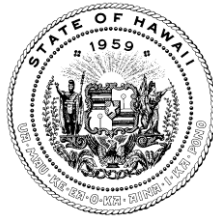


DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WATER AND LAND

Friday, March 15, 2019
1:15 P.M.
State Capitol, Conference Room 229

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
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COMMITTEE ON WATER AND LAND

Senator Kaiali'i Kahele, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF HEARING

MEASURE AND TITLE: HB1151

DATE: Friday, March 15, 2019
TIME: 1:15 P.M.
PLACE: Conference Room 229
MEASURE: HB1151 HD1

TESTIMONY IN OPPOSITION, UNLESS AMENDED

Chair Kahele, Vice Chair Keith-Agaran and Members of the WTL Committee:

We support the bills intent, however, the term "lifeguard" in Section 2, Subsection (1), Page 3, Line 2, is confusing and should be removed, and the term "certified" should be changed to "training". Unless these changes are made, we oppose HB1151 HD1.

Most companies do internal "training" on lifeguarding, AED and CPR devices. However, an official "lifeguard certification" for these skills is not always available in Maui. If and when lifeguard certification is available, the dates and times of the certification course may vary. Also, a vessel would be required to employ several "lifeguard certified" crew members to accommodate the different shifts, sick crew or employee turnover. Internal "training" is a much better process, opposed to a "certification".

We would support the bill with the following amendments to Section 2, Subsection (1), Page 3, Line 2 of HB1151 HD1:

- (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

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



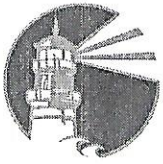
1 BE IT FURTHER RESOLVED that such requirements shall include
2 training in first aid and cardio pulmonary resuscitation, but
3 may not exceed licensure standards adopted by industry
4 associations, such as those adopted by the scuba industry; and
5

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





COMMITTEE ON WATER AND LAND

Senator Kaiali'i Kahele, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF HEARING

DATE: Friday, March 15, 2019
TIME: 1:15 P.M.
PLACE: Conference Room 229

**TESTIMONY OF THE OCEAN TOURISM COALITION WITH COMMENTS ON
HB1151HD1 RELATING TO COMMERCIAL OCEAN RECREATION**

Chair Kahele, Vice Chair Keith-Agaran and Members of WTL Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC), **speaking with Comments on 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. Frankly we believe this is beyond DOBOR's capacity and mandate and should be left to the USCG. **DOBOR will not issue their Commercial Operating Permit without a USCG Certificate of Inspection 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 may be smaller Ocean Recreational businesses that may require additional oversight by the USCG.

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 water safety, 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 changes.

Sincerely,



James E. Coon, President OTC

HB-1151-HD-1

Submitted on: 3/14/2019 8:02:36 AM

Testimony for WTL on 3/15/2019 1:15:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------------------|---------------------|---------------------------|---------------------------|
| Russell Keller Laros III | Individual | Support | No |

Comments:

Aloha and thank you for considering my testimony.

I am in favor of HB1151 with language that requires every single permitted commercial vessel, regardless of size, that allows passengers or guests into the water have at least one crew on every vessel have current Life Guard of Rescue Diver training from a nationally recognized agency and that each boat shall have emergency oxygen on board.

Life guard training is not difficult or expensive to obtain and is about the lowest form of workforce development.

Tourism is an important segment of Hawaii's economy. Accidental drowning is a leading cause of death among tourists. Consumers visiting assume that Hawaii has a high quality standard of care associated with governmentally permitted commercial activities. HB1151 will help to insure that Hawaii tourism will be about safety, stewardship and sustainability rather than just improving the entrepreneurs profitability.

During my 34 years and over 12,000 logged scuba dives as a professional scuba instructor I have been involved in many emergency rescues with both favorable and unfavorable outcomes. In my personal experience I have seen Life guard and Rescue Diver training help insure safe enjoyment of Hawaii's ocean environment.

Ask yourself if you'd want or expect that commercially permitted ocean tour companies that you, your friends and your family patronize have crew that are highly trained in safety and emergency response. Please support HB1151 with suggested amendments. Don't let business interests outweigh consumer safety.

Thank you very much.

Sincerely yours

Keller Laros

Professional Association of Scuba Instructors

Master Scuba Diver Trainer #24235

HB-1151-HD-1

Submitted on: 3/14/2019 9:16:10 AM

Testimony for WTL on 3/15/2019 1:15:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Shannon Shea | Individual | Support | No |

Comments:

Aloha and thank you for considering my testimony.

I am in favor of HB1151 with language that requires every single permitted commercial vessel, regardless of size, that allows passengers or guests into the water have at least one crew on every vessel have current Life Guard of Rescue Diver training from a nationally recognized agency and that each boat shall have emergency oxygen on board.

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Tourism is an important segment of Hawaii's economy. Accidental drowning is a leading cause of death among tourists. Consumers visiting assume that Hawaii has a high quality standard of care associated with governmentally permitted commercial activities. HB1151 will help to insure that Hawaii tourism will be about safety, stewardship and sustainability rather than just improving the entrepreneurs profitability.

During my 10 years and over 3,000 logged scuba dives as a professional scuba instructor I have been involved in many emergency rescues with both favorable and unfavorable outcomes. In my personal experience I have seen Life guard and Rescue Diver training help insure safe enjoyment of Hawaii's ocean environment.

Ask yourself if you'd want or expect that commercially permitted ocean tour companies that you, your friends and your family patronize have crew that are highly trained in safety and emergency response. Please support HB1151 with suggested amendments. Don't let business interests out weigh consumer safety.

Thank you very much.

Sincerely yours

Shannon Shea

Professional Association of Dive Instructors

PADI Course Director #270304

HB-1151-HD-1

Submitted on: 3/12/2019 1:24:40 PM

Testimony for WTL on 3/15/2019 1:15:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|-------------------------------|-------------------------------|
| Erica Scott | Individual | Support | No |

Comments: