

**SB 2516**

**EDT-WLH**



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE  
GOVERNOR

RICHARD C. LIM  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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Statement of  
**RICHARD C. LIM**  
Director

Department of Business, Economic Development, and Tourism  
before the

**SENATE COMMITTEES ON ECONOMIC DEVELOPMENT AND TECHNOLOGY  
and  
WATER, LAND, AND HOUSING**

Tuesday, February 14, 2012

1:30 p.m.

State Capitol, Conference Room 225

in consideration of  
SB2516

**RELATING TO COMMERCIAL WATERSPORTS**

Chairs Fukunaga and Dela Cruz, Vice Chairs Wakai and Solomon, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB1516, which seeks to require DLNR to adopt rules for commercial watersport activities. We defer to DLNR on the substantive matters of the bill, but would like to request an amendment to ensure that filming activities are included as an existing permitted activity for commercial watersports.

We are requesting that page 1, line 19 be amended as follows:

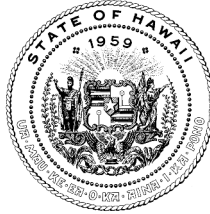
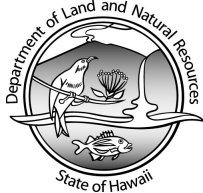
"Commercial watersports equipment" means any equipment that is designed to be used on or in the water, including kayaks, surfboards, stand-up paddleboards, and kite-boards, for any trade or business.

"Commercial watersports equipment" does not include any equipment that is used as part of an organized, permitted event, such as a canoe regatta, [~~or~~] marine regatta or filming activities. The department may adopt rules pursuant to chapter 91 to specify the

types of equipment that shall be deemed "commercial watersports equipment" pursuant to this section."

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committees on  
ECONOMIC DEVELOPMENT AND TECHNOLOGY  
and  
WATER, LAND AND HOUSING**

**Tuesday, February 14, 2012  
1:30 P.M.  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 2516  
RELATING TO COMMERCIAL WATERSPORTS**

Senate Bill 2516 proposes to: (1) Requires the Department of Land and Natural Resources (Department) to adopt rules to designate areas where, and time periods during which, commercial watersports equipment may be operated; (2) Prohibits persons from using commercial watersports equipment without a use permit issued by the Department; (3) Require a permittee to pay fees to the Department for a use permit for commercial watersports equipment; and 4) Require the Department to conduct an annual review of the use permits issued for commercial watersports equipment. The Department supports this measure.

Each year, there are more and more new watersports activities being introduced into Hawaii's near shore waters and this measure clarifies that all commercial watersports activities will require a use permit as well as pay the appropriate commercial use fee. This measure will assist the Department with managing the numerous commercial watersports activities taking place in state waters as well as provide a funding source that can be used for regulating and enforcement purposes.

Thank you for the opportunity to comment.

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
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

S.B. NO. 2516

EDT/WLH 225 2/14/2012 1:30:00 PM

We oppose this bill,

SB 2516 would undermine the collaboration of the County and Operators

Collaboration between Maui County and the ocean sport operators (county permit holders), has existed for years. There has been a long history of rule making, community input and compliance of the commercial operators. In the case of Maui County we have worked together for nearly two decades to balance the needs of the community, natural resources, and the Commercial ocean recreation activities (cora).

This bill would create a duplication of the County permit system:

This proposed system permit system and fees is costly and unnecessary. This proposed bill means that County permit holders would also need to obtain State permits, and maintain dual permits for their activities. This is clearly an example of governmental overregulation.

SB2516 would allow an unlimited expansion of Commercial Activities in State waters:

This bill would allow for unrestrained commercial use of state waters. This bill would add new permits and new operators into an already saturated system. The number of permits issued in Maui County is limited to the capacity of the resources. Adding a second tier of permits would circumvent the County control over operators, and allow for an uncontrolled expansion of commercial permits.

It would overload the resources of the DLNR:

The DLNR is already undermanned and overworked, they cannot possibly administer this proposed system, and do not have sufficient resources to police the enforcement of a statewide system. The state already cannot deal with the current number of complaints about unpermitted/illegal operators using state lands. This bill would overburden the DLNR and take attention away from their other duties (like protecting the environment).

This Bill will keep illegal operators illegal.

