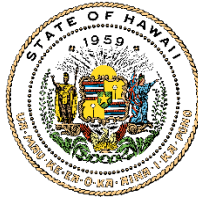


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

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 Committees on  
COMMERCE AND CONSUMER PROTECTION  
and  
WAYS AND MEANS**

**Tuesday, April 4, 2023  
9:45 A.M.  
State Capitol, Conference Room 211**

**In consideration of  
HOUSE BILL 1134, HOUSE DRAFT 2  
RELATING TO KANEOHE BAY**

House Bill 1134, House Draft 2 proposes to prohibit commercial ocean activity in Kāne'ōhe Bay waters without a permit from the Department of Land and Natural Resources (Department); and prohibit any person from advertising any commercial ocean use activity in Kāne'ōhe Bay waters for which the person does not have a permit, lease, or license. **The Department appreciates the intent of this measure and offers amendments.**

All persons and companies wishing to engage in commercial operations in any state ocean waters are already required to obtain a commercial use permit from the Department's Division of Boating and Ocean Recreation (DOBOR). DOBOR has brought civil enforcement actions against violators and has been successful in some instances, resulting in the Board of Land and Natural Resources imposing thousands of dollars in administrative fines and prohibiting violators from obtaining any type of DOBOR permits for a particular period of time.

Unpermitted commercial activity is a pervasive problem statewide and is not only restricted to Kāne'ōhe Bay. Many sites throughout the State suffer from illegal commercial activity, and the most common enforcement difficulty is proving that an operator was compensated for their services. The Department appreciates the initiative this measure takes to reconcile this enforcement difficulty and recommends that the committees adopt the attached Proposed SD1 to clarify some restrictions, as well as redundant and ambiguous language in the House Draft 2.

Mahalo for the opportunity to provide testimony on this measure.

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

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# 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 Waimanalo, Kailua, Kaneohe, Heeia, Kahaluu, Waihee, Kaalea,  
7 Waiahole, Waikane, Hakipuu, and Kualoa. Over the years,  
8 over-commercialization of Kaneohe Bay, including Ahu o Laka, has  
9 been unnaturally encouraged via social media and through  
10 unpermitted tour operators who can advertise and operate without  
11 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

1 intentions of the original 1992 Kaneohe Bay master plan. This  
2 problem is exacerbated because state entities responsible for  
3 protecting resources do not work on weekends or holidays, which  
4 encourages noncompliance with laws, rules, and  
5 regulations. Furthermore, unauthorized advertising on social  
6 media and online has increased private and rental vehicles  
7 parking illegally at Heeia boat harbor and along both sides of  
8 Kamehameha highway, causing unsafe traffic situations.

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

18       The legislature also finds that limits on commercial  
19 activity have been exceeded by other activities not previously  
20 envisioned and by new technologies that support their  
21 proliferation. One example is the pre-positioning of rental  
22 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  
22 operated, and waters on or above which, and time

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

9 (5) Prescribing procedures for enforcement personnel to  
10 issue subpoenas and take custody of property suspected  
11 to be used in unpermitted commercial ocean use  
12 activity, pursuant to section 200-39(h); and

13 (6) Prescribing any other procedures determined by the  
14 department in its experience and discretion to  
15 effectuate the intent of this part and the Kaneohe Bay  
16 master plan."

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

19 **"§200-39 Kaneohe Bay commercial ocean use activities;**  
20 **permits; restrictions.** [~~(a) For the purposes of this section,~~  
21 ~~"ocean use activities" means commercial operation of thrill~~  
22 ~~craft, high speed boating, parasailing, water sledding, sailing~~

1 ~~and snorkeling tours, glassbottom boat tours, or any other~~  
2 ~~similar commercial ocean recreation activity for hire.~~

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

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

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

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

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

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

9           ~~[(c)]~~ (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.

21           ~~[(d)]~~ (e) On Sundays and federal holidays, all commercial  
22 ocean use activities shall be prohibited.

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

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

19           (g) Citations for violations of this section or any rules  
20 of the department adopted pursuant to this section may be issued  
21 by any law enforcement officer. In enforcing this section, any  
22 law enforcement officer shall have the power to issue subpoenas



1 and take legal custody of any personal property that is the  
2 subject of or related to any violation of this section or rules  
3 established by the department pursuant to this section.

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

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

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

1        (k) As used in this section:

2        "Commercial ocean recreational equipment" means thrill  
3 craft; watercraft for high-speed boating, parasailing, water  
4 sledding, sailing, snorkeling, diving tours, fishing tours, or  
5 glassbottom boat tours; kayaks; canoes; any manner of  
6 surfboards, sailboards, paddleboards, or related watercraft; and  
7 watercraft for any other similar commercial ocean activity.

