



HAWAII TO DEVELOP AQUARIUM COLLECTING “WHITE LIST”

The Issue:

Companion legislation ([House Bill 590](#) and [Senate Bill 1098](#)) has been introduced in Hawaii, proposing the development of an aquarium collecting “white list” by the Department of Land & Natural Resources (herein “Department”). HB 590 has been assigned to the House Committee on Water, Land & Ocean Resources while SB 1098 has been sent to the Senate Committee on Water, Land & Housing.

The Impact:

The two bills propose that the Department develop and maintain an aquarium collecting “white list” of aquatic species for each county in the state. The bill states that aquatic species may only be collected, possessed, or sold for aquarium purposes **if they appear on the white list of the county** where the species is collected, possessed or sold “for aquarium purposes.” To “collect” is defined as “to take, catch, capture, harvest, confine, or to attempt to take, catch, capture, harvest, or confine aquatic life.” “Aquarium purposes” includes saltwater, freshwater nongame fish, or other aquatic life ... “in a state of captivity as pets or for sale for these purposes.”

The aquarium collecting white list shall include only species that are shown by an official, published department or equivalent federal agency study to meet the following criteria:

- The species can survive capture, transport, and captivity for at least 180 days; and
- Based on historical evidence, the species is part of a stable or increasing population trend in the collection area.

Also, the legislation prohibits the following:

- the collection of the species in a county to exceed the average annual collection of the species in that county for the calendar years 2005 through 2007, based on department collection reports for those years; and
- the removal of species if it negatively impacts the reef ecosystem by contributing to algae overgrowth for herbivores, parasite overload on other reef fishes for cleaner wrasses and cleaner shrimp, or other harmful results.

NOTE: Species “endemic” to Hawaii (species ONLY found in Hawaii) may not be on a white list even if abundant, self-sustaining populations exist.

Penalties.

Any person who, for aquarium purposes, collects, possesses, or sells aquatic life that is not on the aquarium collecting white list will be fined \$1,000 for each specimen collected, possessed, or sold.

In addition, violators may face the following:

- For a first violation, a fine of up to \$1,000, 30 days imprisonment, or both;
- For a second violation, within five years of a previous violation, a fine of up to \$2,000, 60 days imprisonment, or both; and
- For a third or subsequent violation, within five years of a previous violation, a fine of up to \$3,000, 90 days imprisonment, or both.

PIJAC Position:

While PIJAC supports the underlying rationale for ensuring that local populations are not overfished, PIJAC believes that several of the provisions of Section 188 are overly broad, poorly crafted and require amendments to clarify their scope.

Section 188 requires that the Department develop and maintain a county-by-county white list of aquatic species that may be collected, possessed or sold for “aquarium purposes.” Inclusion of the term “for aquarium purposes” enlarges the scope beyond what PIJAC believes was intended. Otherwise, each county list would have to include hundreds of non-native species commonly in trade that are totally unrelated to Hawaiian waters.

Section 188 needs to be amended to eliminate any possibility of an interpretation that freshwater species as well as imported marine species fall within the white list mandate. As drafted, one may not “possess” or “sell” any species that does not appear on a county white list – it is not clear that Section 188 applies only to species “collected, possesses **AND** sold” if they were collected from Hawaiian waters. To be on the white list the species must meet the criteria set forth in Section 188, criteria which are not applicable to captive-raised freshwater or saltwater fish or imported fish with no nexus with Hawaiian waters.

The criteria for listing are troublesome for other reasons as well. PIJAC questions whether the Department possesses the data to make the findings required for listing a species on each county’s white list. For example, what studies have been conducted to determine if a particular species “can survive capture, transport, and captivity for at least one hundred eighty days”? Collectors do not, in the normal course of business, maintain collected specimens for 6 months prior to sale. How then can the department make such determinations that a species from a particular county can survive 180 days? Inasmuch as such data is not likely to be available, Section 188 would be tantamount to a ban since it imposes a condition that cannot be met.

Fixing the collection amount to not exceed an average annual collection for years 2005 through 2007 is arbitrary and eliminates adjustments as populations vary in future years. PIJAC believes that the Department should have the flexibility to determine the appropriate period or periods based on the best available collection data rather than fixing it on a one-time 3-year period.

Recommended Action:

The Hawaiian aquarium industry and hobby, as well as all concerned with the ability to collect, import, export, possess and/or sell all forms of aquatic life, should read these bills carefully. Contact members of the [House Committee](#) and the [Senate Committee](#) with your comments and ask that the language be amended to reflect your concerns and remove any ambiguities. Neither bill has yet to be set for a hearing, but we recommend interested parties check the [Breaking News page](#) of the PIJAC website often for updates on this legislation.

If you have any questions please contact PIJAC’s Bambi Osborne at 202-452-1525, extension 105 or by email: bambi@pijac.org.