All of the illegal operators will continue to operate outside of this system. These permit fees will create more incentive to stay underground. The state has no control over underground operations, and underground operations do not pay taxes of any sort. This bill creates a financial disincentive to become a legitimate operator.

Hardship on Legitimate operators:

In addition these permits and fees would place unnecessary hardship on legitimate businesses. Legitimate businesses are already paying state taxes on all income, plus paying social security and unemployment to workers. The costs of these legitimate operators are already high. Small businesses in Hawaii are already struggling with the burden of all of the fees and taxes and conditions placed on them.

Over taxation of Legitimate Operators:

Legitimate operators are already paying 4% of gross income directly to the state, And then they pay 4% of that income in tax on every dollar they spend back into the community. This is already a double state tax, and this proposed new fee would be a triple state tax burden.

SB2516 would trigger the need for a statewide EIS:

This bill would potentially open up all state waters to commercial use, by issuing these commercial permits. HB§343-5 describes several EIS triggers that apply directly to this bill. The scope of the impact and the capacity of the state's resources to handle increased commercial use would need to be determined with an Environmental Impact Study. The EIS would need to cover every beach access, boat ramp, and unencumbered coastal land, and all state controlled waters, for all of the applicable watercraft types.

Thank you for the opportunity to submit this testimony

David Dorn  
Owner operator  
Action Sports Maui



Activities & Attractions Association of Hawaii  
PO Box 598, Makawao, Hawaii 96768  
(808)871-7947 Main (808)877-3104 Fax

**Testimony Joint Senate Committees on  
Water, Land and Housing & Economic Development & Technology  
Tuesday, February 14, 2012, 1:30pm  
Conference Room 225**

**RE: Senate Bill 2516 RELATING TO COMMERCIAL WATERSPORTS**

Chairs Dela Cruz & Fukunaga, Vice Chairs Solomon & Wakai and members of the joint committees;

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 14 years it has been my honor to serve the activity & attraction industry of Hawaii through my position as the Executive Director of the Activities & Attractions Association of Hawaii. **A3H strongly opposes SB2516.**

“Commercial Watersports” as defined in this proposed legislation is best managed at the county level. As a state based in tourism, it is critical that the community embrace and support the visitor industry. The county is intimate with each island’s people & idiosyncrasies; they know which areas are more “local” verses those well equipped with infrastructure for visitor & commercial use. County by county this is being addressed and home rule is the best solution as these activities start on land and lead to the ocean. Having dual jurisdictions and regulations is not business friendly or cost effective management that is what this Bill proposes.

This Bill proposes a **huge grab** over all the waters in the state. This would make more make sense if it referred to ocean recreational activities which started in State beach parks or unencumbered state lands, but even if it did, we still believe these would be best served home ruled, the counties. Costal management should be under the county government, which won’t happen unless dollars are attached. This is another Bill, for another year.

Here’s what we predict would happened if this legislation passed:

- 1) Upstanding larger operators will pass thru the 3% to their customers increasing the cost and sticker shock of a Hawaii vacation. These guided tours are supervised water entries; rules are recited to guests and followed. There is an opportunity to teach and educate respect for the environment and culture. If these tours pass through a Maui County park permit fees already paid to the County for the privilege to conduct business. These operators also watch over and protect this resource, while assisting customers and non customers.



Activities & Attractions Association of Hawaii  
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- 2) Smaller, more intimate-personalized commercial watersports businesses will go underground as \$200/month (\$2,400 a year) fee is too costly or just they will just close.
- 3) Rental equipment will increase dramatically; as a result so will user conflict, detriment and safety hazard due to unsupervised users. These renters are the “public”, not commercial.
- 4) DLNR will still be ineffective, money doesn't fix dysfunction.

DLNR should not oversee any regulatory relationship to commercial business unless changes are made to their principles. Their hierarchy principles put them at an adversarial position with commercial businesses which utilize natural resources. We should modify their basic principles to something more functional like the collaborative government approach of Colorado's outdoor environmental activities, where Federal, State and County manage together and support commercial supervised use of their natural resources. They “get” that the commercial use provides funds to cover cost of maintenance and protection. It's all a win-win-win, for the resource, management and users, it's balanced. All involved have the main number one obvious priority: **to above all else protect the natural resources**. Customers of the commercial use operations are not discriminated as to whether they are a residents or a visitor either.

