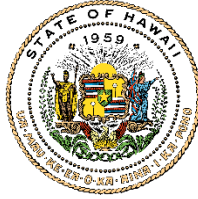


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | 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  
COMMERCE AND CONSUMER PROTECTION

Tuesday, March 19, 2024  
9:36 AM  
State Capitol, Conference Room 229

In consideration of  
HOUSE BILL 2475, HOUSE DRAFT 2  
RELATING TO COMMERCIAL OCEAN ACTIVITY

House Bill 2475, House Draft 2 proposes to include advertisements and offers in the definition of "commercial activity" as used in chapter 200, Hawaii Revised Statutes, and provides that advertisements or offers for commercial activity are prima facie evidence that the owner made such advertisements and that the commercial activity is being operated at the location being advertised. **The Department strongly supports this administration measure.**

There has been a rapid expansion of commercial ocean recreational activity within a relatively short period of time, leading to overuse of boating facilities, strain on natural resources, and user conflicts between recreational and commercial ocean users. Many illegal commercial ocean operators claim that their customers are friends and/or family who are not paying for services, which hinders the Department's efforts to enforce illegal commercial ocean activity.

This measure expands on the authority provided by Act 232, Session Laws of Hawai'i 2023 (Act 232). The scope of Act 232 was restricted to Kāne'ōhe Bay ocean waters, and the Department believes that expanding the scope statewide will greatly assist the Department's efforts to enforce illegal commercial activity.

Thank you for the opportunity to testify on this measure.

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

RYAN K.P. KANAKA'OLE  
FIRST DEPUTY

DEAN D. UYENO  
ACTING 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

**HB-2475-HD-2**

Submitted on: 3/14/2024 4:42:54 PM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Rick Gaffney	Testifying for Hawaii Fishing & Boating Association	Oppose	Written Testimony Only

Comments:

The Hawaii Fishing & Boating Association **strongly opposes** HB 2475 as it is another example of DLNR-BOR's harshly punitive management style, and it is unfair, inappropriate and unjustified.

Furthermore, Hawaii's ocean recreation industry is one of our strongest economic sectors, one of its most valuable employers, and the series of bills introduced this session by the DLNR, as part of the Governor's package, will have a severe impact on an industry that should be supported and thanked, rather than denigrated and vilified by the department, the administration and the legislature.

Please do not move HB2475 forward.



Testimony Before The  
Senate Committee on Water and Land (WTL)  
Senate Committee on Commerce and Consumer Protection (CPN)  
**IN SUPPORT TO HB2475 HD2**  
March 19, 2024, 9:36AM, Room 329 & Via Zoom

We are Olan Leimomi Fisher and Kevin Chang, Kua'āina Advocate and Executive Director, respectively, testifying on behalf of [Kua'āina Ulu 'Auamo \(or KUA\)](#). "Kua'āina Ulu 'Auamo" stands for "grassroots growing through shared responsibility," and our acronym "KUA" means "backbone." **Our mission is to connect and empower communities to improve their quality of life through the collective care for their biocultural (natural and cultural) heritage, serving as a "backbone organization" that supports creative and community-driven solutions to problems stemming from environmental degradation.** Hawai'i's biocultural resources continue to be negatively impacted by political, economic, and social changes, and the increasing dangers of climate change make fostering and empowering resilient communities acutely critical.

Currently KUA supports three major networks of: (1) almost 40 mālama 'āina (caring for our 'āina or "that which feeds") community groups collectively referred to as E Alu Pū (moving forward together); (2) over 60 loko i'a (fishpond aquaculture systems unique to Hawai'i) and wai 'ōpae (anchialine pool systems) sites in varying stages of restoration and development, with numerous caretakers, stakeholders, and volunteers known as the Hui Mālama Loko I'a ("caretakers of fishponds"); and (3) the Limu Hui made up of over 50 loea (traditional experts) and practitioners in all things "limu" or locally-grown "seaweed." **Our shared vision is to once again experience what our kūpuna (ancestors) referred to as 'ĀINA MOMONA – abundant and healthy ecological systems that sustain our community resilience and well-being.**

**KUA supports HB2475 HD2 as an incremental step toward 'āina momona.**

This bill will provide the Department of Land and Natural Resources' Division of Boating and Ocean Recreation (DLNR-DOBOR) with the necessary enforcement rules concerning what constitutes "commercial activity" to include the numerous ways these illegally unpermitted services are advertised via word of mouth, social media, etc.; and placing the burden of proof on the party that advertises. These **unpermitted operators often disregard laws and cultural understandings – likely spreading more misinformation than genuine knowledge of the Native Hawaiian culture, places, and animals – endangering conditions for everyone and confusing more and more tourists along the way.** We remind our legislators that DOBOR was transferred from DOT to DLNR stewardship in 1991 – over thirty years ago – and KUA appreciates this measure as a strong starting point to finally begin shifting DOBOR's mission and culture from previously prioritizing commercial and revenue generating activities to a more balanced approach *with preservation of our natural and cultural resources also considered at every turn.* **Nearshore resources and communities engaging in mālama 'āina – care for that which sustains us – have long awaited reforms in DOBOR due to the rampant over commercialization of our shared public trust resources.**

**‘Āina Momona is not achievable without prioritizing the well-being of kama‘āina, locals and Native Hawaiians alike, that intimately know and care for our shared places.**

Nearshore resources are currently impacted by rampant abuse by illegal commercial activity or abuse of legal commercial privileges, which among other things disturb fishing grounds, cause conflict and overcrowd of public areas, hinder access points, and impair community boat ramps. Community calls have often gone unheard due to DOBOR’s limited capacity and/or enforcement capabilities. Bills like HB2475 HD2 aim to address this overlooked and quickly growing issue. Please **PASS** HB2475 HD2.

Mahalo for this opportunity to submit testimony on this important issue.

**Aloha ‘Āina Momona no nā kau ā kau.**



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**LATE**

**HEARING BEFORE THE SENATE COMMITTEES ON  
COMMERCE AND CONSUMER PROTECTION and WATER AND LAND  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229  
Tuesday, March 19, 2024, 9:36 AM**

To The Honorable Senator Jarrett Keohokalole, Chair  
The Honorable Senator Carol Fukunaga, Vice Chair  
Members of the committee on Commerce and Consumer Protection  
To The Honorable Senator Lorraine R. Inouye, Chair  
The Honorable Senator Brandon J.C. Elefante, Vice Chair  
Members of the Committee on Water and Land

#### **SUPPORT HB2475 HD2 RELATING TO COMMERCIAL OCEAN ACTIVITY**

The Maui Chamber of Commerce **SUPPORTS HB2475 HD2** which includes advertisements and offers in the definition of "commercial activity" as used in chapter 200, HRS, and provides that advertisements or offers for commercial activity are prima facie evidence that the owner disseminated or directed dissemination of such advertisements or offers.

The Chamber notes that over the years, over-commercialization of state ocean waters has been unnaturally encouraged via social media and through unpermitted ocean tour operators who advertise and operate without regard for laws, rules, regulations, and cultural awareness. These unpermitted commercial operators set up advertisements and online payment schemes, circumventing commercial ocean activity laws and restrictions. Subsequently, when attempting to enforce against illegal commercial activity, department staff have oftentimes encountered difficulty in proving that commercial activity or compensation of the alleged illegal commercial operator occurred.

We support this bill which expands a tool used by DLNR to eliminate illegal operators. We applaud that DLNR can work with and collaborate with legal operators while eliminating scofflaws. The problems caused by illegal operators often cause a black eye and/or retaliatory actions on the entire industry, negatively impacting legal operators, who uphold industry standards.

For these reasons we **SUPPORT HB2475 HD2** and respectfully ask that it be passed.

Sincerely,

Pamela Tumpap  
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

**HB-2475-HD-2**

Submitted on: 3/14/2024 2:52:02 PM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Uilani Naipo	Individual	Support	Written Testimony Only

Comments:

I support this measure.

**HB-2475-HD-2**

Submitted on: 3/14/2024 3:25:38 PM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Bianca Isaki	Individual	Support	Remotely Via Zoom

Comments:

Aloha Senators - please SUPPORT HB2475. There are multiple commercial surf tour operators at Ala Moana regional park that escape permitting and enforcement on the very thin basis that they "do not take money in the park." They outfit their clients with "reef walkers" and stomp all over the reef, they take up the beach for storage, they park in the cross-walk to wait to take public parking, and call the cops on us when we even take photos of their commercial activities.

