

## Update on Status of 2021 Aquatic Resources Bills (January 2022)

The 2021 legislative session was a busy one for the Division of Aquatic Resources (DAR). We tracked 95 bills, 17 of which were eventually passed and sent on to the governor for signature. The governor has until July 11 to sign or veto the bills; if he does neither, a bill becomes law without his signature.

DAR submitted eight administrative bills, seven of which passed. They include the following.

### **Commercial Marine Vessel Licenses (CMVL). HB1016**

This bill has been introduced several times over the past few years, and finally made it through. It allows the Department of Land and Natural Resource (DLNR) to issue a single CMVL which would satisfy the commercial license requirement for all persons aboard a vessel, so each individual would no longer have to get a commercial marine license (CML). All vessels are eligible. Longline vessels would be required to report certain crew information to DLNR. It also clarifies that fishing charter services must obtain a CML (if shore-based) or CMVL (if vessel-based). Rules and fees would be established through administrative rules.

**Update:** HB1016 was signed into law on June 8, 2021 as Act 43 (2021). DAR is currently in the process of drafting a comprehensive rule package to amend and compile HAR 13-74 (License and Permit Provisions and Fees for Fishing, Fish, and Fish Products), which includes rules to implement the CMVL.

### **Crustaceans. HB1017**

DAR has been trying for several years to get this measure passed. It repeals the statute which prohibits the taking or killing of female spiny lobsters, Kona crabs, and Samoan crabs. In preparation for this measure, an administrative rule was earlier adopted which mirrored the statute. With the statute repealed, DAR can modify crustacean regulations as needed through the administrative rule process. There is no change to regulations yet, but DAR plans to go through the rulemaking process to allow take of female Kona crabs.

**Update:** HB1017 was signed into law on June 8, 2021 as Act 44 (2021). DAR has plans to go through the rulemaking process to allow take of female Kona crab. Other potential crustacean rule amendments that are being considered include extending the Kona crab closed season to May-September and establishing daily bag limits for spiny lobster. Due to the high volume of rulemaking projects, these crustacean amendments will be delayed until late 2022 or early 2023.

### **Lay net permits. HB1018**

Authorizes DLNR to adopt rules to establish a lay net permit for use or possession. At the present time, lay nets must be registered, but the registration is a one-time event. An annual permit requirement would enable DLNR to withhold or revoke the permit of a net violator, creating an incentive for compliance with rules.

**Update:** HB1018 was signed into law on June 8, 2021 as Act 45 (2021). DAR has drafted proposed lay net rule amendments to implement the lay net permit requirement and to strengthen the enforceability of lay net rules. On December 10, 2021, the BLNR approved the proposed lay net rule amendments for public hearing. DAR plans to hold a public rulemaking hearing in March 2022.

**Ocean stewardship special fund; user fee. HB1019**

Establishes an Ocean Stewardship Special Fund and User Fee. Division of Boating and Ocean Recreation (DOBOR) Commercial Use Permit holders would collect a one dollar per head fee from each passenger or customer. That money would be transferred to DAR's special fund, and used for management measures intended to conserve, restore, and enhance marine resources. Tour operators would be involved in discussions about how the funds are used. Collection of the fee would start January 1, 2024, and the act would sunset five years later. It could be extended if proven to work well.

**Update:** HB1019 was signed into law on June 8, 2021 as Act 46 (2021). DAR has been working closely with federal and NGO partners to begin planning for the implementation of the Ocean Stewardship User Fee in 2024. DAR recently set up the Ocean Stewardship Special Fund and will soon be collecting revenues from lease rents and other sources. One of DAR's Legislative requests this session is the establishment of a special fund ceiling to enable DAR to begin utilizing revenues.

**Natural resource rules; adaptive management. HB1020**

Authorizes the Board of Land and Natural Resource (BLNR) to temporarily adopt, amend, and repeal certain natural resource rules by formal action at a public meeting if BLNR finds it necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions. Could be applied to size and bag limits, closed seasons, and gear restrictions when needed in extraordinary situations. The act would become effective October 1, 2021.

