

# HB1733 HD2 SD1

Measure Title:	RELATING TO USE PERMITS FOR SMALL BOAT FACILITIES.
Report Title:	Small Boat Facilities; Commercial Use Permit; Renewal; Early Submission; Grace Period
Description:	Requires the Department of Land and Natural Resources to review an application for renewal of a commercial permit for small boat harbors that is received at least ninety days prior to expiration, and renew the permit or inform the applicant of any reasons for a nonrenewal within thirty days of receiving the application. Authorizes a thirty-day grace period for persons who fail to timely obtain renewal of a commercial permit. (SD1)
Companion:	
Package:	None
Current Referral:	WLA, CPH
Introducer(s):	LOWEN, BROWER, EVANS, C. LEE, LOPRESTI, NISHIMOTO, THIELEN, YAMANE, Johanson, Nakashima

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
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

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
SUZANNE D. CASE  
Chairperson

Before the Senate Committee on  
COMMERCE, CONSUMER PROTECTION, AND HEALTH

Wednesday, March 30, 2016  
10:00 AM  
State Capitol, Conference Room 229

In consideration of  
HOUSE BILL 1733, HOUSE DRAFT 2, SENATE DRAFT 1  
RELATING TO USE PERMITS FOR SMALL BOAT FACILITIES

House Bill 1733, House Draft 2, Senate Draft 1, proposes to authorize commercial permit holders for small boat harbors to submit permit renewal applications early and be informed of any reasons for a nonrenewal prior to the expiration of the commercial permit. The measure also proposes to authorize a thirty-day grace period for persons who fail to timely file a commercial permit renewal application. **The Department of Land and Natural Resources (Department) does not support this measure.**

The Hawaii Administrative Rules (HAR) allow a permittee to submit a commercial permit renewal application up to ninety days in advance and also provides for a thirty day grace period in the event a permittee fails to submit the renewal application prior to the expiration of the commercial permit. The HAR also assesses a penalty of \$250.00. This measure also proposes to require the Department to review an application submitted ninety days prior to expiration and, within thirty days of receipt of the application, either renew the permit or notify the applicant that the application is incomplete or cannot be renewed for other reasons and explain the reasons for the nonrenewal.

The Department makes every effort to respond in a timely manner; however, there are many factors that come into play when renewing a commercial use permit i.e. review of corporate standing, gross receipts review and possible audit, change of ownership, vessel lease review, staffing, etc. Due to these and other factors, the Department does not support placing deadlines in the Hawaii Revised Statutes and recommends that commercial permittees continue to follow the current HAR.



COMMITTEE ON COMMERCE, CONSUMER PROTECTION, & HEALTH

Senator Rosalyn Baker, Chair  
Senator Michelle Kidani, Vice Chair

DATE: Wednesday, March 30, 2016  
TIME: 10:00am  
PLACE: Conference Room 229

**TESTIMONY OF JAMES COON SPEAKING IN STRONG SUPPORT OF HB 1733,  
SD2**

Aloha Chair Senator Baker, Vice Chair Senator Kidani, and Members of the Committee on Commerce, Consumer Protection, and Health:

My name is James E. Coon, President of the Ocean Tourism Coalition. The OTC represents over 300 small ocean tourism businesses state wide. Most of these are family businesses which are locally owned and operated. Many of them have been in business for several decades and are an important and valued part of their respective communities. Most of these businesses operate from State Boating Facilities. We support this bill with a couple of very small but important amendments.

Members of OTC have expressed a concern that the permit renewal process needs to be improved to promote communication and fairness during a permit renewal process. Hawaii Administrative Rules allows permit holders to apply for permit renewal up to 90 days before permit expiration. DOBOR has expressed frustration with commercial permit holders that wait until the last week before permit renewal to submit their renewal application.

The original intent of HB1733 was for permit holders that do submit their permit renewals at least 60 days before permit expiration would be informed of any issues or concerns well before the expiration of the permit so they would have an opportunity to rectify any deficiencies.

OTC proposes an amendment (HB1733 SD2 attached) which will facilitate annual permit renewals by asking DOBOR to give a response within 30 days of receiving the permit application, providing that the permittee submits the application at least 60 days before permit expiration. This will allow both parties involved in the permit application to have ample time to respond to issues. This bill also codifies existing rule to provide a reasonable extension of 30 days past the permit renewal deadline to respond to any concerns raised by DOBOR.

This time period will allow companies to keep their employees employed, and keep their businesses running while they are responding to DOBOR issues. It also gives DOBOR ample time to process the permit. Overall, this bill creates reasonable and flexible standards in the permit renewal process.

