

S.B. NO. 2808

JAN 24 2018

A BILL FOR AN ACT

RELATING TO RULES GOVERNING COMMERCIAL ACTIVITY FOR OCEAN
RECREATION AND COASTAL AREAS.

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

SECTION 1. Section 200-4, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) The chairperson may adopt rules necessary:

(1) To regulate the manner in which all vessels may enter
the ocean waters and navigable streams of the State
and moor, anchor, or dock at small boat harbors,
launching ramps, and other boating facilities owned or
controlled by the State;

(2) To regulate the embarking and disembarking of
passengers at small boat harbors, launching ramps,
other boating facilities, and public beaches;

(3) For the safety of small boat harbors, launching ramps,
and other boating facilities, and the vessels anchored
or moored therein;

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

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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
22 State from any source point, including but not limited

1 to any vessel or from pipes or storage tanks upon
2 land, including:

3 (A) Requirements for permits and fees for:

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

9 (ii) Other uses of these facilities;

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

13 (C) Requirements governing:

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

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1 (ii) The use of state small boat harbors,
2 launching ramps, or other boating facilities
3 belonging to or controlled by the State,
4 including but not limited to the
5 establishment of minimum amounts of annual
6 gross receipts required to renew a
7 commercial use permit, and conditions under
8 which a state commercial, mooring,
9 launching, or any other type of use or other
10 permit may be terminated, canceled, or
11 forfeited; and

12 (D) Any other rule necessary to implement this
13 chapter pertaining to small boat harbors,
14 launching ramps, and other boating facilities
15 belonging to or controlled by the State;

16 (7) To continue the ocean recreational and coastal areas
17 programs and govern the ocean waters and navigable
18 streams of the State, and beaches encumbered with
19 easements in favor of the public to protect and foster
20 public peace and tranquility and to promote public
21 safety, health, and welfare in or on the ocean waters
22 and navigable streams of the State, and on beaches

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1 encumbered with easements in favor of the public,
2 including:

3 (A) Regulating the anchoring and mooring of vessels,
4 houseboats, and other contrivances outside of any
5 harbor or boating facility, including:

6 (i) The designation of offshore mooring areas;

7 (ii) The licensing and registration of vessels,
8 houseboats, and other contrivances; and the
9 issuance of permits for offshore anchoring
10 and mooring of vessels, houseboats, and
11 other contrivances; and

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

16 The rules shall provide for consideration of
17 environmental impacts on the State's aquatic
18 resources in the issuance of any permits for
19 offshore mooring;

20 (B) Safety measures, requirements, and practices in
21 or on the ocean waters and navigable streams of
22 the State;

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1 (C) The licensing and registration of persons or
2 organizations engaged in commercial activities in
3 or on the ocean waters and navigable streams of
4 the State;

5 (D) The licensing and registration of equipment
6 utilized for commercial activities in or on the
7 ocean waters and navigable streams of the State;

8 (E) For beaches encumbered with easements in favor of
9 the public, the prohibition or denial of the
10 following uses and activities:

11 (i) Commercial activities;

12 (ii) The storage, parking, and display of any
13 personal property;

14 (iii) The placement of structures or obstructions;

15 (iv) The beaching, landing, mooring, or anchoring
16 of any vessels; and

17 (v) Other uses or activities that may interfere
18 with the public use and enjoyment of these
19 beaches; and

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

- 1 (8) To regulate the examination, guidance, and control of
2 harbor agents and their assistants; and
- 3 (9) To regulate commercial activities in state waters
4 including operations originating from private marinas;
5 provided that no new or additional permits shall be
6 required for those commercial activities regulated by
7 any other chapter.

8 For the purposes of this paragraph:

9 "Commercial activity" means to engage in any
10 action or attempt to engage in any action [~~for~~
11 ~~compensation in any form. The action or actions may~~
12 ~~include providing or attempting to provide guide~~
13 ~~services, charters, tours, and transportation to and~~
14 ~~from the location or locations for which such services~~
15 ~~are provided.] designed for profit, which includes but~~
16 is not limited to the exchange or buying and selling
17 of commodities; the providing of services relating to
18 or connected with trade, traffic, or commerce in
19 general; any activity performed by the commercial
20 operator or its employees or agents in connection with
21 the delivery of such commodities or services; and the
22 soliciting of business, including the display or

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distribution of notices, business cards, or
advertisements for commercial promotional purposes.

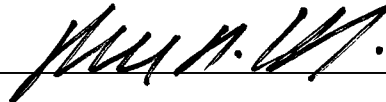
~~["Compensation" means money, barter, trade,~~
~~credit, and other instruments of value, goods, and~~
~~other forms of payment.] "~~

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

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

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

INTRODUCED BY: _____



BY REQUEST

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Report Title:

Commercial Activity for Ocean Recreation and Coastal Area
Programs; Definition

Description:

Amends the definition of "commercial activity" within section
200-4(a), Hawaii Revised Statutes.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO RULES
GOVERNING COMMERCIAL ACTIVITY FOR OCEAN
RECREATION AND COASTAL AREAS.

PURPOSE: To amend the definition of "commercial
activity" within section 200-4(a), Hawaii
Revised Statutes (HRS).

MEANS: Amend section 200-4(a), HRS.

JUSTIFICATION: The current definition for "commercial
activity" within section 200-4(a), HRS, has
been found to be too broad and vague by
enforcement officials for the purposes of
identifying such activity and regulating it.
The new proposed definition would be more
comprehensive and aligned with the City and
County of Honolulu's definition of
"commercial activity".

Impact on the public: The proposed
amendment would provide a more detailed
definition of commercial activity that will
give the public increased clarity regarding
which activities are considered commercial.

Impact on the department and other agencies:
The proposed amendment will provide a more
rigorous definition of commercial activity
that will improve the ability of the
Department to identify commercial activity
and cite violations of commercial activity
prohibition where applicable.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

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OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.