

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2016
MAUI COUNTY LEGISLATIVE PACKAGE A
STATE BILL THAT PROHIBITS THE SALE OF
MARINE LIFE SECURED BY A SPEAR

WHEREAS, traditional Hawaiian stewardship practices include careful management of ocean and marine life resources; and

WHEREAS, today many Hawaiian communities, especially in the County of Maui, are revitalizing and implementing traditional marine stewardship, such as Ko`ie`ie Fish Pond, in Kihei, Ali`i and Kalokoeli Fish Ponds on Molokai; and

WHEREAS, despite these efforts to help replenish aquatic life; declines in various marine species has resulted from the taking of excess fish and other aquatic life; and

WHEREAS, unfortunately, damage to marine resources is often not well documented or understood until irreversible or severe damage occurs, however impacts can be reversed by proactive stewardship; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill attached as Exhibit "A", to prohibit the sale of marine life secured by use of a spear, is approved for inclusion in the 2016 Maui County Legislative Package; and
2. That certified copies of this resolution be transmitted to the Mayor, County of Maui; the Governor, State of Hawaii; the Senate President, State of Hawaii; and the Speaker of the House of Representatives, State of Hawaii.

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A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCES.

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

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

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1 the tradition as implemented within Hawaiian history and
2 culture.

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

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

8 "§188- Selling of aquatic life secured by spearfishing,
9 prohibited; penalties and fines. (a) It shall be unlawful for
10 any person at any time to knowingly or intentionally sell or
11 offer to sell aquatic life acquired by use of a spear and
12 removed from any of the waters within the jurisdiction of the
13 State.

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

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1 (c) This section shall not apply to individuals that
2 spearfish for personal use as human consumption or bait and have
3 no intention to sell the aquatic life.

4 (d) Any person violating this section or any rule adopted
5 pursuant to this section shall be guilty of a misdemeanor;
6 provided that the fine for violating this section shall be:

7 (1) \$500 for a first offense;

8 (2) \$2,000 for a second offense; and

9 (3) \$10,000 for a third or subsequent offense.

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

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

14 (2) Seizure and forfeiture of any taken aquatic life
15 specimens, fishing and commercial marine license, vessel and
16 equipment; and

17 (3) Assessment of administrative fees and costs and
18 attorney's fees and costs.

19 "§188- Definitions. As used in this chapter, the following
20 terms shall have the following respective meanings, unless the
21 context requires otherwise:

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1 "Aquatic life" means any type or species of mammal, fish,
2 amphibian, reptile, mollusk, crustacean, arthropod,
3 invertebrate, coral, or other animal that inhabits the ocean and
4 freshwater environments.

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

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

10 "Spearfishing" means fishing by the use of a speargun,
11 polespear or handspear, Hawaiian sling, elastic-powered speargun
12 and sling, pneumatic speargun, or mechanically powered
13 speargun."

14 SECTION 3. Statutory material to be deleted is bracketed
15 and in strikethrough. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

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18 INTRODUCED BY: _____