

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 House Committee on  
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS**

**Monday, March 11, 2013  
10:30 A.M.  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 747, SENATE DRAFT 2  
RELATING TO OCEAN RECREATION**

Senate Bill 747, Senate Draft 2 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.

**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

## omhtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 4:51 PM  
**To:** omhtestimony  
**Cc:** Captain.Mike@aol.com  
**Subject:** Submitted testimony for SB747 on Mar 11, 2013 10:30AM

### **SB747**

Submitted on: 3/9/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Longnecker	Diamond Head Parasail and Water Sports, Inc.	Support	No

Comments: ORMA permits should and do restrict owners of operation of more than one vessel per permit . For years several parasail companies have circumvented the current statute because of erroneous wording that allows a loophole for operation of more than one vessel per ORMA permit. The word "aloft" allows exactly that. Imagine every Waikiki beach catamaran ORMA operator using two vessels every day. One motoring and one with sails "aloft". Support of this amendment corrects the current statute to its original intention. Any opposition to this statute clearly must come from any operator or their employees engaged in this practice.

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## omhtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 7:22 PM  
**To:** omhtestimony  
**Cc:** bobbalouskus@outlook.com  
**Subject:** Submitted testimony for SB747 on Mar 11, 2013 10:30AM

### **SB747**

Submitted on: 3/9/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert Balouskus	Individual	Support	No

Comments: I live on a boat on the 600 row and these guys are at it from 7am until dark every day that I can recall. They do NOT observe the no wake zone in the channel either, creating a dangerous and annoying condition. PLEASE pass this legislation so that DLNR can do it's job of enforcing realistic statutes.

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## omhtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 9:27 PM  
**To:** omhtestimony  
**Cc:** bilniceguy@hotmail.com  
**Subject:** \*Submitted testimony for SB747 on Mar 11, 2013 10:30AM\*

### **SB747**

Submitted on: 3/9/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
William Beadle	Individual	Support	No

#### Comments:

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## omhtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 6:19 PM  
**To:** omhtestimony  
**Cc:** captdave@boats4u.com  
**Subject:** Submitted testimony for SB747 on Mar 11, 2013 10:30AM

### **SB747**

Submitted on: 3/9/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dave Cooper	Individual	Support	No

Comments: Strongly support this bill. The State is losing revenue and one Oahu Parasail operator is cheating the system!

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**omhtestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 2:08 PM  
**To:** omhtestimony  
**Cc:** Greg.Longnecker@gmail.com  
**Subject:** Submitted testimony for SB747 on Mar 11, 2013 10:30AM

**SB747**

Submitted on: 3/9/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Greg longnecker	Individual	Support	No

Comments: This bill is very prudent to keep Waikiki safe from over commercialization, and to keep the operators from breaking the dobor rules that are not being enforced.

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## omhtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 2:11 PM  
**To:** omhtestimony  
**Cc:** Mlililiko@gmail.com  
**Subject:** Submitted testimony for SB747 on Mar 11, 2013 10:30AM

### **SB747**

Submitted on: 3/9/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mamie longnecker	Individual	Support	No

Comments: Please pass this bill it will make Waikiki much safer.

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**omhtestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 10, 2013 4:07 PM  
**To:** omhtestimony  
**Cc:** glen563267@hotmail.com  
**Subject:** \*Submitted testimony for SB747 on Mar 11, 2013 10:30AM\*

**SB747**

Submitted on: 3/10/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
glen pang	Individual	Support	No

Comments:

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**Sent:** Saturday, March 09, 2013 2:22 PM  
**To:** omhtestimony  
**Cc:** 808rugs@gmail.com  
**Subject:** Submitted testimony for SB747 on Mar 11, 2013 10:30AM

### **SB747**

Submitted on: 3/9/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jamie regelbrugge	Individual	Support	No

Comments: Please pass this bill, the Waikiki waters are to crowded already, much less having operators running more boats than they are supposed to.

