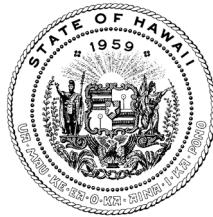


DAVID Y. IGE
GOVERNOR OF HAWAII



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
WAYS AND MEANS

Wednesday, February 24, 2021
10:00 AM

State Capitol, Via Videoconference, Conference Room 211

In consideration of
SENATE BILL 1165
RELATING TO OCEAN RECREATION COMMERCIAL PERMITS

Senate Bill 1165 proposes to authorize the Department of Land and Natural Resources (Department) to issue new ocean recreation commercial permits by public auction. **The Department strongly supports this Administration measure.**

Currently, only Section 200-37(l), Hawaii Revised Statutes, addresses issuing commercial permits by auction. This section requires the Department to auction commercial permits for jet ski and parasail operations. The winning bidders for these permits are committing to pay a monthly permit fee to the Department equal to their winning bid or three percent of gross receipts, whichever is greater. The Department is requesting to amend the statute to allow for the option to issue all new commercial use permits by public auction.

The Department notes that this measure is not intended to affect existing commercial permits and includes clarifying language that only newly issued commercial use permits would be affected. Additionally, this measure proposes to authorize, not require, issuance of new commercial use permits by public auction. In situations where unfairness to permit applicants may result if a lottery or first-come, first-served method were used, the Department believes having the authority to auction new permits would provide a better opportunity for existing established operators to obtain a permit.

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

SB-1165

Submitted on: 2/23/2021 7:48:52 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Strahn	Testifying for Alii Nui Charters	Oppose	No

Comments:

We strongly oppose SB1165 and agree with the testimony of the Ocean Tourism Coalition OTC.

Thanks

Jeff Strahn / General Manager

SB-1165

Submitted on: 2/23/2021 7:51:14 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Phil Kasper	Testifying for Malolo Charters	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB1165

SB-1165

Submitted on: 2/23/2021 7:59:46 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Blake Moore	Testifying for PacWhale EcoAdventures	Oppose	No

Comments:

“Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB1165”



THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF HEARING
DATE: Wednesday, February 24, 2021
TIME: 10:00 A.M.
PLACE: Conference Room 211

**TESTIMONY OF THE OCEAN TOURISM COALITION IN STRONG
OPPOSITION TO SB1165 AS WRITTEN.**

Dear Chair Dela Cruz, Vice Chair Kieth-Agaran, and Members of the Committee on Way and Means:

The OTC represents over 300 small ocean tourism businesses state wide which have been in business for decades. Most of these businesses operate from State Boating Facilities. One of the main reasons these businesses have survived all these years is the relative stability of the current permit system.

Even though this bill attempts to only include auctioning “new” permits, it is still a very flawed concept that would cause many negative consequences. *Also, “new” permits could be interpreted to include existing operators that have been in operation for decades.* For example, if another ocean recreation area is formed in a location that current operators visit (for example, there have been discussions about making Olawalu on Maui a new Ocean Recreation Management Area), then DLNR could argue they are issuing “new” permits for that area. All the operators that go to Olawalu on a regular basis in certain weather conditions would be subject to the auction process.

The entire industry is fearful of this bill. If this bill passes and were ever applied to the Commercial Operators that currently hold permits, it would have a massive detrimental impact on each one of these businesses.

OTC is categorically against auctioning off Commercial Boating Permits. There is a long standing legal and functional protocol for how permits are issued in Small Boat Harbors and Boating Facilities across the State of Hawaii. An individual puts their name on a waiting list, continues to renew it each year until all the names ahead of them on the list have been satisfied. At that point if a slip/permit comes available that person has first right of refusal for that slip/permit. These permits must be reapplied for each year and

are good for no longer than 12 months. If the permittee is in violation of any Federal, State, or County rules they may be denied their permit and it would go to the next person in line.

Once a permit is issued, the *permit holder must operate*. The idea that permits are obtained and sold at a profit does not seem likely, especially if the permit holder never operates. There are minimum revenue requirements for commercial operators under H.A.R. 13-231-61. In most, if not all sales of permits, the seller must demonstrate a “going concern” and demonstrate a cash flow to determine the purchase price. Rarely, if ever, are permits obtained and then sold for a profit without operations.

To auction off long standing Commercial Permits to the highest bidder would be disastrous. The Ocean Tourism Industry is a very labor and capital intensive business. It takes several years to have a vessel built and decades to pay off the bank loan. It took several decades for the Banks to realize that the Ocean Tourism Industry was a legitimate risk and finance the vessels needed. The workers in this industry have a secure future and career path and many make it their life profession as a Merchant Seaman Mariner. SB1165 would disqualify our members from ever getting a Bank Loan for building vessels. This bill would make it almost impossible to do the long range planning, sign long term contracts and attract the long term employees necessary to have an Ocean Tourism Industry.