We humbly ask you to pass HB 1733 SD2 (Proposed SD 2 attached)

Sincerely,

James E. Coon, President OTC  
808-870-9115  
captcoon@gmail.com

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# A BILL FOR AN ACT

RELATING TO USE PERMITS FOR SMALL BOAT FACILITIES.

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

1 SECTION 1. Section 200-10, Hawaii Revised Statutes, is amended by  
2 amending subsection (f) to read as follows:

3 "(f) Any person [~~owning~~] who owns an interest in a corporation  
4 or other business entity or is part of a controlled group possessing  
5 a valid commercial permit issued by the department, in accordance  
6 with rules adopted by the chairperson pursuant to chapter 91, may  
7 transfer any or all stock or other interest to another person  
8 without terminating the right of the corporation or business entity  
9 to retain or renew its commercial permit or any other permit issued  
10 to it by the department; provided that:

- 11 (1) The corporation or business entity has been engaged in the  
12 same commercial vessel activity, as defined in section 200-9,  
14 for a minimum of one year;
- 15 (2) The seller shall pay the department a business transfer fee  
16 based on the passenger-carrying capacity of the vessels owned or  
17 operated by the corporation or business entity as provided by  
18 rules adopted by the chairperson pursuant to chapter 91, except  
19 for transfers of stock or interest in a corporation or other

1 business entity between spouses or first-generation lineal  
2 descendants; and

3 (3) In the case of a controlled group, the transferee  
4 ~~must~~ shall retain eighty per cent control of the transferor.

5 Any person possessing a commercial permit shall be required to meet  
6 minimum revenue standards, as a condition of retaining or renewing the  
7 commercial permit.

8 When an application for renewal of a commercial permit is made at  
9 least [ninety]sixty days prior to expiration of the commercial permit,  
10 the department shall review the application and, within thirty days of  
11 receipt of the application, shall renew the permit or notify the  
12 applicant that the application is incomplete [and] or cannot be renewed  
13 and explain [the] any reasons for [the] nonrenewal. Within thirty days  
14 of receipt of the applicant's amended application, the department shall  
15 either renew the permit or notify the applicant that the permit will  
16 not be renewed.

17 If the holder of a commercial permit fails to timely obtain renewal  
18 of a commercial permit, the holder of the permit shall automatically be  
19 granted a thirty-day extension from the date of the existing permit's  
20 expiration to obtain a permit renewal."

21 SECTION 2. This Act does not affect rights and duties that matured,  
22 penalties that were incurred, and proceedings that were begun before  
23 its effective date.

24 SECTION 3. Statutory material to be repealed is bracketed and  
25 stricken. New statutory material is underscored.

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

**Report Title:**

Small Boat Facilities; Commercial Use Permit; Renewal; Early Submission; Grace Period

**Description:**

Requires the Department of Land and Natural Resources to review an application for renewal of a commercial permit for small boat harbors that is received at least ninety days prior to expiration, and renew the permit or inform the applicant of any reasons for a nonrenewal within thirty days of receiving the application. Authorizes a thirty-day grace period for persons who fail to timely obtain renewal of a commercial permit. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

TERALANI SAILING ADVENTURES  
PO BOX 12247  
LAHAINA, HI 96761  
“Sailing from Kaanapali since 1995”

Aloha Chair Senator Baker, Vice Chair Senator Kidani, and Members of the Committee on Commerce, Consumer Protection, and Health:

My name is David Weiss, Vice President of the Teralani Sailing Adventures. We are a family owned business operating out of Kaanapali since 1995.

We are in agreement with many other Maui permit holders that the permit renewal process needs to be improved to promote communication and fairness during a permit renewal process. Hawaii Administrative Rules allows permit holders to apply for permit renewal up to 90 days before permit expiration. DOBOR has expressed frustration with commercial permit holders that wait until the last week before permit renewal to submit their renewal application.

We are in support of OTC's proposed amendment (HB1733 SD2 attached) which will facilitate annual permit renewals by asking DOBOR to give a response within 30 days of receiving the permit application, providing that the permittee submits the application at least 60 days before permit expiration. This will allow both parties involved in the permit application to have ample time to respond to issues. This bill also codifies existing rule to provide a reasonable extension of 30 days past the permit renewal deadline to respond to any concerns raised by DOBOR.

This time period will allow us to keep our employees employed, and keep our business running while we work with DOBOR on any issues that may arise while renewing our permit. It also gives DOBOR ample time to process the permit. Overall, this bill creates reasonable and flexible standards in the permit renewal process.