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**ATLANTIS NAVATEK CRUISES  
1600 Kapiolani Blvd. Ste 1630  
Honolulu, Hawaii 96814**

**Testimony of Captain Alaric Aguon :**

**In consideration of SENATE BILL 747  
RELATING TO OCEAN RECREATION**

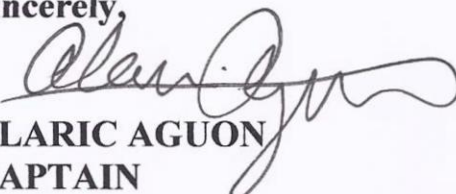
**March 10, 2013**

**In opposition of Senate Bill 747: There is already a regulation in place that accomplishes what matters, what is important to put a limit on and that is limiting how many parachutes should be aloft at any given time, not how many vessels is used to accomplish this. Regulation HRS 13-256-19, (a), (4) "No permittee shall be allowed to operate more than one parasail vessel with a parasail aloft in the designated parasailing operating area."**

**I captain the Navatek and all day long I am watching for whales and keeping an eye on the parasail vessels. They are out far enough to avoid the few vessels that are either anchored for diving, swimming or snorkeling. Even Atlantis submarine is well inside the designated parasailing area. The idea that there is vessel congestion is absurd, there is a very big ocean out there, its called the Pacific Ocean.**

**It is well known that having customers jump from one small boat to another small boat in rough seas is a dangerous maneuver and should never be done on a regular basis. The method of avoiding boat to boat transfers by having another parasail vessel shuttle out the next group and then parasailing is the only way that makes sense.**

**Sincerely,**

  
**ALARIC AGUON  
CAPTAIN**

**omhtestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 10, 2013 3:50 PM  
**To:** omhtestimony  
**Cc:** markparasail@yahoo.com  
**Subject:** \*Submitted testimony for SB747 on Mar 11, 2013 10:30AM\*

**SB747**

Submitted on: 3/10/2013

Testimony for OMH on Mar 11, 2013 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark Neumann	Hawaiian Parasail Inc.	Oppose	No

Comments:

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# FRAME & NAKANO

ATTORNEYS AT LAW, A LAW CORPORATION

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## LEGAL ASSISTANT

ANDREA SIBITS  
JOY SEKI

March 11, 2013

### **The Honorable Faye P. Hanohano**

Chair, The Committee on Ocean, Marine Resources &  
Hawaiian Affairs

### **The Honorable Cindy Evans**

Chair, The Committee on Water & Land

### **Honorable Members of the Joint Committee**

Re: **Testimony in Opposition to S.B. 747, S.D. 2**

This office represents Hawaiian Parasail, Inc. and we submit this testimony in opposition to S.B. No. 747, S.D. 2 as it pertains to parasail operations. The proposed amendment to Hawaii Revised Statutes §200-37(m)(4) misconstrues and is contrary to existing regulations, is arbitrary and not based on any legitimate data, and actually creates vagueness in the regulatory scheme where none existed. The amendment also improperly and unfairly targets Hawaiian Parasail, Inc.

Hawaii Administrative Rule §13-256-19(a)(3) and (4), regarding parasailing activities, states:

#### §13-256-19 Parasailing activities

.....

- (3) No operator shall be issued more than one commercial operating area use permit for a designated parasailing operating area,
- (4) No permittee shall be allowed to operate more than one parasail vessel with a parasail aloft in the designated parasailing operating area.

Clearly, the Department of Land and Natural Resources' regulations permit a parasail operator to have more than one vessel in the designated area. The permit restriction applies to the **number of parasails aloft**, not the number of vessels in the water. By alternating parasail vessels, but making sure only one parasail is aloft, Hawaiian Parasail has always been within the parameters of its permit.

The amendment seeks to legislatively change agency rules and is an attempt to circumvent the agency rule making process. Any effort to limit the number of vessels a parasail company can have in one area should more appropriately left to the rule-making process.

The Honorable Faye P. Hanohano  
The Honorable Cindy Evans  
Honorable Members of the Joint Committee  
Page Two

The amendment is also completely arbitrary and simply makes no sense. There is no data showing the area where parasail companies operate is congested. In fact, the designated parasail area is well away from the busy Waikiki shore area where swimmers, surfers, stand-up paddle boarders and canoes compete for space. There is absolutely no support for the argument that limiting a parasail company to one "parasail boat" in the water at any given time would relieve congestion and promote safety. And, since the parasail company could still use a shuttle boat to transport passengers to the parasail vessel, the same number of boats would be in the water. As a result, there is no evidence the amendment would have any impact at all except deprive a local business of revenue.

