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# A BILL FOR AN ACT

RELATING TO COMMERCIAL MARINE LICENSES.

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

1           SECTION 1. The legislature finds that fishing is an  
2 important pastime for many Hawaii residents, providing not only  
3 recreational and subsistence benefits, but also a source of  
4 additional income for many small-scale commercial fishers who  
5 often sell a portion of their catch to cover costs of fuel or  
6 fishing gear.

7           The legislature further finds that the current commercial  
8 marine license laws are unnecessarily burdensome on boat-based  
9 fishers due to the requirement that each individual on a fishing  
10 vessel must have a commercial marine license to participate in a  
11 commercial fishing trip where the resulting catch may be sold.  
12 This places logistical and financial burdens on vessel captains  
13 when part-time crew members are needed for a commercial fishing  
14 trip, or when unscheduled or infrequent visitors are invited  
15 aboard. It also leads to confusion regarding who is responsible  
16 for submitting commercial catch reports for fishing activities  
17 on board the vessel.



1           The legislature also recognizes that the department of land  
2 and natural resources lacks the statutory authority to establish  
3 different types of commercial marine licenses, which makes it  
4 difficult for the department to develop effective commercial  
5 fisheries regulations that accommodate the needs of different  
6 categories of commercial fishers. For example, the department  
7 has indicated the need to distinguish between full-time and  
8 part-time commercial marine licenses, so that full-time  
9 commercial fishers pay a higher license fee but are allowed  
10 larger catch limits than part-time commercial fishers.

11           The legislature concludes that authorizing the department  
12 to create different types of commercial marine licenses, such as  
13 commercial marine vessel licenses, fishery and gear-specific  
14 licenses, and full-time and part-time licenses will enable the  
15 department to better manage the State's diverse commercial  
16 fishing activities.

17           This Act authorizes the department to create a commercial  
18 marine vessel license, which is intended to cover everyone on  
19 board a fishing vessel under one license and eliminate the need  
20 for individual licenses. A commercial marine vessel license  
21 will be more convenient and cost effective for Hawaii boat-based



1 fishers and will clarify who is responsible for submitting  
2 commercial catch reports for the vessel.

3 This Act also authorizes the department to establish other  
4 types of commercial marine licenses, including fishery and gear-  
5 specific licenses and full-time and part-time licenses. The  
6 department has the discretion through the public rule-making  
7 process contained in chapter 91, Hawaii Revised Statutes, to  
8 determine the specifications and qualifications of these other  
9 types of licenses.

10 The legislature also finds that although the current  
11 statutory language requires vessel-based fishing charters to  
12 obtain a commercial marine license, it is unclear as to whether  
13 shore-based charters or guides are also required to obtain the  
14 same license. This Act clarifies that the commercial marine  
15 license requirement applies to any person providing fishing  
16 charter or guide services. This will allow the department to  
17 better understand and manage marine charter fishing activities  
18 in the State.

19 Finally, the legislature finds that conditioning  
20 eligibility for a commercial marine license on an individual's  
21 student loan repayment status serves no valid public purpose and



1 forecloses individuals from potential jobs and income for  
2 reasons entirely unrelated to their fitness to perform the  
3 licensed activity.

4 The purpose of this Act is to amend the commercial marine  
5 license statute to:

6 (1) Exempt commercial marine licenses from the licensing  
7 sanctions for student loan defaults;

8 (2) Authorize the department of land and natural resources  
9 to establish different types of commercial marine  
10 licenses, including but not limited to commercial  
11 marine vessel licenses, fishery and gear-specific  
12 licenses, and full-time and part-time licenses; and

13 (3) Require any person providing fishing charter or guide  
14 services to obtain a commercial marine license.

15 SECTION 2. Chapter 436C, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§436C- Exemption. This chapter shall not apply to  
19 commercial marine licenses issued pursuant to section 189-2."



1 SECTION 3. Section 189-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§189-2~~ **Commercial marine license.** (a) The department  
4 shall issue commercial marine licenses for the taking of marine  
5 life for commercial purposes. The department may establish  
6 different types of commercial marine licenses, including but not  
7 limited to commercial marine vessel licenses, fishery and gear-  
8 specific commercial marine licenses, and full-time and part-time  
9 commercial marine licenses, and specify the requirements and  
10 qualifications for issuance of these licenses.

11 [~~(a)~~] (b) No person shall take marine life for commercial  
12 purposes whether the marine life is caught or taken within or  
13 outside of the State, without first obtaining a commercial  
14 marine license as provided in this section~~[-]~~; provided that a  
15 valid commercial marine vessel license may satisfy the licensure  
16 requirement for all persons taking marine life for commercial  
17 purposes aboard the validly-licensed vessel.

18 [~~(b) Additionally, any~~] (c) Any person providing [~~vessel~~]  
19 charter or guide services in the State for the taking of marine  
20 life in or outside of the State shall obtain a commercial marine  
21 license.



1       ~~[(e)]~~ (d) The department may adopt rules pursuant to  
2 chapter 91 necessary for the purpose of this section and to set  
3 fees for commercial marine licensing.

4       ~~[(d)]~~ (e) The fees for commercial marine licenses and  
5 duplicate commercial marine licenses shall be established by the  
6 department by rules adopted in accordance with chapter 91.

7       ~~[(e)]~~ (f) The department shall suspend, shall refuse to  
8 renew, reinstate, or restore, or shall deny any license issued  
9 under this section if the department has received certification  
10 from the child support enforcement agency pursuant to section  
11 576D-13 that the licensee or applicant is not in compliance with  
12 an order of support or has failed to comply with a subpoena or  
13 warrant relating to a paternity or child support proceeding.  
14 The department shall issue, renew, reinstate, or restore such a  
15 license only upon receipt of authorization from the child  
16 support enforcement agency, the office of child support  
17 hearings, or the family court.

18       ~~[(f)]~~ ~~The department shall not renew or reinstate, or shall~~  
19 ~~deny or suspend any license or application, if the department~~  
20 ~~has received certification from an administering entity pursuant~~  
21 ~~to chapter 436C that the licensee or applicant is in default or~~



1 ~~breach of any obligation under any student loan, student loan~~  
2 ~~repayment contract, or scholarship contract that financed the~~  
3 ~~licensee's or applicant's education, or has failed to comply~~  
4 ~~with a repayment plan.~~

5 ~~The department in receipt of a certification pursuant to~~  
6 ~~chapter 436C shall, as applicable, and without further review or~~  
7 ~~hearing:~~

8 ~~(1) Suspend the license;~~

9 ~~(2) Deny the application or request for renewal of the~~  
10 ~~license; or~~

11 ~~(3) Deny the request for reinstatement of the license,~~

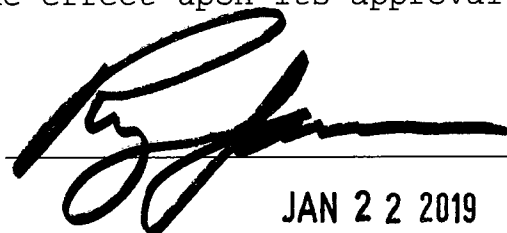
12 ~~and unless otherwise provided by law, shall renew, reinstate, or~~  
13 ~~grant the license only upon receipt of an authorization from the~~  
14 ~~administering entity.] "~~

15 SECTION 4. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 22 2019



# H.B. NO. 776

**Report Title:**

Commercial Marine Licenses

**Description:**

Authorizes the DLNR to create different types of commercial marine licenses. Clarifies that commercial marine licenses are required of all charter and guide services regardless of whether they are tied to a vessel. Exempts commercial marine licenses from the licensing sanctions for student loan default.

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