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Bill to police collection of reef aquatic life advances

By CHRIS HAMILTON, Staff Writer

POSTED: June 17, 2010

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WAILUKU - Maui County is on its way to becoming the first county in the state to regulate the collection of reef aquatic life and demand the humane treatment of the animals for both industry professionals and private aquarium owners.

On Wednesday, the council's Public Services Committee unanimously passed two companion bills by Council Members Mike Molina and Wayne Nishiki to help safeguard the county's declining reefs. They've said the measures are necessary to combat a 60 percent decline in Maui's reef fish over the past two decades.

The bills are meant to beef up state laws already on the books and hopefully help persuade the Legislature to set reef fish bag limits, Molina said.

"If we don't take care of the reason why people come to Hawaii, they are going to stop coming," Molina said. "We need to protect what we have. Otherwise there will be dire consequences in the future . . . I would hate to pass on an environment that has been stripped of some very valuable resources."

However, home aquarium hobbyists and reef fish industry officials said the bills were over-reaching, duplicative, unconstitutional and misinformed. They also said the measures didn't address the more substantial attack on marine life: human pollution.

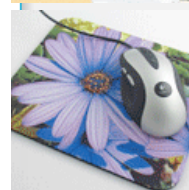
Molina's bill would require more humane treatment of aquarium fish and other aquatic life by people who routinely handle the animals - with the exception of fishers who are going to eat their catch. Meanwhile, Nishiki's measure would set up a county application and permit system to regulate the aquarium fish trade. The bills next go before the full County Council.

"Now there are some consequences to face whereas before there were none," Molina said. "I think it sends a message worldwide that Maui County cares."

Molina said a Hawaii County Council member is considering similar legislation on the Big Island.

Molina first introduced the measure in November, at the behest of environmentalists, dive shop owners and tourism industry lobbyists. A leader in the campaign is Robert Wintner, owner of the Snorkel Bob's chain of dive shops and a clean-oceans activist.

Wintner said he's tried for years without success to persuade the state Department of Land and Natural Resources' Division of Aquatic Resources and Gov. Linda Lingle's administration to rein in the aquarium trade.



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However, the state does require fish collectors to obtain permits that allow the use of nets and traps, and that "they possess facilities to and can maintain fish and other aquatic life alive and in reasonable health." State officials also require collectors to report their catches and sales figures.

But Wintner said catches are underreported by as much as 10 times. (misquote) The simple explanation is to evade taxes, he said Wednesday.

But those were unsubstantiated claims, said Kim Koch, a reef fish retailer and wholesaler. Her husband, Eric, is a state-licensed collector.

It's not "the Wild West" out there, she said, adding that Wintner is wrong when he tells council members that 99 percent of aquarium fish die within a year. Koch said she'd be out of business and there would be no aquarium industry if that were true.

Council members considered adding amendments to exempt the Maui Ocean Center and aquarium hobbyists, hotels with koi ponds and fish tanks, but no amendments were formally introduced Wednesday.

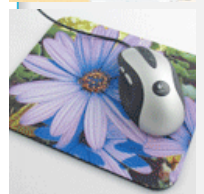
After listening to the arguments of aquarium collectors, Council Member Jo Anne Johnson introduced several other amendments. Council members deleted the bill's original language to accommodate standard industry practices, such as allowing temperature changes of more than 2 degrees during transport, exposure to air (unless it causes death) and withholding food for more than 12 hours (so fish don't die from disease by swimming in their own feces and urine during transport).

The bill's new language also states that it is illegal to cause the "intentional" death of aquatic life. The language was broader before. The bill still prohibits some collection practices, such as deflating the swim bladder and trimming the spine or fins. However, industry experts said all these methods are actually used to treat the fish more humanely.

Professional collectors must also document for the county mortality rates and disposal methods of dead fish. Violations of the new ordinance would be a misdemeanor with a fine of between \$500 and \$2,000 and up to a year in jail.

Molina said he's been asked how the ordinance would be enforced. "Well, what is the cost of doing nothing?" he asked.

He added that the county Police and Parks and Recreation departments did not object to enforcing the new laws; neither did the Maui Humane Society, although all the agencies would



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need to undergo some form of new training.

A couple of testifiers claimed that the county doesn't have jurisdiction over reef fish collecting.

But Deputy Corporation Counsel Jeffrey Ueoka said Maui County does have the right to regulate the business operations and animal cruelty laws. The state has jurisdiction in the ocean, though, "up to the high water mark," Ueoka said.

Molina also said he understands that runoff from construction and fertilizers and pollution from ineffective human waste treatment systems has an impact as well, which also must be addressed in the future.

Kim Koch noted that the state has already licensed nine collectors in Maui County, and only two of them are active. About 17,000 fish were reported taken from county waters. Ninety-eight percent of Hawaii's reef fish are taken from the other counties, she said.

In Nishiki's bill, if people want to catch fish and other aquatic life - including crustaceans, mammals and amphibians - to sell for aquariums, they would need to get a Maui County permit, in addition to a state permit.

His bill demands twice-yearly reports that include collection and sales totals by species as well as mortality rates.

Council Member Bill Medeiros said he has had calls from residents who wanted a total ban.

"Even on my home computer I've gotten many letters of concern," said Johnson, who added that she believes the bills would really target poachers.

"Certainly it won't solve all the problems, but I look at it as a deterrent; and it will give fish the same rights as other pets," she said.

"It's a start," Molina said.

* Chris Hamilton can be reached at chamilton@mauinews.com.

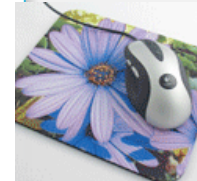
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