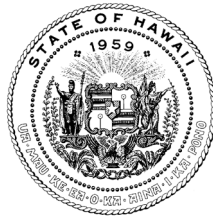


DAVID Y. IGE
GOVERNOR OF HAWAII



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
WATER & LAND

Thursday, April 14, 2022
8:30 A.M.

State Capitol, Conference Room 430, Via Videoconference

In consideration of
SENATE CONCURRENT RESOLUTION 205, SENATE DRAFT 1
REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION, IN CONSULTATION WITH
THE KĀNEʻOHE BAY REGIONAL COUNCIL, TO CONDUCT A STUDY OF
COMMERCIAL ACTIVITY ON KĀNEʻOHE BAY TO QUANTIFY THE AMOUNT OF
NON-PERMITTED COMMERCIAL ACTIVITY THAT IS OPERATING IN
VIOLATION OF THE KĀNEʻOHE BAY MASTER PLAN.

Senate Concurrent Resolution 205 Senate Draft 1 requests the Department of Land and Natural Resources (Department), Division of Boating and Ocean Recreation (DOBOR), in consultation with the Kāneʻohe Bay Regional Council, to conduct a study of commercial activity in Kāneʻohe Bay to quantify the amount of non-permitted commercial activity taking place in the Bay. **The Department appreciates the intent of this measure and offers the following comments.**

DOBOR, in coordination with the Department's Division of Conservation and Resources Enforcement (DOCARE), has brought administrative enforcement actions against a number of persons and companies operating illegal commercial tours in Kāneʻohe Bay ocean waters. DOCARE also cites violators criminally wherever possible.

The Department does not believe that quantifying unpermitted commercial activity is the best use of resources towards the effort to reduce the amount of illegal commercial activity in Kāneʻohe Bay ocean waters. If DOBOR will be responsible for conducting the study contemplated by this measure, it would require additional funding so that it could contract out such a study.

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

Even if a study were to be completed, in order to effectively monitor for and enforce illegal commercial activity statewide, both DOBOR and DOCARE would need more staffing, and DOBOR would need to re-allocate existing staff to ocean recreation activity monitoring. Due to the combination of staffing shortages and heavy workloads, DOBOR Harbor Agents, whose duties include monitoring ocean recreation activities, are mostly stuck in the office handling clerical tasks, such as reviewing paperwork, accepting payments, and preparing letters. If DOBOR is able to execute its 2019 Strategic Plan, these Harbor Agents would be able to allocate more of their time to monitoring ocean recreation activities, responding more quickly to reports of illegal activity, and educating the public regarding ocean regulations.

Additionally, a common enforcement difficulty is proving that an operator was compensated for their services. DOBOR has mirrored its definition of "commercial activity" after the definition implemented by the City and County of Honolulu, which the Department believes is the strongest definition for effective enforcement. However, both DOBOR and DOCARE encounter difficulties when customers of illegal commercial operators refuse to admit that they paid for the operator's services. The illegal commercial operators can then claim that the individuals are friends and/or family who did not pay for any services. Without being able to prove that the illegal commercial operator received compensation, an enforcement action would have a low likelihood of being successful.

Thank you for the opportunity to testify on this measure.

Charlotte A. Carter-Yamauchi
Director

Shawn K. Nakama
First Assistant

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

SCR205 SD1

REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF BOATING AND OCEAN RECREATION, IN CONSULTATION WITH THE KANEOHE BAY REGIONAL COUNCIL, TO CONDUCT A STUDY OF COMMERCIAL ACTIVITY ON KANEOHE BAY TO QUANTIFY THE AMOUNT OF NON-PERMITTED COMMERCIAL ACTIVITY THAT IS OPERATING IN VIOLATION OF THE KANEOHE BAY MASTER PLAN

Testimony by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Director

Presented to the House Committee on Water and Land

Thursday, April 14, 2022, 8:30 a.m.
Conference Room 430 & Videoconference

Chair Tarnas and Members of the Committee:

Good morning Chair Tarnas and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on S.C.R. No. 205, S.D. 1, Requesting the Department of Land and Natural Resources Division of Boating and Ocean Recreation in Consultation with the Kaneohe Bay Regional Council, to Conduct a Study of Commercial Activity on Kaneohe Bay to Quantify the Amount of Non-Permitted Commercial Activity that is Operating in Violation of the Kaneohe Bay Master Plan.

The purpose of this measure is to request that the Department of Land and Natural Resources Division of Boating and Ocean Recreation, in consultation with the Kaneohe Bay Regional Council, conduct a study of commercial activity on Kaneohe Bay to quantify the amount of non-permitted commercial activity that is operating in violation of the Kaneohe Bay Master Plan. As part of the study, the measures requests that the study include an investigation on the challenges to enforcement against illegal commercial activity at Kaneohe Bay and offer recommendations to improve compliance with the Kaneohe Bay Master Plan.

