
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;
- 15 (4) For the conduct of the public using small boat
16 harbors, launching ramps, and other boating facilities
17 owned or controlled by the State;



1 (5) To regulate and control recreational and commercial
2 use of small boat harbors, launching ramps, and other
3 boating facilities owned or controlled by the State
4 and the ocean waters and navigable streams of the
5 State;

6 (6) To prevent the discharge or throwing into small boat
7 harbors, launching ramps, other boating facilities,
8 ocean waters, and navigable streams, of rubbish,
9 refuse, garbage, or other substances likely to affect
10 the quality of the water or that contribute to making
11 the small boat harbors, launching ramps, other boating
12 facilities, ocean waters, and streams unsightly,
13 unhealthful, or unclean, or that are liable to fill
14 up, shoal, or shallow the waters in, near, or
15 affecting small boat harbors, launching ramps, and
16 other boating facilities and the ocean waters and
17 navigable streams of the State, and likewise to
18 prevent the escape of fuel or other oils or substances
19 into the waters in, near, or affecting small boat
20 harbors, launching ramps, or other boating facilities
21 and the ocean waters and navigable streams of the



1 State from any source point, including but not limited
2 to any vessel or from pipes or storage tanks upon
3 land, including:

4 (A) Requirements for permits and fees for:

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

10 (ii) Other uses of these facilities;

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

14 (C) Requirements governing:

15 (i) The transfer of any state commercial,
16 mooring, launching, or any other type of use
17 or other permit, directly or indirectly,
18 including but not limited to the imposition
19 or assessment of a business transfer fee
20 upon transfer of ownership of vessels
21 operating commercially from, within or in



1 any way related to the state small boat
2 harbors; and
3 (ii) The use of state small boat harbors,
4 launching ramps, or other boating facilities
5 belonging to or controlled by the State,
6 including but not limited to the
7 establishment of minimum amounts of annual
8 gross receipts required to renew a
9 commercial use permit, and conditions under
10 which a state commercial, mooring,
11 launching, or any other type of use or other
12 permit may be terminated, canceled, or
13 forfeited; and
14 (D) Any other rule necessary to implement this
15 chapter pertaining to small boat harbors,
16 launching ramps, and other boating facilities
17 belonging to or controlled by the State;
18 (7) To continue the ocean recreational and coastal areas
19 programs and govern the ocean waters and navigable
20 streams of the State, and beaches encumbered with
21 easements in favor of the public to protect and foster



1 public peace and tranquility and to promote public
2 safety, health, and welfare in or on the ocean waters
3 and navigable streams of the State, and on beaches
4 encumbered with easements in favor of the public,
5 including:

6 (A) Regulating the anchoring and mooring of vessels,
7 houseboats, and other contrivances outside of any
8 harbor or boating facility, including:

9 (i) The designation of offshore mooring areas;

10 (ii) The licensing and registration of vessels,
11 houseboats, and other contrivances; and the
12 issuance of permits for offshore anchoring
13 and mooring of vessels, houseboats, and
14 other contrivances; and

15 (iii) The living aboard on vessels, houseboats, or
16 other contrivances while they are anchored
17 or moored within ocean waters or navigable
18 streams of the State.

19 The rules shall provide for consideration of
20 environmental impacts on the State's aquatic



- 1 resources in the issuance of any permits for
2 offshore mooring;
- 3 (B) Safety measures, requirements, and practices in
4 or on the ocean waters and navigable streams of
5 the State;
- 6 (C) The licensing and registration of persons or
7 organizations engaged in commercial activities in
8 or on the ocean waters and navigable streams of
9 the State;
- 10 (D) The licensing and registration of equipment
11 utilized for commercial activities in or on the
12 ocean waters and navigable streams of the State;
- 13 (E) For beaches encumbered with easements in favor of
14 the public, the prohibition or denial of the
15 following uses and activities:
- 16 (i) Commercial activities;
- 17 (ii) The storage, parking, and display of any
18 personal property;
- 19 (iii) The placement of structures or obstructions;
- 20 (iv) The beaching, landing, mooring, or anchoring
21 of any vessels; and



1 (v) Other uses or activities that may interfere
2 with the public use and enjoyment of these
3 beaches; and

4 (F) Any other matter relating to the safety, health,
5 and welfare of the general public;

6 (8) To regulate the examination, guidance, and control of
7 harbor agents and their assistants; and

8 (9) To regulate commercial activities in state waters
9 including operations originating from private marinas;
10 provided that no new or additional permits shall be
11 required for those commercial activities regulated by
12 any other chapter.

13 For the purposes of this paragraph:

14 "Commercial activity" means to engage in any
15 action or attempt to engage in any action [~~for~~
16 ~~compensation in any form. The action or actions may~~
17 ~~include providing or attempting to provide guide~~
18 ~~services, charters, tours, and transportation to and~~
19 ~~from the location or locations for which such services~~
20 ~~are provided.] designed for profit, which includes but
21 is not limited to the exchange or buying and selling~~



1 of commodities; the providing of services relating to
2 or connected with trade, traffic, or commerce in
3 general; any activity performed by the commercial
4 operator or its employees or agents in connection with
5 the delivery of such commodities or services; and the
6 soliciting of business, including the display or
7 distribution of notices, business cards, or
8 advertisements for commercial promotional purposes.
9 "Commercial activity" is limited to activity from the
10 gross revenues derived from the use of the vessel.

11 ~~["Compensation" means money, barter, trade,~~
12 ~~credit, and other instruments of value, goods, and~~
13 ~~other forms of payment.] "~~

14 SECTION 2. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

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Report Title:

Commercial Activity for Ocean Recreation and Coastal Area
Programs; Definition; Rulemaking Authority

Description:

Amends the definition of "commercial activity" within section 200-4(a), Hawaii Revised Statutes, as it relates to the chairperson of the board of land and natural resources' authority to adopt rules necessary to regulate commercial activities in state waters. (SD1)

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