8        "Commercial ocean use activity" includes:

- 9        (1) Any commercial operation, or the providing for hire,  
10        of commercial ocean recreational equipment, or any  
11        other similar commercial ocean activity;
- 12        (2) Providing any commercial ocean recreational equipment  
13        for rent;
- 14        (3) Delivering for hire or pre-positioning within one  
15        thousand feet of any shoreline of Kaneohe Bay for  
16        hire, any commercial ocean recreational equipment; or
- 17        (4) Transporting customers for hire from any location on  
18        Oahu, including but not limited to Heeia Kea, the  
19        Kaneohe Yacht Club, or any private residence, to  
20        Kaneohe Bay.

21        "Commercial ocean use activity" shall not include  
22 commercial fishing, commercial ocean activity authorized by a

1 permit issued by the department, or activity authorized by an  
2 existing lease or license issued by the department."

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

5 SECTION 5. This Act shall take effect on June 30, 3000.

6

**Report Title:**

Kaneohe Bay; Restrictions; Commercial Ocean Use Activities;  
Commercial Ocean Recreational Equipment; Permits

**Description:**

Prohibits commercial ocean use activity in Kaneohe Bay waters without a permit. Prohibits any person from advertising any commercial ocean use activity in Kaneohe Bay waters for which the person does not have a permit. Establishes enforcement mechanisms for the prohibitions. Effective 6/30/3000.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



**Ka Moku'aina 'O Hawai'i Aha Moku O Pae'Aina**

**State of Hawai'i Aha Moku**

**P. O. Box 621**

**Honolulu, Hawaii 96809**

Testimony of the Hawaii State Aha Moku

Before the Senate Committees on

Commerce and Consumer Protection

Ways and Means

Tuesday, 4/4/2023

9:45 A.M.

Conference Room 211 & Videoconference

**IN SUPPORT of House Bill 1134 HD 2**

Relating to Kaneohe Bay

House Bill 1134 HD 2 prohibits ocean use activity in Kaneohe Bay waters without a permit. It prohibits any person from advertising any commercial ocean use activity in Kaneohe Bay waters for which the person does not have a permit. It establishes enforcement mechanisms for the prohibitions.

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

For decades, the residents of Ko'olaupoko Moku have been trying to protect Kaneohe Bay, including Ahu O Laka from desecration and exploitation of its natural and cultural heritage. Ahu O Laka, more commonly known as the "sandbar" is a wahi pana, a cultural sacred place with deep ties between the lineal and cultural descendants of Ko'olaupoko.

Kaneohe Bay is held in such respectful esteem by the people that the Kaneohe Bay Master Plan was developed pursuant to Act 208, Session Laws of Hawaii, 1990 by the users of Kaneohe. An existing rule for Kaneohe Bay is that on Sundays and federal holidays, all commercial ocean use activities shall be prohibited. The DLNR Division of Conservation and Resources Enforcement (DOCARE) does its best to enforce these rules, but it is difficult when all payments and business is done on social media. Continuous illegal commercial activities do not recognize or practice resource sustainability.

The concerns of the Public Trust including the generational and lineal descendants of the kanaka maoli of Ko'olaupoko are carefully outlined in Section 3. Section 200-39 HRS of HB 1134 HD 2 as well as the solutions that will finally protect our waters and our culture now and for future generations.

Respectfully,

Frances "Rocky" Kaluhiwa, Aha Moku Representative of Ko'olaupoko, Po'o O Kakuhihewa

Hawaii State Aha Moku

808-286-7955

Rockykaluhiwa1122@gmail.com

*Pae'Aina: Moku O Keawe, Moku O Piilani, Moku O Kanaloa, Nana'i Kaula, Moloka'i Pule O'o, Moku O Kakuhihewa,  
Manokalanipo, Ka'Aina O Kawelonakala*

**HB-1134-HD-2**

Submitted on: 4/3/2023 9:21:14 AM

Testimony for CPN on 4/4/2023 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Mahealani Cypher	Testifying for Ko`olau Foundation	Support	Written Testimony Only

Comments:

Aloha Chairs Keohokalole and Dela Cruz, and Members of these Committees:

The Ko`olau Foundation strongly supports passage of H.B. 1134 as amended, and urges your concurrence and passage out of committee.