It is common sense that if they advertise their activity as commercial and then conduct the activity, it is commercial. Please provide this logical enforcement tool.

Yours,

Bianca Isaki











**HB-2475-HD-2**

Submitted on: 3/14/2024 3:34:58 PM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

Yes - Provides that advertisements or offers for commercial activity are prima facie evidence that the owner disseminated or directed dissemination of such advertisements or offers and the commercial activity is operated at the location advertised or offered. Includes advertisements and offers in the definition of "commercial activity" as used in the state boating laws

**HB-2475-HD-2**

Submitted on: 3/14/2024 4:14:56 PM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Julia Estigoy-Kahoonei	Individual	Support	Written Testimony Only

Comments:

I support this bill as I understand it to hold those who do commercial activities in the water be held responsible to be transparent in what acitivities are offered and restricted to the location stated in their advertisements

**HB-2475-HD-2**

Submitted on: 3/14/2024 9:54:08 PM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Leina'ala Riela-Enoka	Individual	Support	Written Testimony Only

Comments:

I support HB2475 and the enforcement to stop commercial activities in our public beach parks and reefs.

**HB-2475-HD-2**

Submitted on: 3/15/2024 12:33:33 AM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Bruce Lum	Individual	Support	Written Testimony Only

Comments:

I support Bill HB2475, because it provides DLNR with the best opportunity to defend Hawaii against the proliferation of illegal commercial operators across the state.

The rapid growth of digital platforms and tools have enabled fringe, unpermitted, commercial operators to mask, circumvent and evade notice by DOBOR. These unpermitted commercial operators set up advertisements and online payment schemes that circumvent commercial ocean activity laws and restrictions, causing over commercialization of Hawaii's ocean and river resources and subsequently reduces safety and threatens ocean recreation resources subject to permitted recreational uses.

HB2475 will provide DLNR/DOBOR the means to defeat and neutralize the "legal loopholes" utilized by unpermitted commercial operators to use advertisements and offers of unpermitted commercial ocean use activities or commercial ocean recreational equipment within Hawaii's ocean and rivers under DLNR's management.

Please adopt HB2475. Mahalo.

**HB-2475-HD-2**

Submitted on: 3/15/2024 2:31:17 PM

Testimony for WTL on 3/19/2024 9:36:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristine Wallerius Chung	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Chair Inouye and Committee Members,

Although I agree with the spirit of the limitation on advertisement by ILLEGAL (non permit holding) COMMERCIAL OPERATORS, the wording suggests that DOBOR/DLNR intends to levy an unspecified fine/punishment without first determining if that operator is LEGAL. It continues to state that the burden of proof is on the operator. This is not constitutional and threatens any commercial operator to prove they are in possession of the necessary permit. The department has access to this information and needs to cite only those operators who do not have a permit rather than citing any ocean recreation advertiser and force them to defend themselves.

Also, the amount of gross receipts should not have a lower limit- this unfairly penalizes many small business owners and has nothing to do with the stated intent of this bill.

Although I couldn't find specifically where DLNR/DOBOR will restrict commercial activity on weekends/holidays it is my understanding that it is in this bill. There are several sections including phrasing allowing 'any and all rules' to be created after the passage of this bill.

As is often the case, DLNR/DOBOR is using a hammer when a surgeon's knife would do a much better service to the public, visitors to our Islands, and the environment. The overreach and attempt to bury rules that negatively impact our small businesses in a bill that bears no relation to them is familiar territory.

DLNR would be better served actually patrolling and checking for Commercial Use Permits. Any presence at all would limit illegal operators. While I support the monitoring and fining of illegal operators advertising (why not require a CUP license number in ads?), this bill is a Trojan Horse and I respectfully ask that the Committee not let their guard down and OPPOSE this bill.



**LATE**

**HB-2475-HD-2**

Submitted on: 3/18/2024 9:44:34 AM

Testimony for WTL on 3/19/2024 9:36:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kai Nishiki	Individual	Support	Written Testimony Only

Comments:

- Support DLNR ability to have better enforcement capabilities for commercial operators.