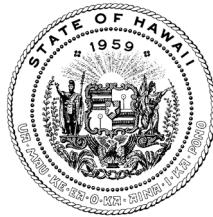


DAVID Y. IGE
GOVERNOR OF HAWAII



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

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WATER AND LAND

Wednesday, February 17, 2021
1:00 PM

State Capitol, Via Videoconference, Conference Room 229

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.



THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEE ON WATER AND LAND
Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF HEARING
DATE: Wednesday, February 17, 2021
TIME: 1:00 P.M.
PLACE: Conference Room 229

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

Dear Chair Lorraine, Vice Chair Kieth-Agaran, and Members of the Committee on Water and Land:

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 contemplates only auctioning “new” permits, it is still a very flawed concept that would cause many negative consequences. Also, “new” permits could be interpreted to including existing operators. 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: 2/16/2021 10:01:30 AM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Denver Saxton Coon	Individual	Oppose	No

Comments:

Trilogy Excursions is opposed to SB1165 and the auctioning of permits. We support the testimony and position of the Ocean Tourism Coalition.

SB-1165

Submitted on: 2/15/2021 1:36:09 PM

Testimony for WTL on 2/17/2021 1:00:00 PM

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

Comments:

We oppose this bill and follow the testimony of the ocean tourism coalition.

SB-1165

Submitted on: 2/16/2021 8:45:59 AM

Testimony for WTL on 2/17/2021 1:00:00 PM

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

Comments:

We strongly oppose SB 1165. We support the Ocean Toursim Testimony on this bill.

LATE

SB-1165

Submitted on: 2/17/2021 12:38:04 PM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Klayton Kubo	Individual	Oppose	No

Comments:

Oppose. If public auction going to be the way to get permits. Only ones with large pockets will be successful