Tourism is an incredible economic, sustainable gift to any community. Residents should embrace it, government should support it. Tourism is a look but don't take, lucrative, vibrant opportunity to engage visitors in the "good" of our islands, (natural beauty, activities, aloha spirit, weather, etc..).

If the natural resource is too fragile, restrict usage to only controlled commercial concessions, like was done with Haunama Bay. This reduces impact and provides funds to restore and maintain the resource. Residents & visitors deserve it. Hawaii requires it for future generations to experience it.

Mahalo for the opportunity to submit testimony. If you have any questions, please contact me at (808)871-7947 ext. 112 or 1-800-398-9698 ext.112.

*Toni Marie Davis*

Toni Marie Davis/Executive Director  
Activities & Attractions Association of Hawaii





**Testimony Joint Senate Committees on  
Water, Land and Housing & Economic Development & Technology  
Tuesday, February 14, 2012, 1:30pm  
Conference Room 225**

**RE: Senate Bill 2516 RELATING TO COMMERCIAL WATERSPORTS**

Chairs Dela Cruz & Fukunaga, Vice Chairs Solomon & Wakai and members of the joint committees;

Mahalo for this opportunity to testify, my name is Jim Walsh, I am the General Manager for Atlantis Adventures - Maui. I am writing this testimony on behalf of Atlantis Adventures Hawaii. As a member of the Ocean Tourism Industry, Atlantis Adventures **opposes SB2516**.

***I urge you to kill this Bill in committee.*** The state of Hawaii is a heavily regulated state, and with each passing legislative session, the regulatory burden becomes greater on our business community. This bill is requesting that a 3% user fee to DLNR become mandatory for all “commercial watersports” companies that use our ocean resource. Atlantis opposes this bill for two reasons; (1) the ever increasing tax burden on our business will kill us competitively, and (2) this bill is, in our opinion, a state regulatory overreach.

As I have testified in other bills on both the House and Senate this session, our state is still in a very fragile economic condition. Yes, the tourism numbers are moving in the right direction, but we are far from a stable, growing, healthy economy. Additional tax burdens to our businesses at this time are not a good idea. I realize that the state needs or wants to do many things, but during these difficult economic times I expect my government be more careful on their spending, and to be introducing legislation that promotes our local economies, not stifles them. An increased tax burden will kill job creation and slow the economic growth of our state. As an example, many of the targeted commercial watersports related activities in this bill already pay their fair share of GET to the state, plus a fee to their county government (at least they do in Maui). Another 3% on top of that is 3% less that goes to employee salaries and benefits or capital investment back into their businesses.

We also believe that the state should allow the local government to have the regulatory oversight over these businesses. These businesses deal in tourism, our number one economic engine. These operators working in our local communities are best served by their local government, not by the state. Who knows better what Maui’s needs are, then local people. In short, we feel that “home rule” is a better way to go for these types of businesses. If a commercial watersports company operates off a county beach, there should be no further state involvement.



Lastly, money will never solve the dysfunction of DLNR. This agency is huge and probably should be broken up into smaller, more manageable departments. Which department in DLNR will oversee this program? DOBOR? They can't handle what they have now!

I don't think that DLNR should be regulating any business. Unfortunately, DLNR and the business community too often seem to be at odds with each other. For Hawaii to become what it could be and should be, the attitude from DLNR to the business community needs to change.

Please kill SB2516.

Respectfully,

James Walsh  
General Manager  
Atlantis Adventures Hawaii  
658 Front Street, #175  
Lahaina, HI. 96761  
Tel (808) 667-6604  
Fax (808) 661-1210  
[jwalsh@atlantisadventures.com](mailto:jwalsh@atlantisadventures.com)

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 7:59 AM  
**To:** EDTTestimony  
**Cc:** lavaoceanadventures@gmail.com  
**Subject:** Testimony for SB2516 on 2/14/2012 1:30:00 PM

Testimony for EDT/WLH 2/14/2012 1:30:00 PM SB2516

Conference room: 225  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: SHANE TURPIN  
Organization: Lava Ocean Adventures  
E-mail: [lavaoceanadventures@gmail.com](mailto:lavaoceanadventures@gmail.com)  
Submitted on: 2/10/2012

**Comments:**

We find the state has a hard enough time enforcing its current DLNR policies and rules the last thing they need is to make a new set of rule to play by.

