

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

**Testimony of
DAWN N.S. CHANG
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Wednesday, March 15, 2023
1:00 P.M.
State Capitol, Conference Room 229**

**In consideration of
HOUSE BILL 1090, HOUSE DRAFT 1
RELATING TO OCEAN RECREATION COMMERCIAL PERMITS**

House Bill 1090, House Draft 1 proposes to specify the methods by which the Department of Land and Natural Resources (Department) can issue new ocean recreation commercial permits and renew existing ocean recreation commercial permits; and specify that for renewal of existing permits in ocean recreation management areas and facilities where a permit limit is implemented, the ability to renew a commercial permit will be based on seniority until the limit is reached. **The Department strongly supports this measure, and requests a proposed amendment.**

The Department is currently in the process of addressing the rampant commercial marine activity taking place in the State near-shore waters. This will require limiting the number of commercial use permits for high use areas. In cases where commercial operating area use permits are being limited for a particular area, the Department, informed by community stakeholders, believes the fairest way to issue those permits is to businesses that have been operating with a valid permit the longest. Once the permits are issued, the Department would like to issue any new operating permits by public auction.

When the Department proposes to implement a permit limit through administrative rules for an area that previously did not have any type of permit limit, the Department must issue permits to all those who apply and qualify for permits until the limit is finalized. Due to the rulemaking process taking months and even years, this means many people can obtain permits while the Department works to implement the limit. This "run on permits" is the reason that many areas have permit counts that exceed limits, and this measure will help the Department to bring the permit counts down to the appropriate limits established in rule.

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
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

The Department has met with stakeholders as well as the House Committee on Water and Land and all agree that Section 2, as it pertains to the ocean recreation commercial permits working group, is no longer needed. The Department recommends Section 2 be removed from this measure.

Mahalo for the opportunity to provide testimony in strong support of this measure, with the proposed amendment.



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
1188 Bishop St., Ste. 1003
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(808) 537-4308 Phone (808) 533-2739 Fax
timlyons@hawaiiantel.net

March 15, 2023

TO: Senate Committee on Water and Land
Senator Lorraine R. Inouye, Chair

FROM: Tim Lyons, CAE
Executive Director

RE: H.B. 1090, H.D. 1 - RELATING TO OCEAN RECREATION COMMERCIAL PERMITS.

Chair Inouye and Members of the Committee:

I am Tim Lyons, Executive Director of the Ocean Tourism Coalition and we can support this bill.

The Ocean Tourism Coalition (OTC) represents over 300 ocean tour operators throughout the state. H.B. 1090 aims to address an issue in various Ocean Recreation Management Areas in the state, where DLNR-DOBOR has stated that the only alternative to this solution would be to randomly select names. Therefore, a seniority-based solution seems more equitable.

OTC has had further discussions with DLNR-DOBOR on the bill and believe that the best course of action is to amend the bill and return it to its original form. The task force language is appreciated; however, OTC agrees with DLNR-DOBOR that the situation requires the bill to implement the seniority based system as soon as possible to avoid any undue hardship on long standing operators.

We thank DLNR-DOBOR for reaching out to us to find a solution to this difficult problem and humbly ask that the bill be passed in its original form to implement a seniority based system.

Thank you.



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THE THIRTY-SECOND LEGISLATURE REGULAR SESSION OF 2023

COMMITTEE ON WATER AND LAND Senator Lorraine R. Inouye, Chair Senator
Brandon J.C. Elefante, Vice Chair

NOTICE OF HEARING DATE: Wednesday, March 15, 2023 TIME: 1:00 PM PLACE:
Conference Room 229 & Videoconference State Capitol 415 South Beretania
Street

TESTIMONY OF THE OCEAN TOURISM COALITION IN SUPPORT OF HB1090

The Ocean Tourism Coalition (OTC) represents over 300 ocean tour operators throughout the state. HB1090 (the "Bill") aims to address an issue in various Ocean Recreation Management Areas in the state, where DLNR-DOBOR has issued more commercial permits than allowed by the administrative rules.

OTC worked with DLNR-DOBOR to resolve this issue through a seniority-based system, which will issue permits to operators who have been operating the longest and have likely invested the most in the area. DLNR-DOBOR has stated that the only alternative to this solution would be to randomly select names. Therefore, a seniority-based solution seems more equitable.

OTC has had further discussions with DLNR-DOBOR on the Bill and believe that **the best course of action is to amend the Bill and return it to its original form.** The task force language is appreciated; however, OTC agrees with DLNR-DOBOR that the situation requires the Bill to implement the seniority based system as soon as possible to avoid any undue hardship on long standing operators.

We thank DLNR-DOBOR for reaching out to us to find a solution to this difficult problem and humbly ask that the Bill be passed in its original form to implement a senioritybased system.

Sincerely,

James E. Coon, President OTC

HB-1090-HD-1

Submitted on: 3/13/2023 9:58:52 PM

Testimony for WTL on 3/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Presley Wann	Testifying for Hui Maka'ainana O Makana	Support	Written Testimony Only

Comments:

Aloha Senators,

We, the Hui Maka'ainana O Makana of Ha'ena, Kaua'i are in support of this bill. We are, particularly, in support consultation of a community and users of ORMA having a voice in the permitting process. We feel there needs to be a "check and balance" process in the issuing of permits, especially, commercial activities in public recreational areas or community based subsistence fishing areas.

Mahalo for this opportunity to testify, Presley Wann (current President for the Hui Maka'ainana O Makana)

HB-1090-HD-1

Submitted on: 3/14/2023 1:08:51 PM

Testimony for WTL on 3/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Holly Crane	Testifying for Anelakai Adventures	Oppose	Written Testimony Only

Comments:

HB-1090, HD1 Relating to Ocean Recreation Commercial Permits

Testimony for the Senate Committee on Water and Land (WTL)

Notice of Hearing: Wednesday, March 15, 2023, 1pm

Submitted by: Iko Balanga and Holly Crane

Organization: Anelakai Adventures

Testifier Position: Oppose

Testify: either remotely via Zoom or via written testimony only

Anelakai Adventures of Keauhou offers the following testimony in **OPPOSITION** to the proposed HB-1090, HD1 Relating to Ocean Recreation Commercial Permits.

While we understand and respect the need to limit commercial uses in our shared oceans for the safety of our natural and cultural resources as well as of our community members and guests, determining the issuance of those permits solely based on seniority does not adequately address either of the above concerns.

For example, while the proposed legislation provides a list of means of record-keeping, it is not clear whether a company that may have been granted permits in the past, but was very recently purchased and are now run by new owners will be granted seniority despite the new owners potentially having no or little experience in our oceans or communities. Dates on booking records do not preclude other, perhaps more relevant and recent changes in vessels, management and ownership.

Also, in the case of the Manta Ray Viewing rules that are currently under consideration for West Hawai'i, there is no clarity about additional, relevant concerns. Because this legislation would apply to those draft rules, this bill should be further amended.

Our small business with non-motorized paddling canoes that operates out of Keauhou has a long enough history of clear records that may allow for us to have our permits renewed under this proposed system. Nonetheless, we also have concerns about the intent of this legislation being more supportive for large-scale commercial tourism than for small, sustainable, non-invasive and culturally respectful businesses that do not add to the issues ostensibly being addressed by this legislation. We urge this committee to consider prioritizing small, local businesses like ours:

- We will never motorize our double-hulled paddling canoes.
- We limit the number of our guests to 6 at a time, versus the 60 per vessel allowed by the applicable draft rules.
- Our staff all are licensed lifeguards, and we provide opportunities for certification for other commercial vessel operators in Keauhou.
- We do not anchor and do not want to have to moor our wa'a but prefer to stay alert to ocean and weather conditions, as well as to the conditions of our guests and the guests of other commercial entities that may need assistance.
- We keep our guests safely seated in the canoe hulls or floating securely between our hulls, with all their appendages within the same, shallow water column as our smooth hulls to assure no touching of the fragile skin of the Manta Rays.
- We welcome people of all abilities, whether they can or want to swim and inclusive of all physical and mental challenges.

Our non-intrusive wa‘a business model does not cause the same threats, bring the same number of people to a viewing site or limit the accessibility of viewers to our shared environment. We and other possibly similar business entities that also provide Hawaiian ocean cultural experiences should not be excluded to the benefit of large-scale, motorized vessels that may have new owners and or new management.

While we appreciate that the Ocean Tourism Coalition got to work with DLNR-DOBOR on this legislation, we note that we and many other small ocean businesses are not represented by OTC, and that the Office of Hawaiian Affairs and Hawai‘i Tourism Authority probably were not consulted either. We would therefore prefer that the Working Group proposed in HD-1 be tasked to include those two agencies and businesses like ours before any legislation like this is passed. Please defer the portions of this bill that would amend Section 200-10, HRS until after such a Working Group is created and allowed to confer and report out.

Mahalo for the opportunity to provide testimony.