation, administration, and enforcement of this article."

SECTION 3. In SECTION 2 of this ordinance, the Revisor of Ordinances shall, pursuant to the Revisor's authority under ROH Section 1-16.3(b)(1), replace the phrase "effective date of this ordinance" or similar phrase used with the actual date on which the ordinance takes effect.



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SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ron Menor

DATE OF INTRODUCTION:

September 2, 2020
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu