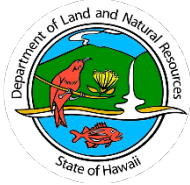


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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
WATER AND LAND
and
TRANSPORTATION AND CULTURE AND THE ARTS

Tuesday, February 14, 2023
3:00 P.M.
State Capitol, Conference Room 224

In consideration of
SENATE BILL 1263
RELATING TO COMMERCIAL OCEAN RECREATION

Senate Bill 1263 proposes to require commercial ocean operators who take customers into state waters to engage in recreational activities to have at least one individual aboard the vessel who is rescue diver or lifeguard certified by a nationally recognized certification organization; and require vessels that transport customers for the purpose of engaging in an activity in state ocean waters to have a backboard, emergency oxygen, and an automated external defibrillator onboard included in its onboard safety equipment. **The Department of Land and Natural Resources (Department) respectfully opposes this measure because of potential liability to the State and jurisdictional issues with federal regulations.**

While the Department acknowledges the importance of customer safety measures, the United States Coast Guard (USCG) is the appropriate entity to consider and implement the requirements proposed by this measure. USCG already requires a comprehensive list of safety requirements for documented commercial vessels and commercial operators. Additionally, SCUBA diving instructors and tour operators are required to meet Professional Association of Diving Instructor/National Association of Underwater Instructor standards.

The Department believes that USCG, not the State, should be the authority to implement new safety measures and that the requirements proposed in this measure are not necessary because of the USCG requirements currently in existence.

Mahalo for the opportunity to testify 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

SB-1263

Submitted on: 2/13/2023 7:26:31 AM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zachary LaPrade	Testifying for Calypso Charters	Oppose	Remotely Via Zoom

Comments:

Dear Chairman and Members of the Committee,

I am writing to express my opposition to the proposed bill requiring commercial ocean operators to have a certified rescue diver or lifeguard on board and to carry specific safety equipment. As a member of the commercial ocean industry, I strongly believe that this bill is unnecessary, redundant, and particularly burdensome for the Maui community.

The Coast Guard has established comprehensive safety standards for commercial vessels operating in state waters, and these standards are regularly enforced through inspections and audits. The proposed bill would impose additional, unnecessary costs on the industry and could create confusion and inconsistency with existing federal regulations.

Furthermore, requiring a certified rescue diver or lifeguard on board every vessel is particularly challenging for the Maui community, as there are no lifeguard certifications available on the island and we have a high turnover rate. This would be a significant burden on small businesses

I respectfully recommend that the committee exclude commercial ocean operators who are USCG certified vessels from the provisions of this bill. This would ensure that operators who are already meeting federal safety standards are not unfairly burdened by additional state regulations.

I thank you for your time and consideration, and I urge you to vote against the passage of this bill.

Sincerely,

Zachary LaPrade



THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2023

COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS

Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, February 14, 2023
TIME: 3:00 PM
PLACE: Conference Room 224 & Videoconference
State Capitol
415 South Beretania Street

TESTIMONY OF THE OCEAN TOURISM COALITION IN OPPOSITION TO SB1263

The Ocean Tourism Coalition (OTC) represents over 300 ocean tour operators statewide. While the intent of the sb1263 (the "Bill") to ensure the safety of commercial ocean operators and their customers is commendable, it is unnecessary and impracticable.

First, the Bill's requirements overlap with existing regulations set by the USCG for inspected vessels. The USCG already has regulations in place to ensure the safety of commercial ocean operators and their vessels, and the addition of another layer of regulation may lead to confusion or duplicative efforts in ensuring safety. The following are some of the many requirements for vessels inspected by the USCG:

1. Crew manning requirements based on the activities of the vessel;
2. Quarterly safety drills;
3. CPR certification for certain % of crew members;
4. Bi-monthly inspections;
5. Life raft inspections;
6. Life vest inspections;
7. Drug testing; and
8. USCG currently requests vessels to conduct snorkeler in distress drills and snorkeler incident questionnaires. Anytime there is a medical emergency the Captain must notify the USCG and file a comprehensive report with the USCG outlining every aspect of the Medical Emergency and the steps taken to mitigate and resolve the emergency. Every serious Medical Emergency is investigated by the USCG.

