

JAN 18 2019

A BILL FOR AN ACT

RELATING TO TOURISM.

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

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PART I

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SECTION 1. The legislature finds that tourism is the

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largest private sector industry in the State and that Hawaii is

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known globally for stunning natural beauty, unique culture, and

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the spirit of aloha. A successful tourism industry in Hawaii

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depends on the health of natural and cultural resources,

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communities, economy, and relationships with visitors.

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The legislature further finds that the tourism industry has

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a prominent role to play in protecting the State's natural

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resources, perpetuating Hawaii's history, and preserving a high

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quality of life for Hawaii's residents, by switching the focus

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of the State's tourism industry from marketing Hawaii to helping

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to manage Hawaii's resources. The legislature additionally

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finds that requiring sustainable practices and professional tour

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guide certification from persons in the tourism industry will

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advance this goal, in addition to enhancing visitor experiences

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and protecting Hawaii's brand.



S.B. NO. 364

1 The purpose of this Act is to:

- 2 (1) Beginning July 1, 2022, require applicants for new or
3 renewal commercial use permits in state parks, small
4 boat harbors, and ocean recreation management areas;
5 instructor/operator permits; and common carrier
6 certificates and contract carrier permits covering the
7 transportation of passengers to hold and annually
8 maintain a sustainable tourism certificate from the
9 Hawaii Ecotourism Association, achieve and maintain
10 green business recognition by the Hawaii green
11 business program, and ensure that at least one-third
12 of staff members employed by the applicant who have
13 direct contact with visitors are certified as
14 professional tour guides by the University of Hawaii;
- 15 (2) Require the University of Hawaii to update the
16 certification for professional tour guides curriculum
17 and examination, subject to approval by the aha moku
18 advisory committee, by June 30, 2020, and every ten
19 years thereafter; and
- 20 (3) Require recertification and renewal of certification
21 for professional tour guides every two years.



PART II

SECTION 2. Chapter 184, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§184- Use of state parks for commercial purposes; permits; requirements. (a) Beginning July 1, 2022, the department shall not issue a permit to any person or renew an existing permit held by any person for use of property within the state park system for a commercial purpose unless:

- (1) The person holds a sustainable tourism certificate issued by the Hawaii Ecotourism Association and maintains certification annually;
- (2) The person achieves and maintains green business recognition by the Hawaii green business program; and
- (3) At least one-third of staff employed by the person whose duties include direct contact with visitors to the State are certified as professional tour guides as provided in section 304A- .

(b) A decision to decline renewal of a permit under this section shall be subject to a hearing in accordance with chapter 91.



1 (c) For the purposes of this section, "person" shall have
2 the same meaning as in section 1-19."

3 SECTION 3. Chapter 198D, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§198D- Use of trails for commercial purposes;
7 requirements. (a) Beginning July 1, 2022, no person may use a
8 trail for commercial purposes unless:

- 9 (1) The person holds a sustainable tourism certificate
10 issued by the Hawaii Ecotourism Association and
11 maintains certification annually;
12 (2) The person achieves and maintains green business
13 recognition by the Hawaii green business program; and
14 (3) At least one-third of staff employed by the person
15 whose duties include direct contact with visitors to
16 the State are certified as professional tour guides as
17 provided in section 304A- .

18 (b) For the purposes of this section, "person" shall have
19 the same meaning as in section 1-19."



1 SECTION 4. Chapter 200, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§200- Commercial use; commercial instructor/operator;
5 ocean recreation management areas; permits; requirements. (a)
6 Beginning July 1, 2022, the department shall not issue or renew
7 a commercial use permit, commercial instructor/operator permit,
8 or ocean recreation management area permit to any person unless:

- 9 (1) The person holds a sustainable tourism certificate
10 issued by the Hawaii Ecotourism Association and
11 maintains certification annually;
12 (2) The person achieves and maintains green business
13 recognition by the Hawaii green business program; and
14 (3) At least one-third of staff employed by the person
15 whose duties include direct contact with visitors to
16 the State are certified as professional tour guides as
17 provided in section 304A- .

18 (b) A commercial use permit in the possession of a
19 corporation or other business entity that transfers an interest
20 in the permit to another person shall be revoked if the person



1 to whom the interest in the permit was transferred does not meet
2 the requirements of subsection (a).

3 (c) Revocation of a permit or refusal to renew a permit
4 under this section shall be subject to a hearing in accordance
5 with chapter 91.

6 (d) For the purposes of this section, "person" shall have
7 the same meaning as in section 1-19."