The measure also requests that the Legislative Reference Bureau submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2023.

The Bureau takes no position on the merits of these measures but submits the following comments for your consideration.

The Bureau notes that it was named as the lead agency to conduct the study in the measure as it was originally introduced. According to the previous Committee's report, their intent was to remove the Bureau altogether from the measure. However, while the Senate Draft 1 deleted the Bureau from the title and most of the other provisions of the measure, it seems to have inadvertently retained the Bureau as the agency responsible for drafting and issuing the requested report. Based on the prior Committee's intent, the Bureau believes that the reference to it is an oversight and should be deleted and the Department of Land and Natural Resources Division of Boating and Ocean Recreation be inserted as the reporting agency.

Thank you again for the opportunity to submit written comments.



**Department of Land and Natural Resources
Hawaii State Aha Moku
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

Testimony of
Hawaii State Aha Moku

Before the House Committees
Water and Land
Corrections, Military, & Veterans

Thursday, April 14, 2022
8:30 a.m.

State Capitol, Conference Room 430 & Videoconference

In SUPPORT of
SCR 205 SD1

This Senate Concurrent Resolution is requesting the Department of Land and Natural Resources Division of Boating and Recreation (DOBOR), in consultation with the Kaneohe Bay Regional Council, to conduct a study of commercial activity on Kaneohe Bay to quantify the amount of non-permitted commercial activity that is operating in violation of the Kaneohe Bay Master Plan.

The Hawaii State Aha Moku (Aha Moku) strongly supports this measure.

On behalf of the Hawaii State Aha Moku, Kakuhihewa (Island of Oahu), Moku O Ko'olaupoko, we represent native Hawaiians and members of the Public Trust who are part of the Aha Moku process, particularly in the Ahupua'a of Kualoa, Hakipuu, Waikane, Waihole, Ka'alea, Waihe'e, Kahalu'u, He'eia, and Kaneohe – the nine Ahupua'a encompassing Kaneohe Bay. There are eleven Ahupua'a that comprise the Ko'olaupoko Moku. The other two ahupua'a are Kailua and Waimanalo. Many of the people of these ahupua'a are those with generational knowledge of the natural and cultural resources of the entire windward coast of O'ahu, but particularly Kaneohe Bay. They are the people who have strived over the years to perpetuate and sustain the precious marine resources that so many of their families depended upon for subsistence and cultural traditional use. We work with state and county to protect Kaneohe Bay from overuse and commercial exploitation. We are the people that depend upon the government and the Kaneohe Bay Regional Council to work with and help us in this perpetual mission.

We believe that DOBOR is the right state division to consult with the Kaneohe Bay Master Plan. The people have worked with DOBOR in the past and found them to be fair, receptive and conscientious.

The Kaneohe Bay Master Plan was developed pursuant to Act 208, SLH 1990 and is used as the guideline in the adoption and implementation of rules regarding the regulation of all activities in Kaneohe Bay. However, due to increased and new technology as listed in the Bill for an Act, SB 3328, the intended limits on commercial activities have not been followed to the dismay and anger of the residents and families of the nine ahupua'a encompassing Kaneohe Bay.

We support this SCR 205 SD1 and believe if adopted, this collaboration will lead to the preservation and protection of the bay's natural and cultural resources for the continuing sustainability of this special place. We urge its adoption!

Respectfully,

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SCR-205-SD-1

Submitted on: 4/13/2022 7:48:23 PM

Testimony for WAL on 4/14/2022 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kathleen M Pahinui	Individual	Support	Written Testimony Only

Comments:

Aloha -

This study would help better manage a sensitive aquatic environment. We must do better protecting our natural resources against unchecked commercial activity.

Mahalo,

Kathleen Pahinui

SCR-205-SD-1

Submitted on: 4/13/2022 9:05:52 PM

Testimony for WAL on 4/14/2022 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeb Bassett	Individual	Support	Written Testimony Only

Comments:

I am in support of a study on commercial activity in Kaneohe Bay

SCR-205-SD-1

Submitted on: 4/13/2022 9:39:47 PM

Testimony for WAL on 4/14/2022 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ella Marie Siroskey	Individual	Support	Written Testimony Only

Comments:

I support this bill.

SCR-205-SD-1

Submitted on: 4/13/2022 11:55:16 PM

Testimony for WAL on 4/14/2022 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ann Mello	Individual	Support	Written Testimony Only

Comments:

I support this