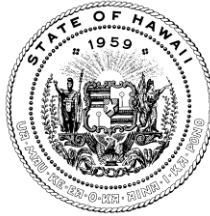


SB 2019

EDT-WTL

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committees on
ECONOMIC DEVELOPMENT AND TECHNOLOGY
and
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

**Friday, February 19, 2010
1:15 PM
State Capitol, Conference Room 016**

**In consideration of
SENATE BILL 2019
RELATING TO THE MAXIMUM TERM OF COMMERCIAL USE AND OPERATOR
PERMITS FOR THRILL CRAFT AND PARASAILING**

Senate Bill 2019 proposes to delete the maximum term of permit issue of 20 years for thrill craft and parasailing. The Department of Land and Natural Resources (Department) takes no position with the deletion of the maximum term of permit issue of 20 years.

The Department notes that commercial thrill craft and parasail operators that have been issued a commercial use permit by the Department's Division of Boating and Ocean Recreation are the only commercial permittees that may have their commercial use permits issued at public auction after 20 years. All other commercial use permits are issued on a year to year basis and are renewed annually as long as the permittee has remained in compliance with all federal, state, and county laws. The Department feels that all commercial operators should be treated equally and that all commercial operator permits should either be renewed annually or be required to be offered at public auction every 20 years.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUIJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**HAWAIIAN PARASAIL INC
1085 Ala Moana Blvd. #101
Honolulu, Hawaii 96814**

February 15, 2010

**SENATE COMMITTEE
COMMITTEE OF WATER, LAND, AGRICULTURE AND
HAWAIIAN AFFAIRS
State Capitol Building room 016
Hearing of SB2019
Feb. 19, 2010 at 1:15 p.m.**

Testimony of MARK NEUMANN

To Chairman CLAYTON HEE and members,

In '1976 I introduced Parasailing to Hawaii. I spent the next 30 plus years laboring to stay in business while helping to build this industry into the hugely popular attraction it is today. Some of the other Parasail and Jet Ski operators are also part of the early pioneers of the industry here. We were in the business many years before being subjected to regulations by DLNR under the permit system, forced to except these regulations even while not agreeing to at least some in part. We all have some employees that have been with us for many years, in some cases decades, professional at their respective positions. They too have dedicated a good part of their lives to their jobs. We all deserve to continue with our professions and our businesses without government intervention.

In the Hawaii "SMALL BUSINESS BILL OF RIGHTS", article VII states that, "small businesses have the right to renewal of essential permits, licenses, registrations, or approvals, absent a specific reason for non-renewal." It doesn't say for only 20 years. There has never been any explanation or reason given for the necessity of this regulation in question. Maybe that is why DLNR themselves take no stand on this bill.

In contrast, there are numerous reasons why this regulation should be deleted, among them, is that this regulation is flagrantly discriminating and morally bankrupt. Parasailing and Jet Ski operators are the only commercial ocean activities permitted by the DLNR, and subjected to this regulation. There should be a fair and even playing field between all the commercial ocean activity operators, either take away all of the other commercial ocean activity operator permits after a 20 year term or delete this regulation.

There is no justification for taking away these rights, previously allowed or given for 20 years, without a specific cause or reason for doing so. This is devastating to the permit holders entire life, a cruel act and morally disgraceful. I have my whole life savings invested into this business, decades of blood, sweat and tears. I have sacrificed having a family until late in my life so I could build this business. I provide jobs not take jobs. I have faithfully paid a percentage of my gross every month to the government for this permit. I have risked all this with a business that has this government waiting in place to reap the rewards of what I built after 20 years. Is this America.

Finally, this is an anti economic stimulus, in a climate having businesses all over the country closing. Then you have a government purposely, needlessly and forcefully taking away a perfectly legitimate and successful business.

I ask this committee to please help correct this violation of the Small Business Bill of Rights and violation of discrimination laws by passing this amendment.