It is worth noting that DLNR will not issue a Commercial Operating Permit to inspected vessels without a proof of USCG Certificate of Inspection approval.

Second, the Bill's requirement that each vessel used by commercial ocean operators to transport customers must have an automated external defibrillator (AED) on board may not be practical for certain types of vessels such as Ocean Rafts, Open Motorboats, and six passenger vessels. Many of these vessels are considered "Wet Vessels" and may have limited deck space or other factors that make it difficult to have an AED on board, and this could be a safety concern in itself.

OTC respectfully requests that the Bill not be passed.

Sincerely,

A handwritten signature in black ink, appearing to read "Denver Coon", with a long horizontal line extending to the right.

Denver Coon
Director
OTC

SB-1263

Submitted on: 2/11/2023 12:04:18 PM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jerry Isham	Individual	Support	In Person

Comments:

Aloha Senators,

My name is Jerry Isham and fully support this bill this bill is really a no brainer and should have no opposition other than an irresponsible practicing business. Humane safety should always be at the highest of standards when a business takes people out on any kind of excursions.

mahalo!

Jerry Isham

February 13, 2023

Aloha,

I am writing to express my strong support of SB1263. I believe that if passed into law this measure will create a safer environment for the people of Hawaii.

“The Snorkel Safety Study”, funded by Hawaii Tourism Authority in 2019 found that between 2012 and 2021 there were 204 snorkeling related deaths in Hawaii.

I am a strong supporter of improving safety for tourists enjoying Hawaii’s water sports. I believe that by requiring people employed in the ocean recreation industry to have professional level of water safety training, i.e. Life Guard, Rescue Diver or Dive Master will increase safety and enjoyment for kamaaina and visitors alike.

In previous testimony I’ve heard that this Bill is not needed because it is USCG jurisdiction. The US Coast Guard certifies a vessel’s occupancy and safety features such as firefighting equipment, life jackets, stability and maximum passenger capacity. USCG requires boat crews to practice in man over board and fire-fighting drills. **The United States Coast Guard does not require crew training for supervising snorkelers in the water.**

I have also heard testimony that it is beyond the State Authority to require this sort of training for boat crews. It is known that commercial vessels that provide beer, wine and liquor are required by the State of Hawaii to have a crew member with a Blue Card to ensure that alcohol is dispensed in a responsible and legally compliant manner.

Furthermore, vessels that prepare and dispense food are required to have a crew member with a Food Handlers Card which the State web site states that **“The Food Safety Education program is a statewide program launched in 1989 with the primary purpose of protecting the public from foodborne illnesses through education and training.”** Clearly, certain elements of the State of Hawaii recognize and accept their responsibility to protect the public by requiring boats crews to be trained to serve alcohol and prepare food. I believe that it is incumbent upon the State of Hawaii to likewise require that boat crews are trained as life guards, rescue divers or dive masters.

In my 35 years and over fourteen thousand two hundred logged scuba dives as a professional scuba instructor I have rescued people. I have pulled unconscious people from the oceans. I have given breaths and compression. I have used an AED on a boat passenger. These were some of the worst experiences in my life.

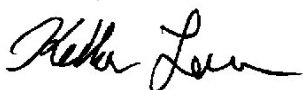
A wise person once said that “an ounce of prevention is worth a pound of cure”.

Life guard training teaches one to recognize signs of trouble and respond before the situation becomes life threatening.

I humbly ask you this, if you, your keiki, your kupuna, your friends and your family were on a state permitted commercial ocean recreation vessel would you want and would you expect that the crew are trained to supervise, recognize, respond to and render assistance if there were an accident?

Please pass SB1263.

