SB 377
RELATING TO CORAL

Statement for
Senate Committee on
Planning and Environment

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SB 377 would add a new section to the Hawaii Revised Statutes that would prohibit taking or selling any coral in the State and provides for fines for violations of this section. Related changes to HRS 7-3 and HRS 205A-44 are also proposed. Our statement on this bill does not represent an institutional position of the University of Hawaii.

It is our understanding that the intent of SB 377 is to provide greater protection for the limited coral resources of the state by establishing statewide prohibitions on the collection and sale of locally grown corals. Some amendments of the present statutes are necessary to eliminate inconsistencies. While we recognize and concur with the intent of SB 377 there are several resource management issues that would be affected by the proposed changes, and we must point out ways in which they will have effects other than those desired.

The first two sections relate to provisions in HRS 7, a chapter on rights of the people dating back to a statute adopted in 1859. The third section relates to HRS 205A, the Shoreline Setback act. One problem stems from the fact that the geographic areas to which prohibitions apply differ in the two statutes. Another problem arises from inconsistencies in the extent of prohibitions applied in the two statutes where they overlap geographically.

Still another problem consists of inconsistencies between the two statutes and HRS 187A.
A fourth problem arises in that the term coral is used to mean: stony coral or stony and precious coral, and to mean live coral, coral that is dead but still in place and not covered, coral that is incorporated in a coral reef that may be uplifted or submerged, and even coral reef material that is not strictly coralline in nature.

Sections 1 and 2

The effects of the first two sections of the bill are: a) to substitute a new and more rigorous prohibition relating to the taking of coral in the proposed new section; and b) to delete references to coral from the provisions of HRS 7-3, which now relates to removal of coral, rock, or sand from government beaches.

As now drafted, the prohibition would appear to apply to all types of coral, both stony and precious; and to both dead and live coral; whether on a beach, a present reef or a former reef now raised or submerged. It would prohibit the dredging of coral from harbor entrances, and the sale of dead stony coral deposits for construction materials such as those dredged from Barbers' Point Harbor and its entrance. It would prohibit any mining or sale of precious corals from offshore deposits if these were considered reefs. It would prohibit taking of coral for scientific purposes, even for the purpose of research into coral conservation. The provision making it "unlawful to sell any coral in the State after six months after the effective date of this section" would prohibit the sale of imported as well as locally grown coral and would prohibit the sale of precious coral collected in years past and now stock piled.

While indiscriminate mining of dead coral is not environmentally wise, neither is a blanket prohibition environmentally desirable. Provision for administrative discretion in mining of dead coral deposits would seem more appropriate.

We note that:

a) the management of both precious and stony corals is now under regulatory direction of the Department of Land and Natural Resources as authorized by HRS 187A.

b) Section 187A-6 makes provision for the taking of coral, whether stony or precious, for research purposes" not withstanding the provisions of any other law."

We suggest that, whether or not the provisions relating to coral are separated from those relating to rock and sand, the provisions relating to coral be made consistent with and contain cross references to HRS 187A.
A special problem arises from the difficulty in identifying coral as of Hawaiian or out-of-state origin. We note that HRS 187A already applies to the taking of marine life out-of-state as well as in-state (section 1). We suggest that HRS 187A be amended as may be necessary to authorize DLNR to regulate the importation as well as in-state taking of coral, and the sale of coral regardless of origin.

Section 3

Section 3 of the bill would amend HRS 205A-44 so as to place in a separate subsection the prohibitions relating to coral taking that now apply as well to the mining of sand, rock, soil, and other beach or marine deposits from the shoreline area, within 1000 feet seaward of the shoreline, or in water of 30-foot depth or less; and so as to make inapplicable to coral the exceptions to the prohibitions that apply to the other materials.

We note that the proposed subsection relating to coral fails to make provision for channel dredging or for taking for scientific purposes, both of which are desirable under certain circumstances as we have pointed out earlier. Whatever is done to amend HRS 205A, inconsistencies should be eliminated between this chapter, Chapter 7, and Chapter 187A.