**MARK NEUMANN
OWNER**

Bryan Y.Y. Ho

Attorney At Law, A Law Corporation
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841 Bishop Street
Honolulu, Hawaii 96813

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Cellular: (808) 864-4071
Facsimile: (808) 533-8800
bryanho@admiraltyattys.com

February 18, 2010

HONORABLE CAROL FUKUNAGA
Chair
Economic Development & Technology
11th Senatorial District
Room 216, Hawaii State Capitol
415 So. Beretania Street
Honolulu, Hawaii 96813

VIA FACSIMILE

HONORABLE CLAYTON HEE
Chair
Water, Land, Agriculture & Hawaiian Affairs
23rd Senatorial District
Room 228, Hawaii State Capitol
415 So. Beretania Street
Honolulu, Hawaii 96813

VIA FACSIMILE

Re: ***SB 2019***
EDT/WTL Committee Hearing
Date: February 19, 2010
Time: 1:15 p.m.
Conf Room 016

Senators Fukunaga & Hee:

I represent X-Treme Parasail, Inc., Diamond Head Parasail, Inc. and Diamond Head Parasail & Watersports, Inc., three commercial water sports companies that operate out of Kewalo Basin. Needless to say, my clients support SB 2019 and strongly urge all members of your respective committees to pass this measure as drafted.

The sole purpose of SB 2019 is to eliminate the 20 year term limit applicable to commercial parasail and thrill craft (jet ski) permits issued by the Division of Boating & Ocean Recreation ("DOBOR"), Department of Land & Natural Resources. The change in law is necessary to correct an inherent conflict and patent unfairness that currently exists between parasail/jet ski permits and all other commercial permits issued

HONORABLE CAROL FUKUNAGA
HONORABLE CLAYTON HEE
February 18, 2010
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by DOBOR. Parasail and jet ski permits are the only commercial permits subject to: 1) a permit fee that is calculated on the higher amount of a fixed fee or 3% of their gross sales; and 2) a 20 year term limit, at the end of which the permit automatically expires and is made available for re-issuance to the general public by public auction. All other commercial permits issued by DOBOR pay a fixed permit fee and are renewed annually in perpetuity. As long as the permit holder has complied with all applicable statutes and regulations, as well as, paid all taxes owed, renewal of these permits is automatic and a matter of right, without risk of the permit automatically expiring and being given to another operator. It is patently unfair that parasail and jet ski operators are charged the highest permit fees of any commercial ocean recreation business in the State, yet they do not enjoy the same rights and protections as other commercial operators. Parasail and jet ski permits should be annually renewable in perpetuity as well.

The incumbent parasail/jet ski permit holder's right, under the current law, to retain their permit for another 20 year term by agreeing to match the highest bid offered at the auction is of no consequence or consolation. My clients are genuinely concerned that under the current system their livelihood could be jeopardized by someone that does not know the business and submits a bid that is so high, when combined with all other operating expenses, the business cannot operate at a profit. Under that scenario, it would be foolish for the incumbent to retain the permit at the higher rate knowing any future operations will result in certain loss. The current system also does not protect permit holders from speculators that are not interest in operating a parasail/jet ski business, but are looking to acquire the permit simply for the purpose of reselling it at a profit, which stems from the fact there are only a limited number of permits available. No other commercial permit is subject to this type of arbitrary exposure to increased fees and loss of their business. Parasail and thrill craft operators are entitled to equal treatment and protection under the law.

The 20 year term limit should also be abolished because it unfairly handicaps a company's ability to operate successfully and maintain the highest standards of safety. A new parasail boat, with shipping to Hawaii, costs approximately \$200,000. Based on a sale that occurred within the last year, a used boat in good condition costs \$80,000. Every vessel must be operated by a U.S. Coast Guard licensed captain and a single trained deck hand. A brand new jet ski costs between \$6,000 - \$8,000. Taking into consideration transportation, labor expenses, fuel, maintenance, insurance, permit and mooring fees, a 20 year term is not long enough for a single owner, much less a hui of investors, to recoup their investment at a fair rate of return, while simultaneously reinvesting a portion of profits generated in providing ongoing training of personnel in safety and industry standards and regular maintenance and/or upgrading of equipment.

HONORABLE CAROL FUKUNAGA
HONORABLE CLAYTON HEE
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Page 3

The expiration of these permits at the end of 20 years also interferes with an operator's ability to secure financing and other long term commitments. Banks are not willing to loan money, issue lines of credit and grant other privileges because the life of the operation is uncertain.