8 SECTION 5. Section 271-12, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) Subject to section 271-15, a certificate shall be
11 issued to any qualified applicant therefor, authorizing the
12 whole or any part of the operations covered by the application
13 if it is found that the applicant is fit, willing, and able
14 properly to perform the service proposed and to conform to this
15 chapter and the requirements, rules, and regulations of the
16 commission thereunder, and that the proposed service, to the
17 extent to be authorized by the certificate, is or will be
18 required by the present or future public convenience and
19 necessity; otherwise the application shall be denied. Beginning
20 July 1, 2022, the commission shall not issue a certificate



1 covering the transportation of passengers to an applicant

2 unless:

3 (1) The applicant holds a sustainable tourism certificate
4 issued by the Hawaii Ecotourism Association and
5 maintains certification annually;

6 (2) The applicant achieves and maintains green business
7 recognition by the Hawaii green business program; and

8 (3) At least one-third of staff employed by the applicant
9 whose duties include direct contact with visitors to
10 the State are certified as professional tour guides as
11 provided in section 304A- .

12 Beginning July 1, 2022, the commission shall revoke a
13 certificate pursuant to section 271-19 if the holder fails to
14 maintain the requirements of paragraphs (1) through (3)."

15 SECTION 6. Section 271-13, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) Subject to section 271-15, a permit shall be issued
18 to any qualified applicant therefor, authorizing in whole or in
19 part the operations covered by the application, if it is found
20 that the applicant is fit, willing, and able properly to perform
21 the service of a contract carrier by motor vehicle, and to



1 conform to this chapter and the lawful requirements, rules, and
2 regulations of the commission thereunder, and that the proposed
3 operation to the extent authorized by the permit will be
4 consistent with the public interest and the transportation
5 policy declared in this chapter; otherwise, the application
6 shall be denied. Beginning July 1, 2022, the commission shall
7 not issue a permit covering the transportation of passengers to
8 an applicant unless:

- 9 (1) The applicant holds a sustainable tourism certificate
10 issued by the Hawaii Ecotourism Association and
11 maintains certification annually;
- 12 (2) The applicant achieves and maintains green business
13 recognition by the Hawaii green business program; and
- 14 (3) At least one-third of staff employed by the applicant
15 whose duties include direct contact with visitors to
16 the State are certified as professional tour guides as
17 provided in section 304A- .

18 Beginning July 1, 2022, the commission shall revoke a permit
19 pursuant to section 271-19 if the holder fails to maintain the
20 requirements of paragraphs (1) through (3). In determining
21 whether issuance of a permit will be consistent with the public



1 interest and the transportation policy, the commission shall
2 consider the number of shippers to be served by the applicant,
3 the nature of the service proposed, whether the proposed service
4 can be or is being properly performed by existing common
5 carriers, the effect which granting the permit would have upon
6 the services of the protesting carriers, the effect which
7 denying the permit would have upon the applicant's proposed
8 shipper or shippers, and the changing character of shipper
9 requirements; provided, however, that a permit shall not be
10 issued in any case where it has been established that an
11 existing common carrier is properly performing, the proposed
12 service. The commission shall specify in the permit the
13 business of the contract carrier covered thereby and the scope
14 thereof, and it shall attach to it at the time of issuance, and
15 from time to time thereafter such reasonable terms, conditions,
16 and limitations consistent with the character of the holder of
17 the permit as a contract carrier, including terms, conditions,
18 and limitations respecting the person or persons, their names,
19 the number or class thereof for which the contract carrier may
20 perform transportation service, as may be necessary to assure
21 that the business is that of a contract carrier and within the



1 scope of the permit, and to carry out with respect to the
2 operation of the carrier the requirements established by the
3 commission under sections 271-9(a)(2) and 271-9(a)(4). Any
4 permit covering the transportation of passengers may include
5 authority to transport in the same vehicle with the passengers,
6 baggage of passengers, and also authority to transport baggage
7 of passengers in a separate vehicle; provided that within the
8 scope of the permit and any terms, conditions, or limitations
9 attached thereto, the carrier shall have the right to substitute
10 or add to its equipment and facilities as the development of its
11 business may require; and provided further that no motor carrier
12 shall commence operations under any contract carrier authority
13 granted under this section until it has filed with the
14 commission a certified copy of a written contract or contracts
15 executed with the shipper or shippers for whom the service is
16 authorized in the permit to be provided, the contract or
17 contracts to be bilateral and impose specific obligations upon
18 both carrier and shipper or shippers and to set forth all terms
19 and conditions of any transportation agreement obtaining between
20 the motor carrier and the shipper or shippers."



1 SECTION 7. Section 271-18, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Whenever a transaction is proposed under subsection
4 (b) or (c) [~~of this section~~], the motor carrier or motor
5 carriers, or person or persons, seeking approval thereof shall
6 present an application to the commission in such form as the
7 commission may require and the commission may thereupon act upon
8 the application with or without first holding a public hearing;
9 provided that if requested, it shall afford reasonable
10 opportunity for interested parties to be heard. If the
11 commission finds that subject to such terms and conditions as it
12 shall find to be just and reasonable the proposed transaction
13 will be consistent with the public interests, the commission
14 shall enter an order approving and authorizing the transaction,
15 upon the terms and conditions, and with the modifications, so
16 found to be just and reasonable[-]; provided that, beginning
17 July 1, 2022, the commission shall not approve or authorize a
18 transaction involving the transfer of an interest in a
19 certificate covering the transportation of passengers or permit
20 covering the transportation of passengers if the person to whom
21 the interest will be transferred does not meet the requirements



1 of section 271-13(c)(1) through (3). In passing upon any
2 transaction under subsection (b) or (c), the commission shall
3 give weight, among other considerations, to the effect of the
4 proposed transaction upon [~~1~~] adequate transportation service
5 to the public, [~~2~~] other motor carriers, and [~~3~~] the
6 employees of any transferring motor carrier."

