

GOV. MSG. NO. 1335

EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

July 6, 2023

The Honorable Ronald D. Kouchi  
President of the Senate,  
and Members of the Senate  
Thirty-Second State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki  
Speaker, and Members of the  
House of Representatives  
Thirty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 6, 2023, the following bill was signed into law:

HB1134 HD2 SD1 CD1

RELATING TO KANEOHE BAY.  
**ACT 232**

Sincerely,

Josh Green, M.D.  
Governor, State of Hawai'i

on JUL 6 2023

HOUSE OF REPRESENTATIVES  
THIRTY-SECOND LEGISLATURE, 2023  
STATE OF HAWAII

H.B. NO. 1134  
H.D. 2  
S.D. 1  
C.D. 1

A BILL FOR AN ACT

RELATING TO KANEOHE BAY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Kaneohe Bay,  
2 including Ahu o Laka, also known as the sandbar, has a rich  
3 cultural history that blends into the understanding of present-  
4 day significance and is a sacred wahi pana to the Native  
5 Hawaiian lineal and generational inhabitants of Koolaupoko,  
6 which includes Waimanalo, Kailua, Kaneohe, Heeia, Kahaluu,  
7 Waihee, Kaalaea, Waiahole, Waikane, Hakipuu, and Kualoa. Over  
8 the years, over-commercialization of Kaneohe Bay, including Ahu  
9 o Laka, has been unnaturally encouraged via social media and  
10 through unpermitted tour operators who advertise and operate  
11 without regard for laws, rules, regulations, and cultural  
12 awareness. Kaneohe Bay and attractions in the bay such as Ahu o  
13 Laka are advertised as "must see" tourist stops without the  
14 mention of cultural awareness or significance, and non-permitted  
15 commercial operators set up advertisements and online payment  
16 schemes and bring guests, circumventing principles and  
17 intentions of the original 1992 Kaneohe Bay master plan. This



1 problem is exacerbated because state entities responsible for  
2 protecting resources do not work on weekends or holidays, which  
3 encourages noncompliance with laws, rules, and regulations.  
4 Furthermore, unauthorized advertising on social media and online  
5 has led to increased private and rental vehicles parking  
6 illegally at Heeia boat harbor and along both sides of  
7 Kamehameha highway, causing unsafe traffic conditions.

8       The legislature further finds that the Kaneohe Bay master  
9 plan was developed pursuant to Act 208, Session Laws of Hawaii  
10 1990, which established a framework for the sustainable  
11 management of the bay's natural resources while accommodating a  
12 variety of uses. A compromise of competing interests resulted  
13 in a cap on the number of commercial enterprises and volume of  
14 permitted commercial activity. The vision continues to be the  
15 preservation and protection of the bay's natural resources for  
16 the continued enjoyment of all.

17       The legislature also finds that limits on commercial  
18 activity have been exceeded by other activities not previously  
19 envisioned and by new technologies that support their  
20 proliferation. Examples include the pre-positioning of rental  
21 kayaks at Heeia state park and Heeia Kea pier; internet



1 advertisements for boats, kayaks, and other commercial  
2 recreational uses; and the ability of customers to pay online  
3 and through mobile money transfer platforms such as Venmo.

4 Accordingly, the purpose of this Act is to update the law  
5 regarding restricted activities in Kaneohe Bay.

6 SECTION 2. Section 200-24, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§200-24[+] **Rules.** The department shall adopt rules  
9 pursuant to chapter 91 to implement the policy and purpose of  
10 this part, and to classify vessels into appropriate categories  
11 and classes.

12 The department shall adopt rules pursuant to chapter 91  
13 with respect to the following:

- 14 (1) The registration and numbering of vessels;  
15 (2) The operation, use, and equipment of vessels on or in  
16 the waters of the State;  
17 (3) The conduct of persons involved in boating accidents  
18 and in the reporting of accidents and other casualties  
19 and losses to the department; [~~and~~]  
20 (4) The designation of areas of the waters of the State  
21 and time periods during which thrill craft may be



1 operated, and waters on or above which, and time  
2 periods during which, persons may engage in  
3 parasailing, commercial high speed boating, and water  
4 sledding; provided that in designating the areas, the  
5 department shall use the official recommendation of  
6 the National Marine Fisheries Service with regard to  
7 the protection of protected marine life and habitats  
8 in adopting rules to implement this section, except as  
9 otherwise provided by law[-]; and

10 (5) Procedures for a law enforcement officer to issue  
11 subpoenas or take custody of property pursuant to  
12 section 200-39(g)."

13 SECTION 3. Section 200-39, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§200-39 Kaneohe Bay commercial ocean use activities;**  
16 **permits; restrictions.** [~~(a) For the purposes of this section,~~  
17 ~~"ocean use activities" means commercial operation of thrill~~  
18 ~~craft, high speed boating, parasailing, water sledding, sailing~~  
19 ~~and snorkeling tours, glassbottom boat tours, or any other~~  
20 ~~similar commercial ocean recreation activity for hire.~~



1       ~~(b)~~ (a) Any other provision of this chapter to the  
2 contrary notwithstanding, no person shall operate thrill craft,  
3 parasailing, water sledding, or commercial high speed boating  
4 unless the person meets the requirements of section 200-37 and  
5 all rules adopted by the department that regulate or restrict  
6 these activities.

7       (b) No person shall conduct any commercial ocean use  
8 activity within Kaneohe Bay waters without a permit issued by  
9 the department.