Lastly, the limited term hinders the permit holders ability to hire and retain quality employees. It is difficult to make long term commitments to employees when it is possible the business may cease to exist if the operator cannot retain it's permit at the end of the term.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Bryan Y. Ho

cc: Hon. Rosalyn H. Baker (Vice Chair - EDT)
Hon. Jill N. Tokuda (Vice Chair - WTL)
Hon. David Y. Ige
Hon. Sam Slom
Hon. Robert Bunda
Hon. Russell S. Kokubun
Hon. Dwight Y. Takamine
Hon. Fred Hemmings



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
Century Square-1188 Bishop St., Ste. 1003
Honolulu, HI 96813-3304
(808) 537-4308 Phone (808) 533-2739 Fax
timlyons@hawaiiantel.net

February 19, 2010

Testimony To: Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair

Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs
Senator Clayton Hee, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 2019 - RELATING TO THE MAXIMUM TERM OF COMMERCIAL USE AND
OPERATOR PERMITS FOR THRILL CRAFT AND PARASAILING

Chair Fukunaga, Chair Hee and Members of the Joint Committees:

I am Tim Lyons, Executive Director of the Ocean Tourism Coalition and we support this bill.

The twenty (20) year maximum permit was a specialized response to a situation existing at the time which was undesired by the community. Unfortunately, we find that the twenty (20) year maximum causes a great hardship on the owner of that permit because after all, as the time grows near to expiration which it is currently doing, you have the equivalent of a "lame duck" permit.

Businesses must enter into long range plans, as well as long range applications. A permit which is going to expire at some point certain in the future does not afford the business, its investors or anyone else the incentive to take a risk with that business by investing or providing a loan. We also find that the twenty (20) year maximum (as in the current law) is an anomaly as far as other permits that are issued.

Under the terms of this bill each permit operator will have to ask for a renewal by the Department for every five (5) year period however, under section "n" (page 6) there is an annual review. Most commercial permits are renewable annually and we see no reason to make this one different. We suggest section "m" be amended to allow for a annual license.

Based on the above, we can recommend support of this bill and would ask for your favorable consideration.

Thank you.

From: mailinglist@capitol.hawaii.gov
To: [EDTTestimony](#)
Cc: junebiz@hotmail.com
Subject: Testimony for SB2019 on 2/19/2010 1:15:00 PM
Date: Thursday, February 18, 2010 11:00:38 AM

Testimony for EDT/WTL 2/19/2010 1:15:00 PM SB2019

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: June Freunds Schuh
Organization: Aloha Ocean Sports
Address: 7192 Kalaniana'ole Hwy E207 Honolulu
Phone:
E-mail: junebiz@hotmail.com
Submitted on: 2/18/2010

Comments:

Please support this bill. Our current law reflects how unfair and unfriendly business climate we have against small businesses in Hawaii. This measure will give small businesses a fight chance in providing job security and maintaining safe and viable service to tourism industry. I have spent past 13 years nurturing and building up my business and to be subjected to current laws have been difficult. Due to the limitations, if I should decide to sell, I could not get a fair market value for my business, be subjected to unfair lease negotiations, most importantly, my ability to get a decent long term financing to enhance and ensure safety our operation. These operations take enormous capital infusion to start and maintain. Financing is crucial to our business and with the term restriction, it is impossible to secure any funds in our current "credit crunched" business environment.

The thrill craft and parasail operators are currently reviewed by DLNR annually, renewed every five years and limits its operation to 20 years. No other activities such as sail boat charters, submarines, deep sea fishing, water skiing, surfing schools, Snuba tours, snorkel tours, kayaks or many other businesses that need a state issued commercial operating permit is subjected to these restrictions. It unfairly singles out jet skiing and parasailing permits and announces to the holder that after 20 years, the State of Hawaii will take your permit without cause or due process. It is unfavorable towards safe operation and puts companies in fear of financial jeopardy.

I am managing so far but with what is happening with our economy, we need all the assistance we can get. Please help and support small businesses.

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 18, 2010 9:54 AM
To: EDTTestimony
Cc: thomas_kondo@yahoo.com
Subject: Testimony for SB2019 on 2/19/2010 1:15:00 PM

Testimony for EDT/WTL 2/19/2010 1:15:00 PM SB2019

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Thomas Kondo
Organization: Individual
Address:
Phone:
E-mail: thomas_kondo@yahoo.com
Submitted on: 2/18/2010

Comments:

Please support small business by supporting this bill. Taking the established business away after 20 years without any cause is unfair!!