**Update:** HB1020 was signed into law on June 8, 2021 as Act 49 (2021). The Act became effective on October 1, 2021. DAR has not used this new authority to implement temporary management measures.

**Natural resource inspection. HB1022**

This bill was part of the administrative package submitted by the Division of Conservation and Resources Enforcement (DOCARE). It authorizes DOCARE officers to inspect coolers or other containers which could carry regulated aquatic life.

**Update:** HB1022 was signed into law on June 8, 2021 as Act 47 (2021). An enforcement officer training is being developed in coordination with the Department of the Attorney General. DOCARE officers will not wield this inspection authority until they have completed the training. At this time, there is no estimate on when this training will be completed.

**Nonresident recreational marine fishing license. HB1023**

Establishes a recreational marine fishing license requirement for nonresidents of Hawai'i. Any nonresident fishing in the ocean would need to have a license, including guests on a boat. Fees would be \$20 for a one-day license, \$40 for seven days, and \$70 for an annual license. Revenues would go to the state for use in marine fisheries management.

**Update:** HB1023 was signed into law on June 8, 2021 as Act 48 (2021). DAR is currently in the process of drafting a comprehensive rule package to amend and compile HAR 13-74 (License and Permit Provisions and Fees for Fishing, Fish, and Fish Products), which includes rules to implement the nonresident recreational marine fishing license. DAR has also hired a contractor to prepare a license implementation plan, which will be completed by the end of February 2022. The plan will inform the drafting of administrative rules, as well as the development of an online licensing and payment system.

**Aquatic life and wildlife advisory committees; repeal. HB1030**

Repeals the 1985 statute that created aquatic life and wildlife advisory committees for each county. The committees have not met in years.

**Update:** HB1030 was approved on June 30, 2021 as Act 145 (2021).

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In addition to the above administrative bills, a number of other bills were introduced which pertained to aquatic resources. These are a few.

**Protection of sharks. HB553**

Bills to prohibit the take of sharks have been around for the past seven years. The last measure to pass the legislature involved only the protection of rays, after sharks were removed. This bill would prohibit the taking of sharks in state waters, and authorizes DLNR to adopt rules to implement the measure. Exemptions would apply for permitted activities (e.g. scientific research), protection of public safety, and self-defense or defense of others. The act would become effective January 1, 2022.

**Update:** HB553 was signed into law on June 8, 2021 as Act 51 (2021). The Act became effective on January 1, 2022. It is now illegal to intentionally or knowingly capture or entangle any shark, whether alive or dead, or kill any shark, within state marine waters. DAR plans to adopt rules to implement this measure, including the establishment of a noncommercial permit for the take of sharks as authorized by the bill. Due to the high volume of rulemaking projects, these rules will likely be delayed until late 2022 or early 2023.

**Sport fish (bass). SB1313**

Requires DAR to establish a pilot project to restock the Wahiawā Public Fishing Area with northern largemouth bass, butterfly peacock bass (tucunare), or both by January 1, 2023, provided that the Board of Agriculture places both species on the list of restricted animals that require a permit for import and possession. The idea is to increase genetic variability of these species within the Wahiawā reservoir.

**Update:** SB1313 was approved on July 6, 2021 as Act 223 (2021). DAR has met with members of the Hawaii Freshwater Fishing Association to discuss ways to improve fishing in the reservoir and to explain the process of petitioning the Board of Agriculture to place largemouth bass and tucunare on the restricted import list. If the species are successfully listed, DAR will apply for an import permit and move forward with a pilot restocking project.

**Special license plates. SB772**

Authorizes the issuance of special license plates with designs relating to forest and ocean conservation. Revenues (\$100-200 per plate) will be deposited in special funds for forest stewardship and beach restoration.

**Update:** SB772 was signed into law on June 8, 2021 as Act 50 (2021). DLNR is preparing to reach out to the Chiefs of Police and the Directors of Finance of each county regarding implementation of the new license plates.