



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

**Friday, February 9, 2018
10:00 AM
State Capitol, Conference Room 312**

**In consideration of
HOUSE BILL 2617
RELATING TO OCEAN WATERS**

House Bill 2617 proposes to add a new section to the Hawai‘i Revised Statutes (HRS), to prohibit alcohol consumption while in the ocean waters of the State. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following amendments.**

The Department recognizes that there has been an increasing number of "floatilla" events that have been occurring in the O‘ahu nearshore ocean waters in the past few years and the negative impacts of each event. In addition to the massive amounts of litter left by participants in ocean waters and on beaches after these events, officers in the Department’s Division of Conservation and Resources Enforcement (DOCARE) and lifeguards in the City and County of Honolulu Ocean Safety Division rescued hundreds of floatilla participants.

In August 2012, the Department promulgated Section 13-256-73.13, Hawai‘i Administrative Rules (HAR), establishing the Ahu o Laka safety zone, to prohibit alcohol consumption over three-day weekends at the Kāne‘ohe Bay Sandbar. Floatilla events are significantly different because the Kāne‘ohe Bay Sandbar is a fixed location, and DOCARE Officers are able to enforce the regulations not only within a fixed area but also during a fixed timeframe. The Department notes that floatilla events do not have a fixed time or location.

Unfortunately, the Department does not believe that this measure as written can effectively address the issues presented by floatilla events. Department staff have been discussing this issue for a number of years but encountered certain problems in proposing legislation and promulgating administrative rules.

The Department has concerns on the wording of the language of the proposed prohibition. Under Section 13-244-10(a), HAR, "No person who is under the influence of intoxicating liquor shall operate or be in actual physical control of any vessel upon waters of the State." Thus, although vessel operators cannot operate a vessel under the influence of an intoxicating liquor, the Department interprets the proposed new HRS section to encompass passengers as well, which would mean recreational vessel passengers would be prohibited from consuming alcohol aboard recreational vessels. Even if this measure is revised to instead prohibit possession of alcohol, the Department will still have concerns over the broad scope of the restriction and its applicability to recreational vessel passengers. The Department recommends language below to address this issue.

The Department recommends revising language and terms regarding the prohibition and also recommends referencing the definition for "liquor" as used in Section 281-1, HRS. The Department recommended changes are highlighted in grey below.

SECTION 2. Chapter 200, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§200- ~~[Alcohol]~~ Consumption of liquor prohibited~~[-]~~ for bathers.

(a) It shall be unlawful for any ~~[person]~~ bather at any time to consume ~~[alcohol while in the ocean waters of the State.]~~ liquor in the waters of the State when within one thousand yards of any beach or shoreline.

(b) ~~[Exceptions to the alcohol prohibition contained in subsection (a) for commercial operations or permitted events may be made in accordance with rules adopted by the department pursuant to section 200 4.5 and chapter 91.]~~ The department shall have the discretion to authorize exceptions to subsection (a), provided that exceptions may only be made for commercial operations or properly permitted events.

(c) For the purposes of this section~~[-]~~, ~~"alcohol means the product of distillation or any fermented liquid, whether rectified or not, whatever may be the origin thereof and shall include brandy, whiskey, rum, gin, okolehao, sake, beer, ale, porter, wine, and any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing on half of one per cent~~

~~or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes.]:~~

"Bather" means any person floating, swimming, wading, or bodysurfing, with or without the use of a flotation device.

"Flotation device" means a device that a person floats upon or with the aid of, including, but not limited to, a surfboard, paddleboard, surfmat, innertube, personal flotation device, or air mattress; provided, however, that any device designed to be propelled by sail, mechanical means, power, oars, or paddle shall not be included.

"Liquor" means the same as defined in section 281-1.

(d) In addition to any other penalties provided under chapter 281, any person who violates this section shall be subject to a fine of \$ _____.

(e) The department may adopt rules pursuant to chapter 91 to effectuate this section."

Thank you for the opportunity to comment on this measure.

