

# SB2877

**SB2877**



Submit Testimony

**Measure Title:** RELATING TO USE PERMITS FOR SMALL BOAT HARBOR FACILITIES.  
**Report Title:** Use Permits; Small Boat Harbors  
**Description:** Clarifies that no use permit for a state small boat harbor facility may be transferred unless specifically provided by law.  
**Companion:** [HB2327](#)  
**Package:** Governor  
**Current Referral:** WTL  
**Introducer(s):** KIM (Introduced by request of another party)

<b><u>Sort by</u></b> <b><u>Date</u></b>		<b>Status Text</b>
1/23/2014	S	Introduced.
1/23/2014	S	Passed First Reading.
1/23/2014	S	Referred to WTL.
2/10/2014	S	The committee(s) on WTL has scheduled a public hearing on 02-14-14 1:15PM in conference room 225.

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 Committee on  
WATER AND LAND**

**Friday, February 14, 2014  
1:15 P.M.  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 2877  
RELATING TO USE PERMITS FOR SMALL BOAT HARBOR FACILITIES**

Senate Bill 2877 clarifies that no use permit for a state small boat harbor facility may be transferred unless specifically provided by law. **The Department of Land and Natural Resources strongly supports this Administration measure.**

This bill proposes to clarify that use permits issued to a corporation or other business entity for a state small boat facility may only be transferred if the corporation or other business entity holds a valid commercial use permit. It also clarifies that if a corporation is owned by another corporation, any change in ownership of either corporation constitutes as a transfer. This will ensure that the issuance of use permits for small boat harbors and related facilities are done fairly and prevents people from being exempt from paying a transfer fee by forming multiple corporations.

The companion bill to this measure is House Bill 2327. Upon hearing the bill, the House Committee on Water and Land requested additional clarification to the term "control". In response, the Department offered the following amendments:

§200-10(b):

(b) No use permit may be transferred unless specifically provided by law. For purposes of this section, the term "transfer" includes any change in control, by whatever means, of any entity that owns or controls, directly or indirectly, a use permit. The term "control" for purposes of this section means the power or authority to manage or direct, or have influence over, a use permit.

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

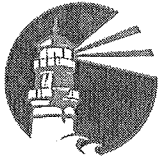
ESTHER KIA'AINA  
FIRST DEPUTY

**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

§200-10 (e)(2):

- (2) The seller shall pay the department a business transfer fee based on the passenger-carrying capacity of the vessels owned or operated by the corporation or business entity as provided by rules adopted by the chairperson pursuant to chapter 91. Transfers of stock or interest in a corporation or other business entity between immediate family members solely for estate planning purposes are exempt from this subsection.



# Ocean Tourism Coalition

*The Voice for Hawaii's Ocean Tourism Industry*  
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February 14, 2014

Testimony To: Senate Committee on Water and Land  
Senator Malama Solomon, Chair

From: Tim Lyons, CAE  
Executive Director

Subject: S.B. 2877 - RELATING TO USE PERMITS FOR SMALL BOAT  
HARBOR FACILITIES.

Chair Solomon and Members of the Committee:

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

This bill could directly affect the viability and financial status of many ocean tourism companies. While it is acknowledged that use permits are generally based on a limited time it has been standard practice for the Department to continue the re-registration of those permits as long as the licensee was not in violation of any law, rule or regulation of the Department. Our particular concern is that the passing on of a business that has been built for many, many years in which thousands and thousands of dollars have been invested could have a financial impact under this bill merely by transferring the

business from father to daughter. It could also be affected by rearranging some of the percentage of shares of ownership in the corporation. The word "control" needs a definition.

As seen from the financial industry side, this kind of temporary permit and prohibition for transfer could easily affect any financial institutions inclination towards the continued viability of the company. After all, without a valid use permit the company can't operate, at least not from that location.

Many of the vessels in the tourism industry can cost hundreds of thousands of dollars and even millions. What bank in their right mind is going to give a loan to a small business who has a limited permit based on the possibility of relinquishing control to new shareholders or new investors in a very limited time?

In short, this bill could be disastrous for the ocean tourism industry and as such, we respectfully request that this bill be shelved.

Thank you.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WTLTestimony](#)  
**Cc:** [jeff@mauidiveshop.com](mailto:jeff@mauidiveshop.com)  
**Subject:** Submitted testimony for SB2877 on Feb 14, 2014 13:15PM  
**Date:** Wednesday, February 12, 2014 4:58:30 PM

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**SB2877**

Submitted on: 2/12/2014

Testimony for WTL on Feb 14, 2014 13:15PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeff Strahn	Maui Dive Shop	Oppose	No

Comments: This is a bad bill that will hurt our businesses.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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COMMITTEE ON WATER AND LAND  
Senator Malama Solomon, Chair  
Senator Brickwood Galuteria, Vice Chair

Friday, February 14, 2013  
1:15 pm  
Room 225

Testimony in **OPPOSITION** to **SB 2877**

Chair Solomon, Vice Chair GALUTERIA, Members of WTL Committee:

Aloha,

My name is Melynda Dant and I am the Vice President of Fair Wind Cruises, our family owned and operated snorkel business in Kona Hawaii since 1971. I am writing in **OPPOSITION** to the bill SB2877. This bill is unfair to the businesses in the Ocean Marine Tourism business.

The Ocean Marine Tourism industry is an intricate player in the Hawaii Tourism industry. This type of legislature is strongly discouraging to the Ocean Marine Tourism industry and preventative to building successful businesses. Support the Goose who lays the Golden Eggs. Don't cripple and take away incentives to build family businesses.

We know we will have changes in ownership, as we elders age and turn things over to our children, or if we need to sell in order to have our retirement, these options should be open and available to us just as they are to land based tourism industry businesses.

Please do not support this anti-business bill!

Sincerely,

Melynda Dant  
Vice President  
Fair Wind Cruises