

JAN 23 2009

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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. The purpose of this Act is to authorize the  
2 department of land and natural resources to regulate commercial  
3 enterprises that operate out of private marinas.

4           It is not the intent of this Act to provide for additional  
5 regulation of existing regulated commercial enterprises, but to  
6 address currently unregulated activities only.

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

9           "~~§~~200-3~~§~~ **Ocean recreation and coastal areas programs.**

10 The board shall assume the following functions of the department  
11 of transportation:

12           (1) Managing and administering the ocean-based recreation  
13 and coastal areas programs of the State;

14           (2) Planning, developing, operating, administering, and  
15 maintaining small boat harbors, launching ramps, and  
16 other boating facilities and associated aids to  
17 navigation throughout the State;



- 1 (3) Developing and administering an ocean recreation  
2 management plan;
- 3 (4) Administering and operating a vessel registration  
4 system for the State;
- 5 (5) Regulating the [~~commercial~~] commercially permitted use  
6 of both governmental and private boating facilities;  
7 provided that no new permit shall be required for, and  
8 no new regulation shall apply to, activities permitted  
9 or regulated under any other chapter;
- 10 (6) Regulating boat regattas and other ocean water events;
- 11 (7) Administering a marine casualty and investigation  
12 program;
- 13 (8) Assisting in abating air, water, and noise pollution;
- 14 (9) Conducting public education in boating safety;
- 15 (10) Administering the boating special fund;
- 16 (11) Assisting in controlling shoreline erosion;
- 17 (12) Repairing seawalls and other existing coastal  
18 protective structures under the jurisdiction of the  
19 State; and
- 20 (13) Removing nonnatural obstructions and public safety  
21 hazards from the shoreline, navigable streams,  
22 harbors, channels, and coastal areas of the State."



1 SECTION 3. 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  
13 resources in the issuance of any permits for  
14 offshore mooring;

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

18 (C) The licensing and registration of persons or  
19 organizations engaged in commercial activities in  
20 or on the ocean waters and navigable streams of  
21 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 activities in private marinas;
- 21 provided that no new permit shall be required for
- 22 those commercial activities in private marinas





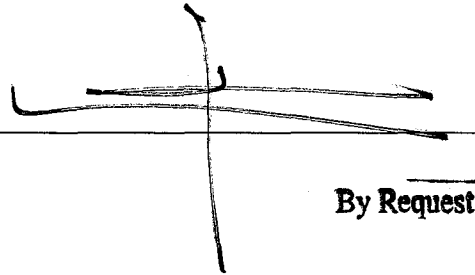
1           regulated by any other chapter. For the purpose of  
2           this paragraph, "commercial activity" shall have the  
3           same meaning as in section 188-40.6."

4           SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 5. This Act shall take effect on July 1, 2009.

7

INTRODUCED BY: \_\_\_\_\_

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**By Request**



**Report Title:**

Ocean Resources; Commercial Activities; DLNR

**Description:**

Adds regulatory function over commercially permitted use of government and private boating facilities and commercial activities in private marinas to the department of land and natural resources.

