

JAN 25 2023

A BILL FOR AN ACT

RELATING TO OCEAN RECREATION COMMERCIAL PERMITS.

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

1 SECTION 1. Section 200-10, Hawaii Revised Statutes, is
2 amended as follows:

3 (1) By amending subsection (d) to read as follows:

4 " (d) The department shall not renew or issue a permit to a
5 person who is not the owner of the vessel which is moored or
6 which the person desires to moor in a state small boat harbor.
7 No use permit may be transferred unless specifically provided by
8 law. Any individual who is an owner of a vessel used for
9 commercial purposes, including commercial fishing as a principal
10 means of livelihood, and possesses a valid mooring permit or
11 commercial permit, or both, in accordance with the rules adopted
12 by the chairperson pursuant to chapter 91, may transfer
13 ownership of the vessel from personal ownership to corporate or
14 other business ownership without terminating the right to moor
15 or operate the vessel under the permit or permits. The existing
16 permit or permits shall be reissued in the name of the
17 transferee corporation or other business entity. The department

S.B. NO. 1388

1 may designate moorage space within state small boat harbors to
2 accommodate commercial fishing vessels and transient vessels."

3 (2) By amending subsection (g) to read as follows:

4 " (g) [~~The department may designate moorage space within~~
5 ~~state small boat harbors to accommodate commercial fishing~~
6 ~~vessels and transient vessels.] Except as provided in section
7 200-37(1), all new commercial use permits issued for commercial
8 ocean recreation activity occurring in an ocean recreation
9 management area that are not renewals of permits shall be issued
10 by the following methods and in the following order until all
11 permits allowed by law or determined by the department to be a
12 reasonable number have been issued:~~

13 (1) Seniority based on an applicant's number of years
14 engaged in the business for which a commercial use
15 permit is sought, proven by records including, but not
16 limited to, booking records, gross receipts, passenger
17 manifests, vessel logs, dive logs, and tax records;

18 (2) Seniority based on the date and time a commercial use
19 permit application was submitted;

20 (3) Unsealed public auction; and

21 (4) Lottery.

S.B. NO. 1388

1 Within an ocean recreation management area or state boating
2 facility where the department has implemented administrative
3 rules setting a limit on the number of commercial use permits
4 that can be issued at any one time, if the number of commercial
5 use permits issued exceeds the relevant permit limit, the
6 department shall determine which permittees will be allowed to
7 continue to renew their commercial use permit and shall disallow
8 all other permittees from renewing their commercial use permit
9 by seniority based on the existing permittees' number of years
10 engaged in the business in the area or facility, proven by
11 records including, but not limited to, booking records, gross
12 receipts, passenger manifests, vessel logs, dive logs, and tax
13 records, in order to meet the permit limit."

14 SECTION 2. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.


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

19 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

S.B. NO. 1388

Report Title:

Ocean Recreation Commercial Permits; Department of Land and Natural Resources

Description:

Specifies the methods by which the Department of Land and Natural Resources can issue new ocean recreation commercial permits and renew existing ocean recreation commercial permits. Specifies that new permits for ocean recreation management areas and facilities where a permit limit is implemented, new permits will be issued by the method enumerated and in the order set forth herein until the limit is reached. 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 summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO OCEAN RECREATION COMMERCIAL PERMITS.

PURPOSE: To specify the methods by which the Department can issue new ocean recreation commercial permits; and to specify that for ocean recreation management areas and facilities where a permit limit is implemented, the ability to renew a commercial permit will be based on seniority to meet the limit.

MEANS: Amend section 200-10(d) and (g), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Over the last several decades, the number of commercial operators using state ocean waters for profit has increased with the increase in tourism for popular areas throughout the State.

Section 200-37(1), HRS, currently allows the Department to auction commercial permits for thrill craft and parasail operations only. For commercial permits that are not auctioned, the fee for issuance is \$200. Authorizing use of the auction process for other kinds of commercial permits would allow the Department to limit the number of commercial permits issued, in order to better manage the State's limited natural resources.

The Department maintains waitlists for some commercial permits, which allow a person to reserve a spot in line for the next available commercial permit by signing up and paying a fee. As the fee for issuance of a commercial permit is relatively low, people have been obtaining permits with the intent of holding the permit to sell at a higher price and profit, instead of operating commercially. To discourage this

practice, in absence of a waitlist, a public auction would provide a fair method to issue available permits.

In many zones where a permit limit has been implemented, the number of permits issued exceeds the limit because of "grandfathered" permittees. Being able to renew only certain permits for a zone with a limit that has been exceeded will allow the Department to decrease the number of permits for the zone and meet the permit limit.

Authorizing renewal of only certain commercial permits by seniority, based on a permittee's years conducting the type of business for which a permit is being sought, would be an objective option that is fair to existing permittees.

Impact on the public: All fees collected under section 200-10, HRS, go toward, among other things, operating, maintaining, and managing all state small boat harbor facilities under control of the Department.

Impact on the department and other agencies: In the case of public auctions, this bill would allow the Department to increase its revenues through higher permit fees as a result of competitive bidding in auctions. By being able to renew only certain permits to meet any permit limits that were exceeded, the Department can ensure better conservation of natural resources.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.