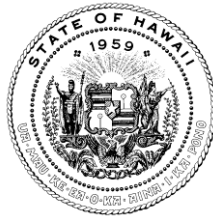


DAVID Y. IGE  
GOVERNOR OF HAWAII



**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**  
**FINANCE**

**Friday, February 22, 2019**  
**11:00 A.M.**  
**State Capitol, Conference Room 308**

**In consideration of**  
**HOUSE BILL 1151, HOUSE DRAFT 1**  
**RELATING TO COMMERCIAL OCEAN RECREATION**

House Bill 1151, House Draft 1 proposes to require the Department of Land and Natural Resources (Department) to adopt rules regarding regulating the activity of certain commercial water sport activity operators to provide for customer safety measures. **The Department respectfully opposes this measure.**

While the Department acknowledges the importance of customer safety measures, the United States Coast Guard (USCG) is the appropriate entity to consider and implement the requirements proposed by this measure. USCG already requires a comprehensive list of safety requirements for documented commercial vessels and commercial operators. Additionally, SCUBA diving instructors and tour operators are required to meet Professional Association of Diving Instructor/National Association of Underwater Instructor standards.

The Department believes that USCG, not the State, should be the authority to implement new safety measures and that the requirements proposed in this measure are not necessary because of the USCG requirements currently in existence.

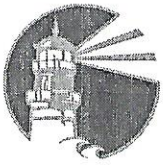
Thank you for the opportunity to comment on this measure.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



# Ocean Tourism Coalition

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## COMMITTEE ON FINANCE

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Rep. Ty J.K. Cullen, Vice Chair

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Rep. Bertrand Kobayashi	Rep. Bob McDermott
Rep. Scot Z. Matayoshi	

## NOTICE OF HEARING

DATE: Friday, February 22, 2019  
TIME: 11:00 A.M.

## **TESTIMONY OF THE OCEAN TOURISM COALITION IN CONDITIONAL SUPPORT OF HB1151 RELATING TO COMMERCIAL OCEAN RECREATION**

Chair Luke, Vice Chair Cullen and Members of FIN Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC), **speaking in conditional support of HB 1151HD1.**

### **OTC supports the intent of HD1151HD1 but asks for small changes**

The OTC represents the interests of over 300 small ocean tourism businesses state wide. All of them operate USCG Inspected and Certified Vessels from State Boating Facilities managed by DLNR/DOBOR. Most of these are family businesses which are locally owned and operated. They have been in business for several decades and operate at the highest level of safety and competence. These companies are quite diverse ranging from ocean rafts powered with outboards to large multi decked vessels with diesel power. They all work closely with the USCG. Each company has a training program in conjunction with the USCG requirements that fits their operations. It is very difficult to make a one size fits all rule. They do not need additional DLNR oversight. DLNR will not issue their Commercial Operating Permit without USCG Approval.

To further illustrate the point above, the following are some of the many requirements for vessels inspected by the USCG:

- (1) Crew manning requirements based on the activities of the vessel;
- (2) Quarterly safety drills;
- (3) CPR certification for certain % of crew members;
- (4) Bi-monthly inspections;
- (5) Life raft inspections;

- (6) Life vest inspections;
- (7) Drug testing; and
- (8) USCG currently requests vessels to conduct snorkeler in distress drills and snorkeler incident questionnaires. Anytime there is a medical emergency the Captain must notify the USCG and file a comprehensive report with the USCG outlining every aspect of the Medical Emergency and the steps taken to mitigate and resolve the emergency. Every serious Medical Emergency is investigated by the USCG.

Also there are many different levels of risk in the Ocean Recreation business. These various risks are addressed with USCG Inspected and Certified Vessels However there many smaller Commercial Ocean Recreational businesses some that have neither DLNR nor USCG Federal oversight on their operations.

After greater input from industry operators, OTC believes the following changes are necessary to align with the statutory language of USCG regulations and to account for conditions on board certain vessels that may make an AED impractical.

OTC believes that **Section 2 should be slightly modified as follows:**

(1) Each tour group or excursion to include one individual who is a rescue diver or lifeguard certified by a nationally recognized certification organization; provided that this requirement shall not apply to vessels that are inspected by the United States Coast Guard and that have at least one individual crew member aboard the vessel who is [lifeguard certified] **trained** in cardio pulmonary resuscitation, use of an automated external defibrillator, and basic first aid; and

(2) Each vessel used by commercial operators to transport customers for the purpose of engaging in an activity in state waters to have a backboard, emergency oxygen, and an automated external defibrillator **if practical** included in its onboard safety equipment.

Automated External Defibrillators may not be functional on every vessel. Certain vessels, like Ocean Rafts and Open Motorboats, are "wet" boats or may have very limited deck space which may limit the AED functionality.

We humbly ask you to modify HB 1151HD1 to include these two changes.

Sincerely,



James E. Coon, President OTC



(808) 667-0990 office  
(808) 667-6707 Fax

**COMMITTEE ON FINANCE**

Rep. Sylvia Luke, Chair  
Rep. Ty J.K. Cullen, Vice Chair

**NOTICE OF HEARING**

**MEASURE AND TITLE: HB1151**

**DATE:** Friday, February 22, 2019

**TIME:** 11:00am

**PLACE:** Conference Room 308

**TESTIMONY IN SUPPORT WITH AMENDMENTS**

Chair Luke, Vice Chair Cullen, and Representatives of the FIN Committee:

We support this bill and its intent, however, the term “lifeguard” in Section 2, Subsection (1) is confusing and should be removed, and “certified” should be changed to “training”.