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 18, 2010 9:58 AM
To: EDTTestimony
Cc: ayarealtor@gmail.com
Subject: Testimony for SB2019 on 2/19/2010 1:15:00 PM

Testimony for EDT/WTL 2/19/2010 1:15:00 PM SB2019

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Ayako Ancheta
Organization: Individual
Address:
Phone:
E-mail: ayarealtor@gmail.com
Submitted on: 2/18/2010

Comments:

Please support this bill and give the small businesses the support they need to thrive.

Kathleen Takahashi

747 Ailuna St.

Honolulu, HI. 96821

TESTIMONY IN FAVOR OF SB2019

I am writing to voice my strong support of this bill and its intent to delete the 20 year maximum permit term for parasailing and commercial thrill craft commercial use and operator permits. I also support deleting the provision that puts a permit up for auction after this 20 year maximum term.

Permit holders that have met the state's requirements in the statute (compliance with all the rules, payment of taxes and a good safety record) should be able to own their businesses in perpetuity. A 20 year term imposed by this statute is both discriminatory and unreasonable to our state's small business owners. These types of businesses require capitalization to ensure safe operation; extensive employee training and on-going equipment investments. The idea that a business must surrender a permit won at auction back to the state after 20 years is absurd. Other state permitted businesses are not subject to such a harsh consequence.

We must aggressively support our state's tourism operators and keep them viable entities by removing this unfair, unreasonable and discriminatory restriction. There are no other permitted water sports activities that are subject to this punitive measure. The state is populated with numerous water sports activities such as catamaran rides, surfing, scuba diving, submarine tours, dinner cruises, etc. These activities do not have a 20 year or other finite restriction on their businesses. They operate in perpetuity. Long term operators are good for our state.

Long term operators become long term stewards of the resource they use. Short term operators become abusers of a resource as they are forced to cut corners to recoup initial investments which are high. Long term operators are invested in safe operations. Remove this 20 year term without any reservation.

Please readily pass this measure.

Thank you

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 18, 2010 2:51 PM
To: EDTTestimony
Cc: krantz3k@aol.com
Subject: Testimony for SB2019 on 2/19/2010 1:15:00 PM
Attachments: SB2019.docx

Testimony for EDT/WTL 2/19/2010 1:15:00 PM SB2019

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: Jeffrey Krantz
Organization: SeaBreeze Parasailing Co., Ltd.
Address: 377 Keahole St. #E103 Honolulu, HI.
Phone: 8083960100
E-mail: krantz3k@aol.com
Submitted on: 2/18/2010

Comments:

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 18, 2010 3:08 PM
To: EDTTestimony
Cc: courtney@seabreezewatersports.com
Subject: Testimony for SB2019 on 2/19/2010 1:15:00 PM

Testimony for EDT/WTL 2/19/2010 1:15:00 PM SB2019

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: Courtney Krantz
Organization: Individual
Address: 377 Keahole St. #E103 Honolulu, HI.
Phone: 808-396-0100
E-mail: courtney@seabreezewatersports.com Submitted on: 2/18/2010

Comments:

I am in strong support of SB 2019 and its intention to remove the 20 year maximum permit term.

Even DL&NR notes that commercial thrill craft and parasail operators are the ONLY commercial permittees that may have their commercial use permits issued at a public auction after 20 years. All commercial operators should be treated equally. The current statute discriminates against selected businesses.

We must support our fragile tourist driven economy by allowing our existing businesses to survive.

It is virtually impossible to obtain financing for capitalization with a finite term on your business.

We must aggressively support our state's tourism operators and keep them viable entities by removing this unfair, unreasonable and discriminatory provision.

Please readily pass this measure. Thank you.

LATE

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 19, 2010 2:38 PM
To: EDTTestimony
Cc: jeannine@hawaii.rr.com
Subject: Testimony for SB2019 on 2/19/2010 1:15:00 PM

Testimony for EDT/WTL 2/19/2010 1:15:00 PM SB2019

Conference room: 016
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Jeannine Johnson
Organization: Individual
Address: 5648 Pia Street Honolulu, HI
Phone: 808-373-2874
E-mail: jeannine@hawaii.rr.com
Submitted on: 2/19/2010

Comments:

E kala mai for my late testimony. For the reasons stated at the hearing, I oppose this bill.
Mahalo for allowing me to testify.