Sincerely,



Keller Laros
Professional Association of Diving Instructors
Master Scuba Diver Trainer 24235
(808) 895-1791
kellerlaros@gmail.com

SB-1263

Submitted on: 2/11/2023 11:31:34 AM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Randy Fernley	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill

Randy Fernley

SB-1263

Submitted on: 2/11/2023 5:39:59 PM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Luci Price	Individual	Support	Written Testimony Only

Comments:

I support SB1263.

SB-1263

Submitted on: 2/12/2023 9:19:10 AM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kim Koch	Individual	Support	Written Testimony Only

Comments:

Full support

SB-1263

Submitted on: 2/12/2023 11:22:47 AM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Eric Koch	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye & committee members,

I am submitting written testimony today in **STRONG SUPPORT** of this bill. These proposed measures make sense. Commercial tour operators should be trained and have capabilities to assist their customers if danger arises. I can't understand why anyone would oppose this bill

mahalo

Eric Koch

SB-1263

Submitted on: 2/12/2023 10:02:58 PM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nick R.	Individual	Support	Written Testimony Only

Comments:

I support SB1263 and HB184.

The safety requirements stated in SB1263 and HB184 are low cost and simple solutions towards preventing fatal accidents from businesses leading tourists on excursions in Hawaii's State regulated waters. A person experiencing a heart attack, spinal injury, or a large amount of blood loss while on a water or ocean excursion needs first aid within minutes of the injury to prevent loss of life. Hawaii county first responders cannot reach those injured persons in time to provide life-saving first aid. Tourism businesses should be responsible for providing initial first aid to the guest of their excursions.

Nick R.

Kailua-Kona, Hawaii

SB-1263

Submitted on: 2/13/2023 6:00:02 AM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jay lovell	Individual	Support	Written Testimony Only

Comments:

I support sb1263

common sense safety measures we'll help save lifes

thank you Jaylovell

SB-1263

Submitted on: 2/13/2023 1:37:03 PM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rick Gaffney	Individual	Comments	Written Testimony Only

Comments:

I would like to make some comments on SB1263 because while it has some merit, the way it is written will substantially burden many small ocean recreation business operators. This bill fails to differentiate between those smaller vessel operators who can carry no more than 6 passengers for hire, and those who by virtue of their USCG Certificate of Inspection can legally carry more than 6 passengers.

While asking a large vessel (more than 6 passenger) operator to carry a backboard and an AED may be reasonable and even appropriate, requiring small operators (six or less passengers) to invest in and maintain a \$1200 AED is extremely burdensome, both financially and practically. How do you keep it dry on an open boat?

Moreover the requirement to carry a backboard on a small vessel is essentially impossible as there is simply no room on many of the small vessels in Hawaii's ocean recreation industry, to carry such a long, stiff, awkward piece of equipment.

The provision that vessel crew be trained in CPR, first aid and/or lifesaving is certainly sensible, and most large passenger vessels operating in Hawaiian waters likely already meet that requirement. And some larger vessels already carry AED's and include trained operators as members of their crew.

The reference to kayak operators in SB1263 is not clear. Kayaks themselves are clearly not capable of carrying backboards, nor highly sensitive AEDs. If the intention of the bill is to specifically include larger vessels that carry multiple kayaks and passengers, then that detail needs to be more clearly defined.

This bill does not seem to consider commercial boat rental companies and boat clubs. Do the proposed rules apply to them or not, and how?

I would suggest a revision of SB1263 that separates the requirements for more than 6 passenger vessels from the requirements for 6 or less passenger vessels, in recognition that some of these proposed measures are simply too onerous (if not impossible) for small vessels to meet and that they should therefore have a unique set of rules applying to them.

I make these suggestions based in part on over 50 years of experience in Hawaii's ocean recreation industry as a USCG licensed Captain, and both large and small vessel operator and business manager.

Mahalo for your consideration.

SB-1263

Submitted on: 2/13/2023 2:19:55 PM

Testimony for WTL on 2/14/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
James T Lovell	Individual	Support	Written Testimony Only

Comments:

In Support

Great way to make it safer for tourists who want to enjoy the cean.

Tannks for your time!

Jim Lovell