Our organization is dedicated to perpetuating Hawaiian cultural practices and traditions. As such, we have been increasingly concerned over the proliferation and increase of commercial activities in Kane`ohe Bay - particularly unlicensed, illegal tours and transports from the main shore to Ahu o Laka, a wahi kapu.

This bill would enhance management of the valuable cultural and community waters of Kane`ohe bay and, hopefully, deter those attempting to exploit these resources for personal gain.

Mahalo for considering our mana`o. Please add your support to H.B. 1134 as amended.

**LATE**

**HB-1134-HD-2**

Submitted on: 4/3/2023 9:45:42 AM

Testimony for CPN on 4/4/2023 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Elena Bryant	Testifying for Kaneohe Bay Regional Council	Support	Written Testimony Only

Comments:

Aloha Chair Keohokalole, Chair Dela Cruz, and members of the Commerce and Consumer Protection and Ways and Means Committees,

My name is Elena Bryant, and I serve as the Chair of the Legislative Committee for the Kaneohe Bay Regional Council. The Council has designated me to provide testimony in support of HB1134 on behalf of the Kaneohe Bay Regional Council.

The Council has been tasked with, among other things, (1) serving as the public advocate for Kaneohe Bay, (2) making recommendations to the state and county on matters regarding the use of Kaneohe Bay by the general public and commercial ocean use activities, including on legislative matters, and (3) the implementation of the Kaneohe Bay Master Plan as it relates to ocean use activities.

The Kaneohe Bay Master Plan establishes a framework for the sustainable management of the Bay's natural resources while accommodating a variety of uses. Under that framework, the master plan sets limits on the amount of commercial operators in the bay, the types of activities allowed, and capacity limits. Limits on commercial activities imposed under the master plan have been far exceed by commercial operators that are illegally operating without a permit, and unpermitted activities not previously envisioned under the plan have run rampant in the Bay. The proliferation of illegal unpermitted commercial ocean use activities in Kaneohe Bay has been an ongoing issue of serious concern for the Council and the Kaneohe Bay community, and raises a number of concerns regarding impacts that these illegal activities have on the Bay's cultural and natural resources, impacts to sacred cultural sites in the Bay, such as Ahu a Laka, and the increase of private and rental vehicles parking illegal at He`eia Boat Harbor and along both sides of Kamehameha Highway has contributed to unsafe traffic situations. The increase in illegal commercial ocean use activities in the Bay has also impacted the community's use and enjoyment of the Bay, including for subsistence and cultural practices, which is exactly what the Master Plan's limits on commercial activities was intended to prevent.

The Council has reviewed HB1134 and finds that it would give the State an additional tool to deter illegal commercial activities in Kaneohe Bay, which is in line with the objectives of the Council to implement the Kaneohe Bay Master Plan and to be the public advocate for Kaneohe Bay. As such, the Council stands in support and requests that the Committees on Commerce and Consumer Protection and Ways and Means vote in favor of HB1134.

Thank you for the opportunity to provide testimony in support of HB1134.

Me ka ha`aha`a,

Elena Bryant

Kaneohe Bay Regional Council



**HB-1134-HD-2**

Submitted on: 4/1/2023 3:50:41 PM

Testimony for CPN on 4/4/2023 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nancy Davlantes	Testifying for Ko`olaupoko Hawaiian Civic Club	Support	Written Testimony Only

Comments:

To: Senator Jarrett Keohokalole, chair Senate Committee on Commerce and Consumer Protection

Senator Carol Fukunaga, vice-chair Senate Committee on Commerce and Consumer Protection

Senator Donovan Dela Cruz, chair Senate Committee on Ways and Means

Senator Gilbert Keith-Agaran, vice chair Senate Committee on Ways and Means

Tuesday, April 4, 2023

From: Nancy Davlantes, Government Relations Committee

Subject: SUPPORT for HB1134 HD2 – Prohibiting commercial ocean use activity in Kaneohe Bay waters without a permit.

Aloha Chairs Keohokalole and Dela Cruz, Vice Chairs Fukunaga and Keith-Agaran, and Committee Members,

Ko‘olaupoko Hawaiian Civic Club writes in **STRONG SUPPORT** for the passage of HB1134 HD2, which would prohibit commercial ocean use activity in Kaneohe Bay without a permit. This year, our club voted on legislative priorities to mālama i ke kai, one of which was this issue, specifically concern regarding growing commercial activity on Kane`ohe Bay.

The Bay and Ahu o Laka are sacred wahi pana to native Hawaiians of Ko‘olaupoko but have been sorely tested by unpermitted tour operators promoting and advertising on social media without regard for rules, regulations, and cultural awareness. This has been made worse because the state entities responsible for protecting these resources do not work on weekends or

holidays—the times when Heeia Boat Harbor is busiest and when vehicles park illegally at the harbor and along both sides of Kamehameha Highway.