The proposed language is also vague. It first states "No parasail permit holder shall operate more than one parasail vessel per permit," but then goes on to carve out a special requirement for counties with a population of seven hundred thousand or more that "no parasail permit holder shall have more than one parasail vessel operating in state waters at any given time per permit." The inclusion of this additional language suggests the language which appears earlier in the paragraph allows for more than one vessel in the water at the same time. And, the amendment could still be read to apply only to the operation of the vessel while the parasail is aloft.

Assuming the amendment does restrict operators on Oahu to one parasail vessel in the water at any given time, the amendment would unfairly burden Oahu operators. There is no empirical basis to apply restrictions to Oahu and not elsewhere. There have been no studies or data suggesting that parasail operations on Oahu are different than other areas in the State.

While the amendment purportedly applies across the board to all Oahu operators, in fact it targets Hawaiian Parasail, Inc. Hawaiian Parasail operates safely and efficiently by alternating its vessels instead of shuttling passengers to the area and transferring them at sea. If Hawaiian Parasail is unable to use its second boat, the company will have to reduce the number of trips available and be deprived of significant revenues. Customers will go elsewhere. This will in turn increase revenues to Hawaiian Parasail's competitors. The amendment therefore creates an unfair scheme which economically favors some competitors over another.

On behalf of Hawaiian Parasail, Inc. we respectfully urge this Committee not to pass the proposed amendment to Hawaii Revised Statutes §200-37(m)(4) in any form. Thank you for the opportunity to present this testimony.

Sincerely,

CYNTHIA A. FARIAS  
Frame & Nakano

**Noemi Agbulos Neumann  
1765 Ala Moana Blvd. #986  
Honolulu, Hi 96815**

**March 8, 2013**

**HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES &  
HAWAIIAN AFFAIRS**

**State Capitol Bldg. room 325  
Hearing of SB 747**

**IN OPPOSITION**

**To Chair Faye P. Hanohano & members,**

**I strongly oppose SB 747 due to Redundancy & Safety Issues.**

**Redundant:**

**There is and has been a DLNR-DOBOR effective regulation long in place that prohibits more than 1 parasail chute aloft or in flight at any given time, per holder of each parasail permit, Hawaii Administrative Rules – Section 13-256-19 [(4)] (m). There is no reason to prohibit use of more than 1 boat per holder of each parasail permit with this law in effect. There is no reason for a parasail permit holder to be using more than 1 boat at a time since that permit holder cannot fly more than 1 parachute aloft at any time. A parasail permit holder could have 100 parasail boats but still would only be able to use but 1 at any given time.**

**Parasail Operational Needs:**

**There is a very serious need to have at least 1 or 2 spare parasail boats ready to go in case the one parasail boat in use breaks down. You will need to rescue that boat with the spare boat and then you would need to use that rescue parasail boat in replacement so that you do not have to shut down your business.**

**There is also a need to use another parasail boat when an operator must take the primary boat out of water for maintenance, repairs or for annual Coast Guard Inspections.**

**Safety Issue:**

**During busy summer & holiday seasons, in order to maximize the ability to accommodate the long lines of parasail customers, it is necessary to avoid keeping the customers waiting for the parasail boat to travel in and out of the channel to the loading dock. In the years past, parasail businesses would use a shuttle boat to transport waiting customers out to the designated parasail area in the rough seas. Then those customers would jump from the shuttle boat onto the parasail boat and the finished customers would jump from the parasail boat onto the shuttle boat for transfer back through the channel and to the loading dock. This was a very dangerous practice since the shuttle boats would not match up to the parasail boats making it difficult to transfer, sometimes damaging the boats in the process. Now days, it is common to use instead of a shuttle boat, a parasail boat. This eliminates the dangers of customers jumping from one boat to another in rough seas. One parasail boat simply waits for the other parasail boat to finish and to take down its parachute, then that parasail boat will begin to inflate its parachute to begin to parasail its customers on board.**

**Please do not pass this bill since it would create serious, unnecessary hardship and safety hazards with commercial parasail operators. There is no boat congestion whatsoever, even on weekends or holidays, so I question the intent of this bill. On the island of Oahu, where my company operates, on any given day other than boat races, you can count the number of boats out there on 2 hands or less.**

**Sincerely Yours,**

**Noemi Agbulos Neumann**