We humbly ask you to pass HB 1733 SD2 (Proposed SD 2 attached)

Sincerely,

David Weiss  
Vice President  
Teralani Sailing Adventures





DATE: Wednesday, March 30, 2016

TIME: 10:00 AM

PLACE: Conference Room 229

## **TESTIMONY OF LAHAINA DIVERS, INC. Speaking in STRONG SUPPORT OF HB 1733, SD2**

Aloha Chair Senator Baker, Vice Chair Senator Kidani, and Members of the Committee on Commerce, Consumer Protection, and Health:

My name is Gregory L. Howeth, Owner of Lahaina Divers, Inc. Like mine, there are many other family businesses which are locally owned and operated in the State of Hawaii. Many of us have been in business for several decades and are an important and valued part of our respective communities. My business, in particular, has been in operation since 1978. We employ over 25 local staff, providing year round income and benefits for themselves and their families. Most of these businesses, including mine, operate from State Boating Facilities.

It is my concern that the permit renewal process should be improved to promote communication and fairness during a permit renewal process. Hawaii Administrative Rules allows permit holders to apply for permit renewal up to 90 days before permit expiration. DOBOR has expressed frustration with commercial permit holders that wait until the last week before permit renewal to submit their renewal application.

The original intent of HB1733 was for permit holders that do submit their permit renewals at least 60 days before permit expiration would be informed of any issues or concerns well before the expiration of the permit so they would have an opportunity to rectify any deficiencies.

I support an amendment proposed by the Ocean Tourism Coalition which will facilitate annual permit renewals by asking DOBOR to give a response within 30 days of receiving the permit application, providing that the permittee submits the application at least 60 days before permit expiration. This will allow both parties involved in the permit application to have ample time to respond to issues. This bill also codifies existing rule to provide a reasonable extension of 30 days past the permit renewal deadline to respond to any concerns raised by DOBOR. This time period will allow companies like mine to keep their employees employed and keep their businesses running while they are responding to DOBOR issues. It also gives DOBOR ample time to process the permit. Overall, this bill creates reasonable and flexible standards in the permit renewal process.

I humbly request that you pass HB1733, SD2.

Sincerely,

Greg Howeth, President Lahaina Divers, Inc.

143 Dickenson Street • Lahaina, Maui, HI 96761

**Toll Free: (800) 998-3483** • Phone (808) 667-7496

Fax: (808) 661-5195 • Email: [info@lahainadivers.com](mailto:info@lahainadivers.com)  
[www.lahainadivers.com](http://www.lahainadivers.com)

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [CPH Testimony](#)  
**Cc:** [jeff@mauidiveshop.com](mailto:jeff@mauidiveshop.com)  
**Subject:** \*Submitted testimony for HB1733 on Mar 30, 2016 10:00AM\*  
**Date:** Tuesday, March 29, 2016 7:47:22 AM

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**HB1733**

Submitted on: 3/29/2016

Testimony for CPH on Mar 30, 2016 10:00AM in Conference Room 229

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

Comments:

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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Lahaina, HI 96761  
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**COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**  
**Senator Rosalyn H. Baker, Chair**  
**Senator Michelle N. Kidani, Vice Chair**

**Date/Time of Hearing: March 30, 2016, 10:00AM**  
**Measure No. and Title: HB1733, HD1 SD2**

**SUPPORTIVE TESTIMONY**

Chair Baker, Vice Chair Kidani and Senators of the CPH Committee:

Quicksilver Charters and its affiliates (the “Company”) employ close to 100 people in Hawaii’s boating and tourism industries. HB1733 promotes communication and fairness during a permit renewal process. We do, however, suggest that the conjunction “and” located in the first sentence of the new language be changed to an “or”. The location of the new conjunction “or” is underlined below.

“...within thirty days of receipt of the application, shall renew the permit or notify the applicant that the application is incomplete “OR” cannot be renewed.”

HB1733 allows permit holders to submit their permit renewals early so they can be informed of any issues or concerns before the expiration of the permit. HB1733 will facilitate annual permit renewals by asking DOBOR to give a response within 30 days of receiving the permit application, but only if the applicant submits their permit renewal application early.

This will allow the parties involved in the permit application to have ample time to respond to issues. This bill will also provide a reasonable extension of 30 days past the permit renewal deadline to respond to any concerns raised by DOBOR. This time period will allow companies to keep their employees employed, and keep their businesses running while they are responding to DOBOR issues.

Overall, this bill creates reasonable and flexible standards in the permit renewal process.

Sincerely,

Zachary LaPrade