

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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HONOLULU, HAWAII 96809

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

**Before the House Committee on
OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS**

**Wednesday, February 6, 2013
9:00 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 669
RELATING TO OCEAN RECREATION**

House Bill 669 proposes to amend the definition of “thrill craft” and limits the number of vessels that a parasail and thrill craft operators are permitted to operate per permit. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department notes that there have been issues with the application of the current “thrill craft” definition and this amendment will help to clarify the application of the definition.

Regarding the limitation of the number of parasail vessels that may be allowed to operate per permit, the Department notes that the issue has been that one operator will operate one parasail vessel while engaged in parasailing operations then have a second vessel standing by ready to operate as soon as the first vessel has completed flying its passengers. In essence, they are only operating one vessel while engaged in parasailing operations. The Department recommends Section 200-37(m), Hawaii Revised Statutes, be further amended to read as follows:

- (4) No parasail permit holder shall be allowed to ~~have~~ [operate] more than one parasail vessel **operating in state waters at any given time** per permit; and

Thank you for the opportunity to comment.

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

ESTHER KIA'AINA
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

LAHAINA PARASAIL
930 Wainee St. Suite # 12
Lahaina, HI 96761
Office 808 - 661-3338
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1/29/13

DATE: Wednesday, February 06, 2013
TIME: 9:00 a.m.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS
Rep. Faye P. Hanohano, Chair
Rep. Ty J.K. Cullen, Vice Chair

HOUSE BILL 669

My name is Scott Mercier and I am the General Manager and a Stockholder of Lahaina Parasail. We operate on Maui in the only Parasail operating area in Maui County. We are not in favor of HB 669.

We were in operation prior to the ORMA rules being enacted in 1994 and we were operating two or three boats per day. When the ORMA rules came out in 1994, the rules that are currently in place, we were told the reason they were drafted the way they were was to allow us to continue to operate 2 boats per permit. One boat could be Parasailing and the other could be driving 10 to 15 minutes away to pick up new customers, unload and load new customers, then drive 10-15 minutes back to the safe flying area. The transporting and loading and unloading of customers can take 20 to 30 minutes of every hour. So the terminology of the current rules 13-256-19 (4) – that states – one parasail vessel with a parasail aloft was to allow for us to transport our customers and still be able to fly at the same time. We still only operate one sail aloft per permit, but we are able to try and make the best of our time by having one boat flying and the other picking up customers.

If the rule is changes we would have to be changing boats on and off the permit almost daily. We have maintenance to be performed as well and if we noticed a boat issue in the middle of the day we would have to switch boats on and another boat on the permit. The way it is now is a lot less of a hassle for us as well as for the DLNR.

I believe the current rule could be drafted to make it easier for the public and the DLNR to understand the original intent of the rule. My suggestion would be to add to 13-256-19 (4) that currently states - No permittee shall be allowed to operate more than one parasail vessel with a parasail aloft in the designated parasailing operating area, (add the following) – but is allowed to have two vessels on the permit and alternate flying while the other is picking up customers.

I am not in favor of the rule change. It would be like cutting our income in half. We already are restricted to only operate 7 months a year, due to the current rules that do not allow Maui parasail operators from operating Dec.15th – May 15th each year. We are already severely restricted with the current rules. We do not have a problem with the current rules on Maui. If there is a problem in another operating area maybe the rules should address only that operating area. There is not a problem in Maui so please DO NOT change the current rule.

Sincerely,

N. Scott Mercier



COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair

Rep. Ty J.K. Cullen, Vice Chair

DATE: Wednesday, February 06, 2013

TIME: 9:00 a.m.

PLACE: Conference Room 325

Speaking in Opposition to HB 669

RE: HOUSE BILL HB 669 RELATING TO RECREATION

Chair Hanohano, Vice Chair Cullen and Members of the Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition.

The OTC represents over 300 small ocean tourism businesses state wide. **We are opposed to one sentence of the proposed SECTION 2 wording of HB 669.**

Specifically we are concerned with proposed change to SECTION 2. Section 200-37, Hawaii Revised Statutes, is amended by amending subsection (m) (4) No parasail permit holder shall be allowed to operate more than one parasail vessel per permit; We would respectfully ask that this section (m) (4) be deleted or amended.

The current rule is:

HAR 13 – 256 – 19 parasailing activities. No permittee shall be allowed to operate more than one parasail vessel with a Parasail aloft in the designated parasailing operating area.

Current rules interpretation have allowed parasail companies to operate four boats on three permits as long as only three parasails are aloft at one time per the existing rule.

