

JAN 24 2007

A BILL FOR AN ACT

RELATING TO OCEAN RESOURCES.

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

1 SECTION 1. The legislature finds that the department of
2 land and natural resources (DLNR) has proposed amendments to
3 title 13, chapter 75 of the Hawaii Administrative Rules which
4 regulates lay gill nets. These new rules would limit the size
5 and number of nets, the distance and depths they cover, the
6 amount of time they can be set in the water and left unattended,
7 and the areas where they can be used. Nets would have to be
8 registered with DLNR and carry identification so owners can be
9 held accountable. While these rule changes are meant to protect
10 near-shore waters from over-fishing and the indiscriminate
11 taking of marine life, the legislature finds that:

12 (1) There continues to be a problem with enforcement of
13 current lay gill net rules and this problem will
14 continue to exist with the proposed rules; and

15 (2) The proposed lay gill net rule changes may have an
16 adverse impact on traditional and cultural practices
17 of native Hawaiians.



1 Especially detrimental to the health and well-being of
2 native Hawaiians will be:

3 (1) The requirement that lay gill nets be registered with
4 DLNR. Native Hawaiians have been practicing their
5 culture, including the use of lay gill nets for
6 fishing, for centuries and should not be required to
7 register their nets with a state agency to practice
8 their culture;

9 (2) The requirement that only one net at a time can be
10 used by one person will affect native Hawaiians who
11 often use their lay gill nets as an 'ohana. In these
12 cases, a multitude of family members are used to tend
13 to a net;

14 (3) The prohibition against the use of lay nets in
15 freshwater streams or stream mouths would have a
16 devastating impact on native Hawaiians who have used
17 and continue to use lay nets to catch o'opu in
18 streams;

19 (4) The prohibition on the use of gill nets at night will
20 affect native Hawaiians who continue the cultural
21 practice of fishing by the lunar calendar which
22 includes fishing at night; and



1 (5) The restriction that lay nets can only be used within
2 certain waters of the state will impact localized
3 native Hawaiian communities by completely banning
4 traditional net making and cultural use of nets from
5 large geographic locations causing undue hardships on
6 native Hawaiians.

7 Accordingly, the purpose of this Act is to require DLNR to
8 fully assess the social, cultural, biological, and economic
9 impacts of proposed lay gill net rules, particularly on native
10 Hawaiian communities, before adopting and implementing the
11 rules.

12 SECTION 2. Chapter 190, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§190- _____ Fishing regulations; lay gill nets;
16 consultation. Prior to adopting and implementing lay gill net
17 fishing regulations and prohibitions, the department of land and
18 natural resources shall consult with native Hawaiian fishing
19 practitioners and shall not prohibit or limit fishing in any
20 areas open to public fishing unless:

21 (1) The department has consulted with native Hawaiian
22 cultural practitioners and experts in native Hawaiian



1 fishing practices throughout the administrative rule
2 making process;

3 (2) The proposed prohibitions or restrictions include a
4 monitoring program and assessment program to determine
5 the efficacy of the prohibitions or restrictions;

6 (3) The proposed prohibitions or restrictions include an
7 enforcement plan;

8 (4) Adequate funding and resources are available to:

9 (A) Monitor the prohibitions or restrictions;

10 (B) Enforce the prohibitions or restrictions; and

11 (C) Assess the efficacy of the prohibitions and
12 restrictions;

13 and

14 (5) The proposed prohibitions or restrictions are the
15 result of analysis that includes the use of peer-
16 reviewed science and Hawaiian science based on
17 traditional knowledge."

18 SECTION 3. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so much
20 thereof as may be necessary for fiscal year 2007-2008 for the
21 development of rules regarding lay net gill fishing.



1 The sum appropriated shall be expended by the department of
2 land and natural resources for the purposes of this Act.

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect upon its approval;
5 provided that section 2 of this Act shall apply to any rules
6 adopted or implemented after December 31, 2006.

7

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Report Title:

Gill nets; Ocean resources; Fishing; Land and natural resources;
Native Hawaiians.

Description:

Requires DLNR in adopting rules regulating fishing to consult with native Hawaiian practitioners and further imposes conditions on the rule making process regarding prohibitions or limitations on fishing in any area open to public fishing.

