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# A BILL FOR AN ACT

RELATING TO COMMERCIAL ACTIVITY FOR OCEAN RECREATION AND COASTAL  
AREAS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           SECTION 1. Section 200-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) The chairperson may adopt rules necessary:  
4           (1) To regulate the manner in which all vessels may enter  
5           the ocean waters and navigable streams of the State  
6           and moor, anchor, or dock at small boat harbors,  
7           launching ramps, and other boating facilities owned or  
8           controlled by the State;  
9           (2) To regulate the embarking and disembarking of  
10           passengers at small boat harbors, launching ramps,  
11           other boating facilities, and public beaches;  
12           (3) For the safety of small boat harbors, launching ramps,  
13           and other boating facilities, and the vessels anchored  
14           or moored therein;



- 1           (4) For the conduct of the public using small boat  
2           harbors, launching ramps, and other boating facilities  
3           owned or controlled by the State;
- 4           (5) To regulate and control recreational and commercial  
5           use of small boat harbors, launching ramps, and other  
6           boating facilities owned or controlled by the State  
7           and the ocean waters and navigable streams of the  
8           State;
- 9           (6) To prevent the discharge or throwing into small boat  
10          harbors, launching ramps, other boating facilities,  
11          ocean waters, and navigable streams, of rubbish,  
12          refuse, garbage, or other substances likely to affect  
13          the quality of the water or that contribute to making  
14          the small boat harbors, launching ramps, other boating  
15          facilities, ocean waters, and streams unsightly,  
16          unhealthful, or unclean, or that are liable to fill  
17          up, shoal, or shallow the waters in, near, or  
18          affecting small boat harbors, launching ramps, and  
19          other boating facilities and the ocean waters and  
20          navigable streams of the State, and likewise to  
21          prevent the escape of fuel or other oils or substances



1 into the waters in, near, or affecting small boat  
2 harbors, launching ramps, or other boating facilities  
3 and the ocean waters and navigable streams of the  
4 State from any source point, including but not limited  
5 to any vessel or from pipes or storage tanks upon  
6 land, including:

7 (A) Requirements for permits and fees for:

8 (i) The mooring, docking, or anchoring of  
9 recreational and commercial vessels or the  
10 launching of recreational or commercial  
11 vessels at small boat harbors, launching  
12 ramps, and other boating facilities; or

13 (ii) Other uses of these facilities;

14 (B) Requirements for permits and fees for use of a  
15 vessel as a principal place of habitation while  
16 moored at a state small boat harbor;

17 (C) Requirements governing:

18 (i) The transfer of any state commercial,  
19 mooring, launching, or any other type of use  
20 or other permit, directly or indirectly,  
21 including but not limited to the imposition



1 or assessment of a business transfer fee  
2 upon transfer of ownership of vessels  
3 operating commercially from, within or in  
4 any way related to the state small boat  
5 harbors; and  
6 (ii) The use of state small boat harbors,  
7 launching ramps, or other boating facilities  
8 belonging to or controlled by the State,  
9 including but not limited to the  
10 establishment of minimum amounts of annual  
11 gross receipts required to renew a  
12 commercial use permit, and conditions under  
13 which a state commercial, mooring,  
14 launching, or any other type of use or other  
15 permit may be terminated, canceled, or  
16 forfeited; and  
17 (D) Any other rule necessary to implement this  
18 chapter pertaining to small boat harbors,  
19 launching ramps, and other boating facilities  
20 belonging to or controlled by the State;



- 1           (7) To continue the ocean recreational and coastal areas  
2           programs and govern the ocean waters and navigable  
3           streams of the State, and beaches encumbered with  
4           easements in favor of the public to protect and foster  
5           public peace and tranquility and to promote public  
6           safety, health, and welfare in or on the ocean waters  
7           and navigable streams of the State, and on beaches  
8           encumbered with easements in favor of the public,  
9           including:
- 10           (A) Regulating the anchoring and mooring of vessels,  
11           houseboats, and other contrivances outside of any  
12           harbor or boating facility, including:
- 13           (i) The designation of offshore mooring areas;  
14           (ii) The licensing and registration of vessels,  
15           houseboats, and other contrivances; and the  
16           issuance of permits for offshore anchoring  
17           and mooring of vessels, houseboats, and  
18           other contrivances; and  
19           (iii) The living aboard on vessels, houseboats, or  
20           other contrivances while they are anchored



1                   or moored within ocean waters or navigable  
2                   streams of the State.

3                   The rules shall provide for consideration of  
4                   environmental impacts on the State's aquatic  
5                   resources in the issuance of any permits for  
6                   offshore mooring;

7                   (B) Safety measures, requirements, and practices in  
8                   or on the ocean waters and navigable streams of  
9                   the State;

10                  (C) The licensing and registration of persons or  
11                  organizations engaged in commercial activities in  
12                  or on the ocean waters and navigable streams of  
13                  the State;

14                  (D) The licensing and registration of equipment  
15                  utilized for commercial activities in or on the  
16                  ocean waters and navigable streams of the State;

17                  (E) For beaches encumbered with easements in favor of  
18                  the public, the prohibition or denial of the  
19                  following uses and activities:

20                  (i) Commercial activities;



- 1                   (ii) The storage, parking, and display of any
- 2                   personal property;
- 3                   (iii) The placement of structures or obstructions;
- 4                   (iv) The beaching, landing, mooring, or anchoring
- 5                   of any vessels; and
- 6                   (v) Other uses or activities that may interfere
- 7                   with the public use and enjoyment of these
- 8                   beaches; and
- 9                   (F) Any other matter relating to the safety, health,
- 10                  and welfare of the general public;
- 11                  (8) To regulate the examination, guidance, and control of
- 12                  harbor agents and their assistants; and
- 13                  (9) To regulate commercial activities in state waters
- 14                  including operations originating from private marinas;
- 15                  provided that no new or additional permits shall be
- 16                  required for those commercial activities regulated by
- 17                  any other chapter.

18                               For the purposes of this paragraph:

19                               "Commercial activity" means ~~[to engage in any~~

20                               ~~action or attempt to engage in any action for~~

21                               ~~compensation in any form. The action or actions may~~

1 ~~include providing or attempting to provide guide~~  
2 ~~services, charters, tours, and transportation to and~~  
3 ~~from the location or locations for which such services~~  
4 ~~are provided.] engagement or attempted engagement in  
5 any action which includes but is not limited to the  
6 exchange or buying and selling of commodities; the  
7 providing of services relating to or connected with  
8 trade, traffic, or commerce in general; any activity  
9 performed by the commercial operator or its employees  
10 or agents in connection with the delivery of such  
11 commodities or services; and the soliciting of  
12 business, including the display or distribution of  
13 notices, business cards, or advertisements for  
14 commercial promotional purposes.~~

15 ~~["Compensation" means money, barter, trade,~~  
16 ~~credit, and other instruments of value, goods, and~~  
17 ~~other forms of payment.] "~~

18 SECTION 2. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.





1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Commercial Activity for Ocean Recreation and Coastal Area  
Programs; Definition

**Description:**

Clarifies the definition of "commercial activity" for purposes of DLNR regulation of ocean and coastal recreation activities to include the exchange, buying, and selling of goods; provision of services; activities of commercial operators; and advertising or solicitation of business. (HB2372 HD1)

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