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 7:01 AM  
**To:** EDTTestimony  
**Cc:** south246@gmail.com  
**Subject:** Testimony for SB2516 on 2/14/2012 1:30:00 PM

Testimony for EDT/WLH 2/14/2012 1:30:00 PM SB2516

Conference room: 225  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: roger simonot  
Organization: south pacific kayaks  
E-mail: [south246@gmail.com](mailto:south246@gmail.com)  
Submitted on: 2/10/2012

### Comments:

Please oppose (strongly) this bill as it adds unnecessary burden on operators with no benefit. Also adding to the already expensive Hawaiian vacation for visitors. This is a very blatant tax grab that should not be allowed to proceed. Ocean is a public resource and those that partake should not have to be taxed to do so. There are no resources to support this "permit". Please oppose this bill as it is yet another bad piece of legislation targeting the people we count on the most - our valued visitors.

## **fukunaga2 - Ashley-Jane**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 11:06 AM  
**To:** EDTTestimony  
**Cc:** Benjhall@maui.net  
**Subject:** Testimony for SB2516 on 2/14/2012 1:30:00 PM

Testimony for EDT/WLH 2/14/2012 1:30:00 PM SB2516

Conference room: 225  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Ben J Hall  
Organization: Individual  
E-mail: [Benjhall@maui.net](mailto:Benjhall@maui.net)  
Submitted on: 2/10/2012

**Comments:**

My name is Ben J Hall, i have lived and worked in Hawaii for 29 years, always in touist activity business. DLNR managing further commercial activities is not within the scope of of their mission, having to protect natural resources is not conducive to having a supervisory role over commercial activities. Their role currently is such that they would be a burden on operators, when they are already licensed by counties. I strongly oppose this measure.

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 9:00 AM  
**To:** EDTTestimony  
**Cc:** justinremais@hotmail.com  
**Subject:** Testimony for SB2516 on 2/14/2012 1:30:00 PM

Testimony for EDT/WLH 2/14/2012 1:30:00 PM SB2516

Conference room: 225  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: justin remais  
Organization:  
E-mail: [justinremais@hotmail.com](mailto:justinremais@hotmail.com)  
Submitted on: 2/10/2012

Comments:

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 10:14 AM  
**To:** EDTTestimony  
**Cc:** caldwell@mauiclassiccharters.com  
**Subject:** Testimony for SB2516 on 2/14/2012 1:30:00 PM

Testimony for EDT/WLH 2/14/2012 1:30:00 PM SB2516

Conference room: 225  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Mary Jane Caldwell  
Organization: Individual  
E-mail: [caldwell@mauiclassiccharters.com](mailto:caldwell@mauiclassiccharters.com) Submitted on: 2/10/2012

Comments:

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 9:53 AM  
**To:** EDTTestimony  
**Cc:** mtkbam@aol.com  
**Subject:** Testimony for SB2516 on 2/14/2012 1:30:00 PM

Testimony for EDT/WLH 2/14/2012 1:30:00 PM SB2516

Conference room: 225  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Mike Kelley  
Organization: Individual  
E-mail: [mtkbam@aol.com](mailto:mtkbam@aol.com)  
Submitted on: 2/10/2012

**Comments:**

Believe that dment is thrill craftiling and also the water sports permits for surfing or Stand Up Paddle. The verbage needs to be amended in that it states in or on the water. This, as written, would unfortunately then possibly include snorkel equipment and boogie boards. I believe that isn't the intention so revision is necessary



## **fukunaga2 - Ashley-Jane**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 7:05 AM  
**To:** EDTTestimony  
**Cc:** sunlightonwater@gmail.com  
**Subject:** Testimony for SB2516 on 2/14/2012 1:30:00 PM

Testimony for EDT/WLH 2/14/2012 1:30:00 PM SB2516

Conference room: 225  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: M Yee  
Organization:  
E-mail: [sunlightonwater@gmail.com](mailto:sunlightonwater@gmail.com)  
Submitted on: 2/10/2012

Comments: