
A BILL FOR AN ACT

RELATING TO SMALL BOAT HARBORS.

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

1 SECTION 1. Section 200-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§200-10 Permits and fees for state small boat harbors.**

4 (a) No person shall moor a vessel in a state small boat harbor
5 without:

6 (1) First obtaining a use permit from the department; and

7 (2) Being the owner of the vessel.

8 (b) [~~In order to~~] To obtain a permit or a permit renewal,
9 the owner of a vessel shall provide, at the owner's own expense:

10 (1) A marine surveyor's inspection no more than two years
11 old, certifying that the surveyor has inspected the
12 vessel and considers it to fulfill the requirements
13 set by the department; and

14 (2) Documentation that the person is the owner of the
15 vessel. The documentation shall meet requirements
16 established by the department.

17 (c) The permittee shall pay moorage fees to the department
18 for the use permit that shall be based on[-] but not limited



1 to[~~r~~] the use of the vessel, its effect on the harbor, use of
2 facilities, and the cost of administering this mooring program;
3 and, furthermore:

4 (1) Moorage fees shall be established by the department
5 and shall be higher for nonresidents;

6 (2) An application fee shall be collected when applying
7 for moorage in state small boat harbors and shall
8 thereafter be collected annually when the application
9 is renewed. The application fee shall be:

10 (A) Set by the department; and

11 (B) Not less than \$100 for nonresidents;

12 (3) If a recreational vessel is used as a place of
13 principal habitation, the permittee shall pay, in
14 addition to the moorage fee, a liveaboard fee that
15 shall be calculated at a rate of:

16 (A) \$5.20 a foot of vessel length a month if the
17 permittee is a state resident; and

18 (B) \$7.80 a foot of vessel length a month if the
19 permittee is a nonresident;

20 provided that the liveaboard fees established by this
21 paragraph may be increased by the department at the
22 rate of the annual cost-of-living index, but not more



1 than five per cent in any one year, beginning
2 January 1 of each year; and

3 (4) If a vessel is used for commercial purposes from its
4 permitted mooring, the permittee shall pay, in lieu of
5 the moorage and liveaboard fee, a fee based on three
6 per cent of the gross revenues derived from the use of
7 the vessel or two times the moorage fee assessed for a
8 recreational vessel of the same size, whichever is
9 greater.

10 (d) A commercial permit issued pursuant to this chapter,
11 to a permittee who, in the course of providing an excursion
12 between state boating facilities, disembarks fare-paying
13 passengers with the expectation that they will enter upon any
14 public or quasi-public real property during the course of the
15 excursion, shall be conditioned on the permittee's compliance
16 with all laws and rules applicable to such areas.

17 [~~(d)~~] (e) The department shall not renew or issue a permit
18 to a person who is not the owner of the vessel which is moored
19 or which the person desires to moor in a state small boat
20 harbor. Any individual who is an owner of a vessel used for
21 commercial purposes, including commercial fishing as a principal
22 means of livelihood, and possesses a valid mooring permit or



1 commercial permit, or both, in accordance with the rules adopted
2 by the chairperson pursuant to chapter 91, may transfer
3 ownership of the vessel from personal ownership to corporate or
4 other business ownership without terminating the right to moor
5 or operate the vessel under the permit or permits. The existing
6 permit or permits shall be reissued in the name of the
7 transferee corporation or other business entity.

8 For the purposes of this section, "person" means any
9 individual, firm, partnership, corporation, trust, association,
10 joint venture, organization, institution, or any other legal
11 entity, and "owner" includes the legal owner of a vessel where
12 there is no security interest held by anyone on the vessel, a
13 buyer under a purchase money security interest, a debtor under
14 any security interest, a demise charterer of a vessel, or a
15 lessee or charterer of a vessel under a lease or charter which
16 provides the lessee or charterer with exclusive right to
17 possession of the vessel to the exclusion of the lessor or the
18 person from whom the vessel is chartered. No permittee shall be
19 allowed to moor a leased vessel in a berth unless the terms of
20 the lease are set at fair market value. A "legal owner"
21 includes a person who holds unencumbered title to a vessel or is
22 a secured party under a security interest in the vessel. An



1 owner who is issued a permit to moor a vessel in a state small
2 boat harbor shall notify the department in writing of a transfer
3 of interest or possession in the vessel within seven days of
4 transfer.

5 Any person owning an interest in a corporation or other
6 business entity possessing a valid commercial permit issued by
7 the department, in accordance with rules adopted by the
8 chairperson pursuant to chapter 91, may transfer any or all
9 stock or other interest to another person without terminating
10 the right of the corporation or business entity to retain or
11 renew its commercial permit or any other permit issued to it by
12 the department; provided that:

- 13 (1) The corporation or business entity has been engaged in
14 the same commercial vessel activity, as defined in
15 section 200-9, for a minimum of one year; and
- 16 (2) The seller shall pay the department a business
17 transfer fee based on the passenger-carrying capacity
18 of the vessels owned or operated by the corporation or
19 business entity as provided by rules adopted by the
20 chairperson pursuant to chapter 91.



1 Any person possessing a commercial permit shall be required to
2 meet minimum revenue standards, as a condition of retaining or
3 renewing the commercial permit.

4 [~~e~~] (f) The department may designate moorage space
5 within state small boat harbors to accommodate commercial
6 fishing vessels and transient vessels.

7 [~~f~~] (g) All revenues from the foregoing operations shall
8 be deposited in the boating special fund."

9 SECTION 2. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

12

INTRODUCED BY:

ANDREW VI
BY REQUEST

JAN 25 2010



Report Title:

Small Boat Harbors; Commercial Permits

Description:

Requires commercial permit holders who disembark fare-paying passengers entering upon any public or quasi-public real property to comply with regulations applicable to such areas.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