All this activity is contrary to what was envisioned when the Kaneohe Bay master plan was established in 1990 and sought to create a framework for managing the Bay's natural resources while accommodating approved uses. It is now past time to update the law regarding restricted activities in and on the Bay and to provide enforcement mechanisms for various entities to issue subpoenas and take custody of any personal property related to any violation of the rules.

For too long certain members of the public have been pushing the envelope to see what would be tolerated, and for too long those in charge of protecting this sacred place have been without the resources they need to do their job.

For these reasons, we **STRONGLY URGE** you to pass this bill.

*The Ko`olaupoko Hawaiian Civic Club was established in 1937 and is one of the largest in the Association of Hawaiian Civic Clubs nationwide. Ko`olaupoko HCC is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians and providing leadership and scholarships. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart."*

P. O. Box 664 \* Kaneohe, HI 96744

Ph. (808) 235-8111 / 226-4195 \* [www.koolaupoko-hcc.org](http://www.koolaupoko-hcc.org)



## KO'OLAUPOKO HAWAIIAN CIVIC CLUB

To: Senator Jarrett Keohokalole, chair Senate Committee on Commerce and Consumer Protection  
Senator Carol Fukunaga, vice-chair Senate Committee on Commerce and Consumer Protection

Senator Donovan Dela Cruz, chair Senate Committee on Ways and Means  
Senator Gilbert Keith-Agaran, vice chair Senate Committee on Ways and Means

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The Bay and Ahu o Laka are sacred wahi pana to native Hawaiians of Ko'olaupoko but have been sorely tested by unpermitted tour operators promoting and advertising on social media without regard for rules, regulations, and cultural awareness. This has been made worse because the state entities responsible for protecting these resources do not work on weekends or holidays—the times when Heeia Boat Harbor is busiest and when vehicles park illegally at the harbor and along both sides of Kamehameha Highway.

All this activity is contrary to what was envisioned when the Kaneohe Bay master plan was established in 1990 and sought to create a framework for managing the Bay's natural resources while accommodating approved uses. It is now past time to update the law regarding restricted activities in and on the Bay and to provide enforcement mechanisms for various entities to issue subpoenas and take custody of any personal property related to any violation of the rules.

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**HB-1134-HD-2**

Submitted on: 4/1/2023 6:35:37 AM

Testimony for CPN on 4/4/2023 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ward Graessle	Individual	Support	Written Testimony Only

Comments:

It's getting worse each day. These kayak operators are relentless and spreading like wildfire. Please pass HB1134 so there are tools in place to control this growing disaster! Kahaluu is starting to look like Kailua Beach Center and Island Snow. It must stop. Our neighborhood is being ruined.

Aloha members of the Committee. My name is Joe Pickard, and I am writing to support HB1134. I'm a regular user of Kaneohe Bay and was involved in the drafting of the Kaneohe Bay Master Plan. Back in 1990 the Windward Community, Neighborhood Boards, Hawaii Institute of Marine Biology, Fishing, Commercial and Recreational community met and created the Kaneohe Bay Master Plan to protect the Bay for Hawaii's future generations. After two long years of meetings a consensus was reached and the limits to commercial recreation was enacted into law.

However, since the reopening of tourism after the COVID epidemic there have been a number of unpermitted boat operators conducting tours on the Bay which exceeds the limits outlined in the law. Some operate from Heeia Pier while others operate from private residences, on State property along the Highways, or the Kaneohe Bay Yacht Club. These unpermitted operators do not pay State fees, General Excise Tax, nor have insurance to cover the State of Hawaii against accidents. The State has already sued by the families of tourists killed at Sacred Falls and the Blow Hole, and it's just a matter of time before it is held liable for visitors hurt or killed because unpermitted operators are allowed to knowingly operate from State property.

The current law makes it difficult to enforce the commercial use limits in the Master Plan because DOCARE officers say they are unable to observe the exchange of money between the unpermitted operator and their paying passengers. This Bill will make it easier to enforce the law by prohibiting the advertisement of unpermitted tours online, like with the recently adopted City & County ordinance, and require the boat operator to prove they are not operating commercially.

These operators are also staking out their turfs on the Sand Bar where commercial activities are prohibited and have gotten into shouting matches with local fisherman and bullied recreational boaters.

I strongly support HB 1134, in the hope it will help stop these unpermitted tours.

Mahalo.