
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 and use state
4 waters or marine resources. It is not the intent of this Act to
5 provide for additional regulation of existing regulated commercial
6 enterprises, but to 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 use of [~~boating facilities,~~
- 6 state waters and marine resources, including those
- 7 operations that use private marinas;
- 8 (6) Regulating boat regattas and other ocean water events;
- 9 (7) Administering a marine casualty and investigation
- 10 program;
- 11 (8) Assisting in abating air, water, and noise pollution;
- 12 (9) Conducting public education in boating safety;
- 13 (10) Administering the boating special fund;
- 14 (11) Assisting in controlling shoreline erosion;
- 15 (12) Repairing seawalls and other existing coastal
- 16 protective structures under the jurisdiction of the
- 17 State; and
- 18 (13) Removing nonnatural obstructions and public safety
- 19 hazards from the shoreline, navigable streams,
- 20 harbors, channels, and coastal areas of the State."

21 SECTION 3. Section 200-4, Hawaii Revised Statutes, is
 22 amended by amending subsection (a) to read as follows:



- 1 " (a) The chairperson may adopt rules necessary:
- 2 (1) To regulate the manner in which all vessels may enter
- 3 the ocean waters and navigable streams of the State
- 4 and moor, anchor, or dock at small boat harbors,
- 5 launching ramps, and other boating facilities owned or
- 6 controlled by the State;
- 7 (2) To regulate the embarking and disembarking of
- 8 passengers at small boat harbors, launching ramps,
- 9 other boating facilities, and public beaches;
- 10 (3) For the safety of small boat harbors, launching ramps,
- 11 and other boating facilities, and the vessels anchored
- 12 or moored therein;
- 13 (4) For the conduct of the public using small boat
- 14 harbors, launching ramps, and other boating facilities
- 15 owned or controlled by the State;
- 16 (5) To regulate and control recreational and commercial
- 17 use of small boat harbors, launching ramps, and other
- 18 boating facilities owned or controlled by the State
- 19 and the ocean waters and navigable streams of the
- 20 State;
- 21 (6) To prevent the discharge or throwing into small boat
- 22 harbors, launching ramps, other boating facilities,



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



1 vessels at small boat harbors, launching
2 ramps, and other boating facilities; or
3 (ii) Other uses of these facilities;
4 (B) Requirements for permits and fees for use of a
5 vessel as a principal place of habitation while
6 moored at a state small boat harbor;
7 (C) Requirements governing:
8 (i) The transfer of any state commercial,
9 mooring, launching, or any other type of use
10 or other permit, directly or indirectly,
11 including, but not limited to, the
12 imposition or assessment of a business
13 transfer fee upon transfer of ownership of
14 vessels operating commercially from, within
15 or in any way related to the state small
16 boat harbors; and
17 (ii) The use of state small boat harbors,
18 launching ramps, or other boating facilities
19 belonging to or controlled by the State,
20 including, but not limited to, the
21 establishment of minimum amounts of annual
22 gross receipts required to renew a



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

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

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

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

22 (i) The designation of offshore mooring areas;



1 (ii) The licensing and registration of vessels,
2 houseboats, and other contrivances; and the
3 issuance of permits for offshore anchoring
4 and mooring of vessels, houseboats, and
5 other contrivances; and

6 (iii) The living aboard on such vessels,
7 houseboats, or other contrivances while they
8 are anchored or moored within ocean waters
9 or navigable streams of the State.

10 The rules shall provide for consideration of
11 environmental impacts on the State's aquatic
12 resources in the issuance of any permits for
13 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 activities in state waters
21 including those operations originating from private
22 marinas; provided that no new or additional permits



1 shall be required for those commercial activities
2 regulated by any other chapter.

3 For the purposes of this paragraph:

4 "Commercial activity" means to engage in any
5 action or attempt to engage in any action for
6 compensation in any form. The action or actions may
7 include providing or attempting to provide guide
8 services, charters, tours, and transportation to and
9 from the location or locations for which such services
10 are provided.

11 "Compensation" means money, barter, trade,
12 credit, and other instruments of value, goods, and
13 other forms of payment."

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

16 SECTION 5. This Act shall take effect on July 1, 2012.



Report Title:

Ocean Resources; Commercial Activities, Department of Land and Natural Resources

Description:

Authorizes the Department of Land and Natural Resources to regulate the commercial use of state waters and marine resources. Effective July 1, 2012. (HB2682 HD1)

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