

JAN 24 2019

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

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

11           The legislature therefore concludes that creating different  
12 types of CMLs, such as a commercial marine vessel license,  
13 fishery and gear-specific CMLs, and full-time and part-time  
14 CMLs, would enable the department to better manage the State's  
15 diverse commercial fishing activities.

16           This Act authorizes the department to create a commercial  
17 marine vessel license (CMVL), which is intended to cover  
18 everyone on board a fishing vessel under one license and  
19 eliminate the need for individual CMLs. A CMVL would be more  
20 convenient and cost effective for Hawaii boat-based fishers and  
21 would clarify who is responsible for submitting commercial catch  
22 reports for the vessel.

1           This Act also authorizes the department to establish other  
2 types of CMLs, including fishery and gear-specific CMLs and  
3 full-time and part-time CMLs, where full-time CMLs would only be  
4 issued to fishers who derive more than 50 per cent of their  
5 annual gross income from the take or sale of marine life.  
6 Details of each license category would be developed through the  
7 rulemaking process pursuant to chapter 91, Hawaii Revised  
8 Statutes.

9           The legislature also finds that the current statutory  
10 language expressly requires vessel-based fishing charters to  
11 obtain a CML. It is unclear however whether shore-based  
12 charters or guides are also required to obtain a CML. This Act  
13 would clarify that any person providing fishing charter or guide  
14 services, whether vessel-based or shore-based, must first obtain  
15 a CML. This will allow the department to better understand and  
16 manage marine charter fishing activities in the State.

17           The purpose of this Act is to authorize the department of  
18 land and natural resources to establish different types of CMLs,  
19 including but not limited to CMVLs, fishery and gear-specific  
20 CMLs, and full-time and part-time CMLs; and to require any  
21 person providing fishing charter or guide services, whether  
22 vessel-based or shore-based, to first obtain a CML.

1 SECTION 2. 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 the 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 the  
15 department may adopt rules pursuant to chapter 91 to exempt  
16 persons taking marine life for commercial purposes pursuant to a  
17 valid commercial marine vessel license.

18 [~~(b)~~] (c) Additionally, 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)]~~ (g) The department shall not renew or reinstate, or  
19 shall deny or suspend any license or application, if the  
20 department has received certification from an administering  
21 entity pursuant to chapter 436C that the licensee or applicant  
22 is in default or breach of any obligation under any student

S.B. NO. 1249

1 loan, student loan repayment contract, or scholarship contract  
2 that financed the licensee's or applicant's education, or has  
3 failed to comply with a repayment plan.

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

7 (1) Suspend the license;

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

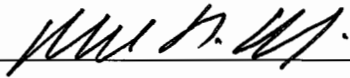
10 (3) Deny the request for reinstatement of the license,  
11 and unless otherwise provided by law, shall renew, reinstate, or  
12 grant the license only upon receipt of an authorization from the  
13 administering entity."

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

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

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INTRODUCED BY: 

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BY REQUEST

**Report Title:**

Aquatic Resources; Commercial Marine Licenses

**Description:**

Clarifies that the Department of Land and Natural Resources has the authority to establish different types of commercial marine licenses, including but not limited to commercial marine vessel licenses, fishery and gear-specific commercial marine licenses, and full-time and part-time commercial marine licenses. Requires any person providing fishing charter or guide services, whether vessel-based or shore-based, to first obtain a commercial marine license.

*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 COMMERCIAL MARINE LICENSES.

PURPOSE: To authorize the Department to establish different types of commercial marine licenses, including but not limited to commercial marine vessel licenses, fishery and gear-specific commercial marine licenses, and full-time and part-time commercial marine licenses; and to require any person providing fishing charter or guide services, whether vessel-based or shore-based, to first obtain a commercial marine license.

MEANS: Amend section 189-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Currently each individual on a fishing vessel must have the individual's own commercial marine license (CML) to participate in a commercial fishing trip. This causes problems when random and infrequent visitors or part-time crew members are needed for a commercial fishing trip. The Department intends to amend its CML rules to establish a new commercial marine vessel license (CMVL) category. The CMVL, which would cover everyone on board under one license and eliminate the need for individual licenses, would be more convenient and cost effective for Hawaii boat-based fishers. The CMVL rules would clarify who is responsible for submitting catch reports for the vessel. In December 2017, the Board of Land and Natural Resources approved the rules for public hearing, subject to clarification that the Department has the statutory authority to create and issue CMVLs. Because the Department intends this measure to provide authority for rules, the December 2017 approval for public rulemaking should be



rescinded. This measure provides that clarification.

The Department is also considering additional licensing rule amendments to establish fishery and gear-specific CMLs, as well as full-time and part-time CMLs, where full-time CMLs would only be issued to fishers who derive more than fifty per cent of their annual gross income from the take or sale of marine life. Details and requirements of each license category would be developed through the chapter 91, HRS, rulemaking process. The measure would provide the necessary statutory authority for this.

The measure also provides clarification and consistency regarding the CML requirement for fishing charter services. Current statutory wording expressly requires vessel-based charters to obtain a CML. It is unclear however whether shore-based charters or guides are also required to obtain a CML. The measure would clarify that any person providing fishing charter or guide services, whether vessel-based or shore-based, must first obtain a CML. This will allow the Department to better understand and manage marine charter fishing activities in the State.

Impact on the public: The bill would authorize the Department to adopt rules to establish a CMVL, which would reduce the financial burden on Hawaii's boat-based fishers who engage in small-scale commercial fishing with rotating crewmembers. It would also require shore-based charter or guide services to obtain a CML.

Impact on the department and other agencies: The bill would authorize the Department to adopt rules to establish a CMVL, which would enhance reporting accuracy by clarifying who is responsible for submitting commercial catch reports for the vessel. It would also

authorize the Department to establish fishery and gear-specific CMLs and full-time and part-time CMLs through rulemaking, which would enable the Department to better manage the State's diverse commercial fisheries. It would also allow the Department to collect information from shore-based charter and guide services to better manage fisheries.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LNR 153.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.