10       (c) No person shall advertise or otherwise offer any  
11 commercial ocean use activity or equipment for such activity  
12 within Kaneohe Bay waters for which the person does not have a  
13 permit from the department. Advertisement in print; by word of  
14 mouth; or online in any form, including through social media, of  
15 unpermitted commercial ocean use activities or commercial ocean  
16 recreational equipment shall be prima facie evidence that:

17       (1) The owner of the advertised commercial ocean use  
18 activity or commercial ocean recreational equipment  
19 disseminated or directed the dissemination of the  
20 advertisement in that form and manner; and



1           (2) The commercial ocean use activity or commercial ocean  
2           recreational equipment is being operated at the  
3           location advertised.

4           The burden of proof shall be on a person charged with a  
5           violation of this section to establish that the equipment is not  
6           being used for unpermitted commercial ocean use activity or that  
7           the person's conduct is pursuant to a permit, lease, or license  
8           issued by the department.

9           ~~[(e)]~~ (d) Permits issued by the department for ~~[the]~~  
10          commercial ~~[operation of]~~ ocean use activities in Kaneohe Bay  
11          shall be limited to the number and locations, by permit type and  
12          vessel and passenger capacity, provided in the Kaneohe Bay  
13          master plan developed pursuant to Act 208, Session Laws of  
14          Hawaii 1990, until applicable rules consistent with the master  
15          plan are adopted by the department; provided that the passenger  
16          capacity for snorkeling tours and glassbottom boat tours shall  
17          be set through rules adopted pursuant to chapter 91. No thrill  
18          craft permit may be transferred after June 21, 1998; provided  
19          that transfers of permits may be made at any time between family  
20          members.



1       ~~(d)~~ (e) On Sundays and federal holidays, all commercial  
2 ocean use activities shall be prohibited.

3       ~~(e)~~ (f) All rules adopted by the department with regard  
4 to Kaneohe Bay shall be drafted in consultation with the Kaneohe  
5 Bay regional council. For those provisions of the Kaneohe Bay  
6 master plan previously adopted by the legislature, the rules  
7 adopted by the department shall be in accordance with those  
8 provisions. Notwithstanding subsection ~~(e)~~ (d) to the  
9 contrary, if the department determines for safety or  
10 environmental protection reasons that a permitted use should be  
11 relocated, the department may relocate the permitted use and the  
12 department shall have discretion to permit vessel substitution  
13 with a similar length vessel; provided that the increase is  
14 ~~not~~ no greater than ten per cent of the current vessel length.

15       For those provisions of the Kaneohe Bay master plan  
16 developed pursuant to Act 208, Session Laws of Hawaii 1990, not  
17 previously adopted by the legislature, the master plan shall be  
18 used as the recommended guideline in the adoption and  
19 implementation of rules with regard to the regulation of all  
20 activities in Kaneohe Bay.





1        (g) Citations for violations of this section or any rules  
2 of the department adopted pursuant to this section may be issued  
3 by any law enforcement officer. In enforcing this section, any  
4 law enforcement officer shall have the power to issue subpoenas  
5 and take legal custody of any personal property that is the  
6 subject of or related to any violation of this section or rules  
7 established by the department pursuant to this section.

8        (h) Property confiscated pursuant to this section may be  
9 released only upon approval by the board or a court of competent  
10 jurisdiction. Storage of confiscated property shall be at the  
11 sole risk and expense to the owner. The department may charge  
12 reasonable storage fees to the owner for storage of any property  
13 confiscated pursuant to this section.

14        (i) Any property confiscated pursuant to this section that  
15 remains unclaimed for more than ten working days after it has  
16 been released pursuant to subsection (h) may be sold at public  
17 auction. If the department does not, or is unable to, sell the  
18 property at public auction, the department, after giving public  
19 notice of intended disposition, if that notice was not  
20 previously included in a public auction notice, may sell the  
21 property by negotiation, retain and use the property, donate the



1 property to any other government agency, or dispose of the  
2 property as junk.

3 (j) Any penalties established in rule pursuant to this  
4 section shall be separate and in addition to any other fees,  
5 charges, and fines imposed by the department.

6 (k) As used in this section:

7 "Commercial ocean recreational equipment" means thrill  
8 craft; watercraft for high-speed boating, parasailing, water  
9 sledding, sailing, snorkeling, diving tours, fishing tours, or  
10 glassbottom boat tours; kayaks; canoes; any manner of  
11 surfboards, sailboards, paddleboards, or related watercraft; or  
12 watercraft for any other similar commercial ocean activity.

13 "Commercial ocean use activity" means and includes:

- 14 (1) Any commercial operation of commercial ocean  
15 recreational equipment, or any other similar  
16 commercial ocean activity;
- 17 (2) Providing any commercial ocean recreational equipment  
18 for rent or hire; or
- 19 (3) Delivering for hire or pre-positioning within one  
20 thousand feet of any shoreline of Kaneohe Bay for  
21 hire, any commercial ocean recreational equipment.

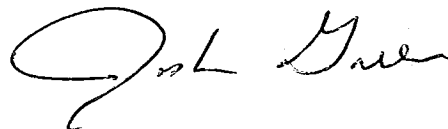


1 "Commercial ocean use activity" shall not include commercial  
2 fishing, commercial ocean activity authorized by a permit issued  
3 by the department, or activity authorized by an existing lease  
4 or license issued by the department."

5 SECTION 4. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on July 1, 2023.

APPROVED this 6th day of July , 2023



GOVERNOR OF THE STATE OF HAWAII



HB No. 1134, HD 2, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki  
Speaker  
House of Representatives





Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: May 2, 2023  
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2023.

  
President of the Senate

  
Clerk of the Senate