HONOLULU EMERGENCY SERVICES DEPARTMENT
CITY AND COUNTY OF HONOLULU

3375 KOAPAKA STREET, SUITE H-450 • HONOLULU, HAWAII 96819-1814
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KIRK CALDWELL
MAYOR

JAMES D. HOWE, JR.
DIRECTOR

IAN T.T. SANTEE
DEPUTY DIRECTOR

February 6, 2018

The Honorable Kaniela Ing, Chair
The Honorable Lynn DeCoite, Vice-Chair
House Committee on Ocean, Marine Resources, & Hawaiian Affairs
House of Representatives
Twenty-Ninth Legislature
Regular Session of 2018

Re: HB2617 Relating to Ocean Waters

Dear Chair Ing, Vice Chair DeCoite, and Members:

The Honolulu Emergency Services Department provides both Ocean Safety and Emergency Medical Services for the Island of Oahu. The Department has the responsibility to act as the primary responder for all emergencies that arise on the beach, in the near shore waters, and as the EMS responder for all 911 calls for medical service.

As noted in the preamble to HB2617, flotilla events have and will continue to present a significant challenge to the Department. These events are highly problematic from a public safety perspective.

Consumption of alcohol while in bodies of water is a well known and documented contributor to drowning (<http://www.thejournal.ie/drinking-alcohol-swimming-980116-Jul2013/>).

With these well known risk factors, the Ocean Safety Division has taken a proactive approach to flotilla events by redirecting ocean safety assets from general community use to specifically manage these events. There are both direct and indirect costs associated with this allocation of limited resources.

The Emergency Medical Services Division has also been impacted by these events as noted in the Bill.

We support HB2617 as it would act as a preventive measure that may reduce ocean injuries and deaths. It would also minimize the impacts of "flotillas" on our ability to manage the ocean safety needs of the community.

Thank you for the opportunity to testify on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Howe, Jr.", is written over the typed name and title.

James D. Howe, Jr.
Director

HB-2617

Submitted on: 2/2/2018 2:46:23 PM

Testimony for OMH on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brendt Chang	Akira Power LLC	Oppose	No

Comments:

Prohibition is not the answer. There are many individuals that consume alcohol on the ocean in a responsible manner. This would hurt tax paying Hawaii business that allow for leisurely consumption of alcohol for their patrons.

HB-2617

Submitted on: 2/2/2018 11:31:53 PM

Testimony for OMH on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Sensui	Hawaii Goes Fishing	Oppose	No

Comments:

There are already laws in place that prohibit underage drinking. And the Coast Guard has regulations in place regarding boat operators and the consumption of alcohol.

The incident specified in the bill is unique to that particular circumstance and has nothing in common with the consumption of alcohol in Hawaiian waters.

If anything should be given greater scrutiny, it should be events like that.

HB-2617

Submitted on: 2/3/2018 7:26:10 AM

Testimony for OMH on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Cheung		Oppose	No

Comments:

I support regulating excessive alcohol use, underage drinking, and littering during floatilla and floatilla like events, however this bill is a poor excuse for an answer to those problems. Floatilla events happen only once or twice a year. An outright ban on alcohol consumption in state waters would unfairly and needlessly punish responsible adults who use the ocean for the remaining 363 days a year. This bill also does nothing to address the huge amounts of trash left over from these events.

DLNR has implemented special regulations regarding similiar events that occur on the sandbar in Kaneohe. Those regulations are only in effect during the 3 day weekends when problems would occur in the past.

At a minimum, HB2617 should seek to target the specific dates when floatilla events happen. It also needs to address the trash problem, which is currently does not. Thank you for considering my comments.

HB-2617

Submitted on: 2/2/2018 5:14:31 PM

Testimony for OMH on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl M Jellings Sr	Fishermen	Oppose	No

Comments:

The Pacific/ Our Hawaiian Waters while at sea is no place for alcohol consumption no matter how beautiful life and death situation's arise in the best of condition's Shark Attacks, Man Over Board, Engine failure, Bend's, Drowning's Fighting giant fish, sudden weather changes, etc etc,etc, all require clear mind's and intelligent choices so the best possible response or reaction in any given circumstance emergency or other can occur.