Safety is a huge concern. Long term, stable and experienced captains and crewmembers are essential to safe operation of a vessel. Some crewmembers and captains just begin to fully understand charter boat operations (and the intricacies of a vessel) after 1-2 years. Firing and laying off these critical members of a charter boat fleet is a huge safety concern. This bill encourages a less experienced, but better funded, company from taking over permits.

Also, if an existing operation loses at the auction, what will happen to the employees hired six months prior to the auction? Will companies even bother to invest in training able-bodied crewmembers?

The current system of permit/slip acquisition may not be perfect, but it is fair and reasonable and gives stability to our harbors and slip/permit owners having the reasonable expectation that if they keep all Federal, State and County laws they will be able to keep their vessel in the slip for another year.

Please do not pass SB1165 which would hurt so many people and help so few. It would disenfranchise the people that have been on the waiting list for decades.

Sincerely,
Ocean Tourism Coalition

SB-1165

Submitted on: 2/23/2021 8:47:59 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James E. Coon	Testifying for Trilogy Excursions	Oppose	No

Comments:

Our Company is Strongly Opposed to SB1165. We concur with the testimony in opposition provided by the Ocean Tourism Coalition.

SB-1165

Submitted on: 2/23/2021 9:52:39 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Ford	Testifying for Maui Classic Charters	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB1165

LATE

SB-1165

Submitted on: 2/23/2021 12:28:28 PM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Turner	Testifying for Maui-Molokai Sea Cruises	Oppose	No

Comments:

Aloha Kakahiaka,

I strongly oppose this bill, as I fear it may set a precedent by which existing (not only new), permits, could in the future be at risk of being auctioned off to the highest bidder. This bill creates an unfair advantage to well funded investors, seeking to enter and even corner the market. Many permittees have built our businesses from the ground floor over centuries. In our case, over 40 years. We operate on slim margins to provide gainful employment to over 30 Maui residents. Thousands of residents are employed by companies like ours, throughout the islands and many of us have sacrificed much to stay in business over the course of the long haul. Boat tour operators in particular, incur substantial start up investment to purchase or build commercially licensed passenger vessels. Subsequent costs to market and brand our businesses in this competitive market are likewise quite substantial. In many cases, it is family money and life savings, earned though careers we have built in our local communities. It takes years to recover such large capital investments and the idea that a mainland Corporation could roll into the islands with deep pockets and snuff us out, by outbidding us, seems extremely short sighted. Many of my employees have been with the company more than a century and some over 20 years. We are Ohana, with loyalty to each other and this special place we live. We understand the culture and precious resources we operate within. Do we really want a major tour boat company from outside Hawaii, entering this market, with little regard to the aina, community and resources. The ocean is precious and we go to great lengths to hire and train the right people, in order to build a team of individuals who truly care about our local waters. There is balance in the nature of the manner in which most of us operate and give back to the community. This balance is driven largely by the fact that we have made a commitment and in many cases, invested our entire life savings to remain here in this business. We built our businesses relying on the commercial permits we operate under. Please do not jeopardise our livelihoods and those of the families who likewise count on our business to continue to support them. This past year has been brutal for our industry. My company closed its doors on March 18 and only just reopened on February 14, after nearly a year of zero income. I personally have not drawn any salary this entire time, in order to survive this pandemic. We are vested in our companies, Ohana and Hawaii, unlike "outside investors", who may be able to monopolize by outbidding the many local companies

who've worked so hard to survive this past year. Mahalo, Scott Turner CEO, Maui-Molokai Sea Cruises

LATE

SB-1165

Submitted on: 2/23/2021 1:55:47 PM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Howeth	Testifying for Lahaina Divers Inc.	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB1165

SB-1165

Submitted on: 2/23/2021 2:25:30 PM

Testimony for WAM on 2/24/2021 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Brennan Henders	Testifying for Maui Classic Charters	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB1165”

SB-1165

Submitted on: 2/23/2021 9:57:55 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristy Ford	Individual	Oppose	No

Comments:

I oppose this bill. It would be harmful to the boating industry which relays on permits for business. If the boats were not able to have secure access to their permits then they would not be able to operate. This would cause uncertainty in the workforce and would actually hurt the people who work in this industry and rely on job's. To create a lottery of sorts would not add benefit. You have companies that have 4 million dollar boats that they use for boating that would possibly be out of a permit. What would that boat owner then do? There are not alternative options that would allow me to support this bill that would be healthy for the industry.

SB-1165

Submitted on: 2/23/2021 10:37:15 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
BENNETT CONVERSE	Testifying for SAIL MAUI	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB116

SB-1165

Submitted on: 2/23/2021 10:53:21 AM

Testimony for WAM on 2/24/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Kelley	Testifying for Aqualani	Oppose	No

Comments:

I am not in support of SB1165. It appearsd to be purely monetary based and would set a difficult president for those that have been operating for many years, effectively and appropriately paying their bills and running a professional service. I do not support auctuoning permits inm any form.

Mike Kelley