

JAN 18 2008

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# A BILL FOR AN ACT

RELATING TO COMMERCIAL ACTIVITIES ON OCEAN WATERS.

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

1           SECTION 1. Section 200-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " [+] §200-3 [+] Ocean recreation and coastal areas programs.

4 The board shall assume the following functions of the department  
5 of transportation:

- 6           (1) Managing and administering the ocean-based recreation  
7 and coastal areas programs of the State;
- 8           (2) Planning, developing, operating, administering, and  
9 maintaining small boat harbors, launching ramps, and  
10 other boating facilities and associated aids to  
11 navigation throughout the State;
- 12           (3) Developing and administering an ocean recreation  
13 management plan;
- 14           (4) Administering and operating a vessel registration  
15 system for the State;
- 16           (5) Regulating the commercial use of boating facilities;
- 17           (6) Regulating boat regattas and other ocean water events;



- 1           (7) Administering a marine casualty and investigation  
2           program;
- 3           (8) Assisting in abating air, water, and noise pollution;
- 4           (9) Conducting public education in boating safety;
- 5           (10) Administering the boating special fund;
- 6           (11) Assisting in controlling shoreline erosion;
- 7           (12) Repairing seawalls and other existing coastal  
8           protective structures under the jurisdiction of the  
9           State; ~~and~~
- 10          (13) Removing nonnatural obstructions and public safety  
11          hazards from the shoreline, navigable streams,  
12          harbors, channels, and coastal areas of the State~~[-]~~;  
13          and
- 14          (14) Regulating commercial activity on ocean waters, not  
15          including those functions of the department of  
16          transportation under chapter 266.

17                   For purposes of this paragraph:

18                   "Commercial activities" shall have the same  
19                   meaning as section 188-40.6.

20                   "Ocean waters" shall have the same meaning as in  
21                   section 205A-1."



1 SECTION 2. Section 200-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) The chairperson may adopt rules necessary:

4 (1) To regulate the manner in which all vessels may enter  
5 the ocean waters and navigable streams of the State  
6 and moor, anchor, or dock at small boat harbors,  
7 launching ramps, and other boating facilities owned or  
8 controlled by the State;

9 (2) To regulate the embarking and disembarking of  
10 passengers at small boat harbors, launching ramps,  
11 other boating facilities, and public beaches;

12 (3) For the safety of small boat harbors, launching ramps,  
13 and other boating facilities, the vessels anchored or  
14 moored therein;

15 (4) For the conduct of the public using small boat  
16 harbors, launching ramps, and other boating facilities  
17 owned or controlled by the State;

18 (5) To regulate and control recreational and commercial  
19 use of small boat harbors, launching ramps, and other  
20 boating facilities owned or controlled by the State  
21 and the ocean waters and navigable streams of the  
22 State;



1           (6) To prevent the discharge or throwing into small boat  
2           harbors, launching ramps, other boating facilities,  
3           ocean waters, and navigable streams, of rubbish,  
4           refuse, garbage, or other substances likely to affect  
5           the quality of the water or that contribute to making  
6           the small boat harbors, launching ramps, other boating  
7           facilities, ocean waters, and streams unsightly,  
8           unhealthful, or unclean, or that are liable to fill  
9           up, shoal, or shallow the waters in, near, or  
10          affecting small boat harbors, launching ramps, and  
11          other boating facilities and the ocean waters and  
12          navigable streams of the State, and likewise to  
13          prevent the escape of fuel or other oils or substances  
14          into the waters in, near, or affecting small boat  
15          harbors, launching ramps, or other boating facilities  
16          and the ocean waters and navigable streams of the  
17          State from any source point, including, but not  
18          limited to, any vessel or from pipes or storage tanks  
19          upon land. The rules may include:

20           (A) Requirements for permits and fees for:

21                   (i) The mooring, docking, or anchoring of  
22                   recreational and commercial vessels or the



1 launching of recreational or commercial  
2 vessels at small boat harbors, launching  
3 ramps, and other boating facilities; or  
4 (ii) Other uses of these facilities;

5 (B) Requirements for permits and fees for use of a  
6 vessel as a principal place of habitation while  
7 moored at a state small boat harbor;

8 (C) Requirements governing:

9 (i) The transfer of any state commercial,  
10 mooring, launching, or any other type of use  
11 or other permit, directly or indirectly,  
12 including, but not limited to, the  
13 imposition or assessment of a business  
14 transfer fee upon transfer of ownership of  
15 vessels operating commercially from, within  
16 or in any way related to the state small  
17 boat harbors; and

18 (ii) The use of state small boat harbors,  
19 launching ramps, or other boating facilities  
20 belonging to or controlled by the State,  
21 including, but not limited to, the  
22 establishment of minimum amounts of annual



1 gross receipts required to renew a  
2 commercial use permit, and conditions under  
3 which a state commercial, mooring,  
4 launching, or any other type of use or other  
5 permit may be terminated, canceled, or  
6 forfeited; and

7 (D) Any other rule necessary to implement this  
8 chapter pertaining to small boat harbors,  
9 launching ramps, and other boating facilities  
10 belonging to or controlled by the State;

11 (7) To continue the ocean recreational and coastal areas  
12 programs and govern the ocean waters and navigable  
13 streams of the State, and beaches encumbered with  
14 easements in favor of the public to protect and foster  
15 public peace and tranquility and to promote public  
16 safety, health, and welfare in or on the ocean waters  
17 and navigable streams of the State, and on beaches  
18 encumbered with easements in favor of the public. The  
19 rules may include:

20 (A) Regulating the anchoring and mooring of vessels,  
21 houseboats, and other contrivances outside of any  
22 harbor or boating facility, including:



- 1 (i) The designation of offshore mooring areas;
- 2 (ii) The licensing and registration of vessels,
- 3 houseboats, and other contrivances; and the
- 4 issuance of permits for offshore anchoring
- 5 and mooring of vessels, houseboats, and
- 6 other contrivances; and
- 7 (iii) The living aboard on such vessels,
- 8 houseboats, or other contrivances while they
- 9 are anchored or moored within ocean waters
- 10 or navigable streams of the State.

11 The rules shall provide for consideration of  
12 environmental impacts on the State's aquatic resources  
13 in the issuance of any permits for offshore mooring;

14 (B) Safety measures, requirements, and practices in  
15 or on the ocean waters and navigable streams of  
16 the State;

17 (C) The licensing and registration of persons or  
18 organizations engaged in commercial activities in  
19 or on the ocean waters and navigable streams of  
20 the State;



- 1 (D) The licensing and registration of equipment
- 2 utilized for commercial activities in or on the
- 3 ocean waters and navigable streams of the State;
- 4 (E) For beaches encumbered with easements in favor of
- 5 the public, the prohibition or denial of the
- 6 following uses and activities:
- 7 (i) Commercial activities;
- 8 (ii) The storage, parking, and display of any
- 9 personal property;
- 10 (iii) The placement of structures or obstructions;
- 11 (iv) The beaching, landing, mooring, or anchoring
- 12 of any vessels; and
- 13 (v) Other uses or activities that may interfere
- 14 with the public use and enjoyment of these
- 15 beaches; and
- 16 (F) Any other matter relating to the safety, health,
- 17 and welfare of the general public; [~~and~~]
- 18 (8) To regulate the examination, guidance, and control of
- 19 harbor agents and their assistants [~~-~~]; and
- 20 (9) To regulate commercial activity on ocean waters."

21 SECTION 3. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



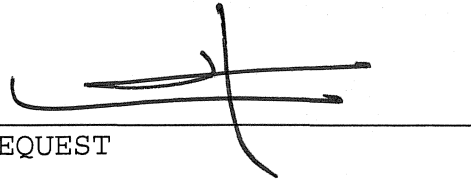


1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

BY REQUEST

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**Report Title:**

Ocean Resources; Commercial Activities; DLNR

**Description:**

Adds regulatory function over commercial activities in ocean waters to the department of land and natural resources.