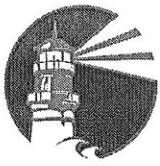
The fourth boat is termed a secondary or replacement vessel on an existing permit. This has been the Maui industry standard for the past 15 years. It will cause significant economic hardship were this to be changed as HB 669 contemplates.

We could support this bill if the offending language in Section 2. Section 200-37, HRS subsection (m) (4) is deleted leaving the current HAR 13-256-19 in place and administrated as it has been for the past 15 years.

Thank you for the opportunity to submit testimony. If you have any questions, please contact me at 808-870-9115.

Sincerely,

James E. Coon, President, OTC
captcoon@gmail.com



Ocean Tourism Coalition

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February 6, 2013

Testimony To: House Committee on Ocean, Marine Resources & Hawaiian Affairs
Representative Faye P. Hanohano, Chair

From: Tim Lyons, CAE
Executive Director

Subject: H.B. 669 – RELATING TO OCEAN RECREATION

Chair Hanohano and Members of the Committee:

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

This bill takes lawmaking to the extreme by adding in some very inflexible language that would be codified as opposed to being in the rules where it belongs. If the Department feels it needs to have some sort of restriction on parasail and/or thrill craft permit holders, then they should establish that with some rationale as opposed to just merely throwing in a bill to frustrate and deprofitize the industry.

The current practice is that while a company may have more than one vessel they are not allowed to operate more than one vessel per permit at any one time, although they may have

other vessels. This seems to be a much more practical way to do things and satisfies the need to be sure that ocean use is regulated.

We object to this bill and respectfully request that the Committee hold it.

Thank you.

UFO Parasail is one of two parasail companies located on the island of Maui. We have been in operation since 1985 on Kaanapali Beach. We have been operating under HAR [13 – 256 – 19](#) parasailing activities. **No permittee shall be allowed to operate more than one parasail vessel with a Parasail aloft in the designated parasailing operating area.**

Current rules interpretation have allowed us to operate four boats on three permits as long as only three parasails are aloft at one time per the existing rule. The fourth boat is termed a secondary or replacement vessel on an existing permit. This has been the maui industry standard for the past 15 years. If this interpretation were to discontinue it would result in loss of 25% revenue for [May 16-Sept 1](#). Based on the fact that our operating season is already limited to may 16- dec 14 due to whale migration and 80% of our revenue is generated from [May 16- Sept 1](#) I would estimate a loss of \$1.5 million in revenue and 10 jobs for maui parasail operators. This would also render our capital investment of \$200k in currently permitted vessels obsolete.

Not sure if these bills are aimed at ending current rules interpretation but literal interpretation is not subject to discretion. The unintended consequences of a law and subsequent rule change to address an Oahu operators violation of existing rules would be devastating for the maui industry at a time in our economy where our annual income is down 30% already from 2007.

Passage of HB669 would have severe economic impact on our business if it prompts a rule change that will not allow us to operate under current rules.

Greg VanderLaan, President
UFO Parasail

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COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS
Rep. Faye P. Hanohano, Chair
Rep. Ty J.K. Cullen, Vice Chair

HOUSE BILL 669.

My name is Robert Walker and I am the CEO and a Stockholder of West Maui Parasail. We operate on Maui in the only Parasail operating area in Maui County. We are not in favor of HB 669 or SB 747.

When the ORMA rules came out in 1994, the rules that are currently in place, we were told the reason they were drafted the way they were was to allow us to continue to operate 2 boats per permit. One boat could be Parasailing and the other could be driving 10 to 15 minutes away to pick up new customers, unload and load new customers, then drive 10-15 minutes back to the safe flying area. The transporting, loading and unloading of customers can take 20 to 30 minutes of every hour. Having two boats just allows us to keep a parasail aloft and keep earning income.

On Maui we are Shut Down for 5 of the 12 months due to the ORMA rules that Do Not allow us to operate December 15th to May 15th each year, due to the migration of the Humpback whales. We have been able to survive even with our businesses being shut down for 5 months of each year with the rules the way they are. If you restrict us, the Maui parasail operators even more it may not make it feasible. The Oahu operators operate year around so these new rules may make sense to restrict them over there but it could have a devastating effect on us over here.

So the terminology of the current rules 13-256-19 (4) – that states – one parasail vessel with a parasail aloft was to allow us to transport our customers and still be able to fly at the same time. We still only operate one sail aloft per permit, but we are able to try and make the best of our time by having one boat flying and the other boat picking up customers.

I am not in favor of the rule change. We already only have 7 months to operate to earn a modest living. The new rules would be like cutting our income in half. We do not have a problem with the current rules on Maui. If there is a problem in another operating area maybe the rules should address ONLY that operating area. There is not a problem in Maui so please DO NOT change the current rule.

Sincerely,

Robert Walker