

Honolulu, Hawaii

February 9, 2016

RE: H.B. No. 2372  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Economic Development & Business, to which was referred H.B. No. 2372 entitled:

"A BILL FOR AN ACT RELATING TO COMMERCIAL ACTIVITY FOR OCEAN RECREATION AND COASTAL AREAS,"

begs leave to report as follows:

The purpose of this measure is to assist the Department of Land and Natural Resources in its duty to regulate commercial activities on state navigable waters and shoreline areas. Specifically, this measure clarifies the definition of commercial activity to better specify what types of activities may be regulated by the Department.

The Department of Land and Natural Resources, Ocean Tourism Coalition, and Hoomano Pono, LLC, testified in support of this measure.

Hawaii's natural environment and temperate climate provides numerous opportunities for outdoor activities at various locations statewide. Many of these activities take place in the ocean, in the navigable waters of the State, and along Hawaii's coastlines. The Department of Land and Natural Resources is charged with regulatory oversight of commercial activities that occur on the navigable waters and shoreline areas of the State. However, your Committee has been informed by the Department that the current statutory definition of commercial activity is too broad and vague, making it difficult for enforcement officials to properly



identify and regulate these commercial activities. This measure addresses this issue.

However, your Committee notes that concerns were raised that, as originally drafted, this measure may be interpreted to be applicable only to activities by for-profit enterprises even though similar types of activities by non-profit enterprises occur in the same areas. Accordingly, your Committee has amended this measure by:

- (1) Further clarifying the definition of commercial activity to remove references to profit;
- (2) Changing its effective date to July 1, 2050, to facilitate further discussion; and
- (3) Making technical, nonsubstantive changes for clarity, consistency, and style.

Your Committee further notes that the definition of commercial activity in this amended House Draft may be interpreted in such a way that would allow for the Department of Land and Natural Resources to expand the types of activities and revenues upon which the Department may impose commercial activity fees. This measure is a work in progress and needs to be clarified further as it makes its way through the legislative process. It is not the intent of your Committee that this measure be used to expand the revenues upon which the Department may impose fees beyond those revenues generated for a "commercial vessel activity" as specified in Section 200-9 (e), Hawaii Revised Statutes, or to include anything other than the "gross revenues derived from the use of the vessel" as specified in section 200-10(B)(5), Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2372, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2372, H.D. 1, and be referred to your Committee on Ocean, Marine Resources, & Hawaiian Affairs.



Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Development & Business,



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DEREK S.K. KAWAKAMI, Chair