The reference to “lifeguard certification” in the second clause seems to require that USCG vessels are required to have a crew with “lifeguard certification.” Also, some companies do internal “training” on AED and CPR devices. Many times, “certification” for these skills is not available in Maui, and vessels adopt compressive training programs that may not involve a “certification.” Each operation is unique, and as stated more below, we have extensive USCG oversight over our safety operations.

We support the following amendments to Section 2, Subsection (1) of the Bill:

- (1) “Each tour group or excursion to include one individual who is a rescue diver or lifeguard certified by a nationally recognized certification organization; provided that this requirement shall not apply to vessels that are inspected by the United States Coast Guard and that have at least one individual crew member aboard the vessel who is ~~lifeguard certified~~ “trained” in cardio pulmonary resuscitation, use of an automated external defibrillator, and basic first aid; and”

Originally, charter boats were to be *entirely* excluded from this bill based on House Concurrent Resolution 86, which is attached as Exhibit “A”. To refresh, House Concurrent Resolution 86 was

passed in 2015 covering this same topic. Based on the input from the industry, the Resolution was passed excluding vessels regulated by the United States Coast Guard.

### **United States Coast Guard**

Commercial vessels that are certified by the USCG already have USCG oversight and requirements which are continually being updated. Below are just some of the safety matters *currently* regulated by the USCG:

- (1) Crew manning requirements based on the activities of the vessel;
- (2) Quarterly safety drills;
- (3) CPR training for certain % of crew members;
- (4) Bi-monthly inspections;
- (5) Life raft inspections;
- (6) Life vest inspections; and
- (7) Drug testing.

Also, the USCG currently requests vessels to conduct snorkeler in distress drills and snorkeler incident questionnaires. Anytime there is a medical emergency the Captain must notify the USCG and file a comprehensive report with the USCG outlining every aspect of the Medical Emergency and the steps taken to mitigate and resolve the emergency. Every serious Medical Emergency is investigated by the USCG.

### **Conclusion**

We ask that the legislature refrain from altering our current safety procedures that successfully brings millions of passengers safely home to Hawaii harbors and to make the above-amendments.

Zachary LaPrade

Calypso Charters

Exhibit "A"

HOUSE OF REPRESENTATIVES  
TWENTY-EIGHTH LEGISLATURE, 2015  
STATE OF HAWAII

H.C.R. NO. 86  
H.D. 1  
S.D. 1

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## HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO  
CONSIDER DEVELOPING PERMITTING PROVISIONS TO REQUIRE THAT  
EMPLOYEES OF WATERSPORT EXCURSION COMPANIES WHO TAKE  
CUSTOMERS ON WATERSPORT EXCURSIONS ARE TRAINED IN BASIC  
SAFETY MEASURES.

1           WHEREAS, watersport excursion companies are commercial  
2 operations that take customers on excursions for the purpose of  
3 engaging in watersports, such as kayaking, snorkeling, surfing  
4 and stand-up paddle lessons, and scuba diving; and  
5

6           WHEREAS, watersport excursion companies, as well as other  
7 commercial recreational operations, are required to obtain a  
8 permit from the Division of Boating and Ocean Recreation of the  
9 Department of Land and Natural Resources; and  
10

11           WHEREAS, the administrative rules of the Department of Land  
12 and Natural Resources do not currently require the employees of  
13 watersport excursion companies to be trained to render aid in  
14 the event of an emergency; and  
15

16           WHEREAS, taking consumers on watersport excursions without  
17 personnel present who are able to render aid if an emergency  
18 occurs raises potential safety issues; now, therefore,  
19

20           BE IT RESOLVED by the House of Representatives of the  
21 Twenty-eighth Legislature of the State of Hawaii, Regular  
22 Session of 2015, the Senate concurring, that the Department of  
23 Land and Natural Resources is requested to engage stakeholders  
24 to consider adopting permitting provisions requiring employees  
25 of watersport excursion companies who take customers on  
26 watersport excursions to be trained in basic water safety  
27 measures; and  
28



1 BE IT FURTHER RESOLVED that such requirements shall include  
2 training in first aid and cardio pulmonary resuscitation, but  
3 may not exceed licensure standards adopted by industry  
4 associations, such as those adopted by the scuba industry; and  
5

6 BE IT FURTHER RESOLVED that such requirements need not  
7 apply to employees who do not take customers out on excursions,  
8 such as employees who work solely in retail or reservations at a  
9 watersports excursion company or to vessels already regulated by  
10 the United States Coast Guard; and  
11

12 BE IT FURTHER RESOLVED that these requirements need not  
13 apply to every employee who takes customers on watersports  
14 excursions and the Department may determine whether requiring  
15 training for a defined percentage of employees present on an  
16 excursion is sufficient to protect customer and employee health  
17 and safety; and  
18

19 BE IT FURTHER RESOLVED that a certified copy of this  
20 Concurrent Resolution be transmitted to the Chairperson of the  
21 Board of Land and Natural Resources.  
22