7 **PART III**

8 SECTION 8. Chapter 304A, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§304A- Certification for professional tour guides;
12 curriculum. (a) The university shall maintain within the
13 community college system a certification for professional tour
14 guides program sufficient to meet the demand for enrollment.
15 (b) By June 30, 2020, and every ten years thereafter, the
16 certification for professional tour guides curriculum and
17 examination shall be revised and updated as necessary; provided
18 that updates to the certification for professional tour guides
19 curriculum shall be subject to the approval of the aha moku
20 advisory committee.



1 (c) Certification for professional tour guides shall
2 expire on June 30 of each even-numbered year and be subject to
3 recertification before June 30 of each even-numbered year."

4 SECTION 9. Section 171-4.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~§~~171-4.5~~§~~ Aha moku advisory committee; established.

7 (a) There is established the aha moku advisory committee to be
8 placed within the department of land and natural resources for
9 administrative purposes. The committee may advise the
10 chairperson of the board of land and natural resources in
11 carrying out the purposes of this section.

12 (b) The committee shall consist of eight members appointed
13 by the governor and confirmed by the senate from a list of
14 nominations submitted by the aha moku councils of each island.
15 Oversight of the aha moku advisory committee shall be by the
16 chairperson of the board of land and natural resources. The
17 committee members shall select the committee chairperson from
18 among the members.

19 (c) The members shall not receive compensation for their
20 service, but shall be reimbursed for necessary expenses,
21 including travel expenses, incurred while participating in



1 meetings and events approved in advance by the chairperson of
2 the board of land and natural resources.

3 The aha moku advisory committee may hire an executive
4 director who shall be exempt from chapter 76. The executive
5 director may hire an administrative or executive assistant to
6 assist the executive director in accomplishing the purposes of
7 the aha moku advisory committee.

8 (d) The aha moku advisory committee may provide advice on
9 the following:

- 10 (1) Integrating indigenous resource management practices
11 with western management practices in each moku;
- 12 (2) Identifying a comprehensive set of indigenous
13 practices for natural resource management;
- 14 (3) Fostering the understanding and practical use of
15 native Hawaiian resource knowledge, methodology, and
16 expertise;
- 17 (4) Sustaining the State's marine, land, cultural,
18 agricultural, and natural resources;
- 19 (5) Providing community education and fostering cultural
20 awareness on the benefits of the aha moku system;

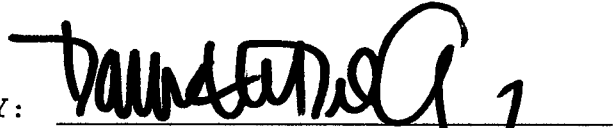

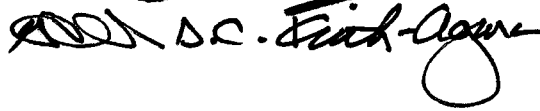


S.B. NO. 364

1 SECTION 11. This Act shall take effect upon its approval.

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INTRODUCED BY:



S.B. NO. 364

Report Title:

Tourism; Tour Guides; Department of Land and Natural Resources; Commercial Use Permits; State Parks; Na Ala Hele Trails; Commercial Instructor and Operator Permits; Ocean Recreation Management Areas; Motor Carriers; Certificates and Permits Covering Transportation of Persons; Hawaii Ecotourism Association; Sustainable Tourism Certificate; Hawaii Green Business Program; Green Business Recognition; University of Hawaii; Community College System; Certification for Professional Tour Guides

Description:

Beginning July 1, 2022, requires persons who use the Na Ala Hele trail system for commercial purposes and applicants for new and renewal commercial use permits in state parks, small boat harbors, and ocean recreation management areas; instructor/operator permits; and common carrier certificates and contract carrier permits covering the transportation of passengers to hold and annually maintain a sustainable tourism certificate from the Hawaii Ecotourism Association, achieve and maintain green business recognition by the Hawaii Green Business Program, and ensure that at least one-third of staff members employed by the applicant who have direct contact with visitors are certified as professional tour guides. Requires the University of Hawaii to update the certification for professional tour guides curriculum and examination, subject to approval by the aha moku advisory committee, by June 30, 2020, and every ten years thereafter. Requires recertification and renewal of certification for professional tour guides every two years.

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