Strong Support

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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LATE

KIRK CALDWELL
MAYOR



SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
JONATHAN GREMS
DEPUTY CHIEFS

OUR REFERENCE GLK-SAR

February 9, 2018

The Honorable Kaniela Ing, Chair
and Members
Committee on Ocean, Marine
Resources, and Hawaiian Affairs
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 312
Honolulu, Hawaii 96813

Dear Chair Ing and Members:

Subject: House Bill No. 2617, Relating to Ocean Waters

I am Gordon Lum Kee, Acting Major of District 6 (Waikiki) of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 2617, Relating to Ocean Waters.

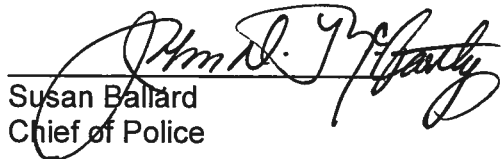
The passage of this bill would make it unlawful for any person at any time to consume alcohol while in the ocean waters of the State, which could have adverse results. It would also give law enforcement the power to address persons illegally consuming alcohol within the ocean waters. We recommend amending the penalty in this bill by making this crime a petty misdemeanor offense.

The HPD supports House Bill No. 2617, Relating to Ocean Waters, and urges you to pass this bill.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Susan Ballard
Chief of Police


Gordon Lum Kee, Acting Major
District 6

HB-2617

Submitted on: 2/9/2018 7:57:29 AM

Testimony for OMH on 2/9/2018 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Quicksilver Charters	Oppose	No

Comments:

morikawa1 - Lori

From: ing1 - Yvette
Sent: Friday, February 9, 2018 8:14 AM
To: morikawa1 - Lori; morikawa2 - Alvin
Subject: FW: alcohol bill

Aloha Lori and Alvin,

Please see below and add to testimony for HB2617.

Mahalo,

Yvette

From: Alan Akao [mailto:alanakao@gmail.com]
Sent: Monday, February 5, 2018 8:48 AM
To: ing1 - Yvette <ing1@capitol.hawaii.gov>
Subject: Fwd: alcohol bill

----- Forwarded message -----

From: "Denver Coon" <denvercoon@hotmail.com>
Date: Feb 4, 2018 9:51 PM
Subject: alcohol bill
To: "Alan Akao" <alanakao@gmail.com>
Cc:

Hey Alan,

It seems that the real problem is not so much alcohol, but a large gathering of people and alcohol. I suggest that the bill be modified with the following language (or similar language) to address the safety concerns that large gatherings of intoxicated individuals create, while ensuring that other ocean users are not unnecessarily caught in this regulation's net:

§200- Recovery of costs at ocean events requiring response by DLNR. (a) If DLNR responds to a party, gathering or event on the ocean waters of the state and while at the scene determines that there is a threat to the public peace, health, safety or general welfare, any person who is responsible for the party, gathering or event is liable for the reasonable costs of a response by DLNR to that incident.

(b) In no event shall a person's liability under this section for the costs of a response by DLNR exceed one thousand dollars for each incident. The costs of a response shall be waived if any person who is responsible for the party, gathering or event initiates a request for a DLNR response and assists DLNR in dispersing persons attending the party, gathering or event.

(c) For purposes of this section, unless the context otherwise requires:

"Reasonable costs" includes the salaries of the responding DLNR officers, at the salary then in effect for each classification of each individual officer, for the amount of time actually spent in responding to or remaining at the party, gathering or event; appropriate overhead; the actual cost of any medical treatment to injured officers; and the cost of repairing any damaged State equipment or property.

“Party, gathering or event” means a group of five or more persons who have assembled or are assembling for recreational purposes, which constitutes a substantial disturbance of the quiet enjoyment of private or public property. This includes, but is not limited to, excessive noise, public drunkenness, the service of alcohol to underage persons, fights, disturbances of the peace, and litter.

“Person who is responsible for the party, gathering or event” means any person who organized the party, gathering, or event. If two or more persons are responsible for the party, gathering or event such persons shall be jointly and severally liable for the reasonable costs of a DLNR officer response. If the person responsible for the party, gathering or event is a minor, the parents or guardian having custody or control of the minor shall be jointly and severally liable with such minor for the reasonable costs of a DLNR response.