

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

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
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 House Committee on  
WATER AND LAND**

**Tuesday, January 31, 2023  
9:00 A.M.  
State Capitol, Conference Room 430**

**In consideration of  
HOUSE BILL 184  
RELATING TO COMMERCIAL OCEAN RECREATION**

House Bill 184 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.

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

LAURA H. E. KAAKUA  
DEPUTY DIRECTOR - LAND

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

**HB-184**

Submitted on: 1/27/2023 6:04:15 PM

Testimony for WAL on 1/31/2023 9:00:00 AM

| <b>Submitted By</b> | <b>Organization</b>  | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|----------------------|---------------------------|------------------------|
| Mike Kelley         | Ka'anapali Surf Club | Oppose                    | Written Testimony Only |

Comments:

As a small independant operator of minimal sized groups out in kayaks having to require an instructor guide to secure rescue diver or lifeguard training and certification will practically shut down most kayak operators. The abilioty to seek classes, devoted time, costs and retention will force most if ot all kayak instructor / guides out of the industry where it's hard already to secure staff.

Similarly for pontoon or zodiac type inflatable 6 pasenger or less transport vessels to have a backboard and defibrulator is not practical fo space or function and in and of itself may cause issues.

I am against these two measures and find them not necessary and cause for one further manner to limit business



# Ocean Tourism Coalition

**The Voice for Hawaii's Ocean Tourism  
Industry**  
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HOUSE OF REPRESENTATIVES  
THE THIRTY-SECOND LEGISLATURE  
REGULAR SESSION OF 2023

COMMITTEE ON WATER & LAND

Rep. Linda Ichiyama, Chair  
Rep. Mahina Poepoe, Vice Chair

Rep. Cory M. Chun      Rep. Dee Morikawa  
Rep. Sonny Ganaden    Rep. Gregg Takayama  
Rep. Mark J. Hashem    Rep. Kanani Souza

NOTICE OF HEARING

DATE:      Tuesday, January 31, 2023  
TIME:      9:00 AM  
PLACE:     VIA VIDEOCONFERENCE  
              Conference Room 430  
              State Capitol  
              415 South Beretania Street

**TESTIMONY OF THE OCEAN TOURISM COALITION IN OPPOSITION (AS WRITTEN) TO HB184**

The Ocean Tourism Coalition (OTC) represents over 300 ocean tour operators statewide. While the intent of the HB184 (the "Bill") to ensure the safety of commercial ocean operators and their customers is commendable, it is unnecessary that this Bill apply to vessels inspected by the United States Coast Guard (USCG).

First, the Bill's requirements overlap with existing regulations set by the USCG. 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 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 and Open Motorboats. 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.

Therefore, the OTC respectfully requests that Section §200 (a) of the Bill be amended to read as follows:

"(a) Each commercial ocean operator who transports customers aboard a vessel into state waters to engage in recreational activities, including snorkeling, scuba diving, kayaking, and surfing, shall have aboard the vessel used to transport the customers at least one individual who is certified as a rescue diver or lifeguard by a nationally recognized certification organization; **provided that this subsection shall not apply to vessels inspected by the United States Coast Guard.**"

Sincerely,



James E. Coon  
President  
OTC

**HB-184**

Submitted on: 1/29/2023 8:09:04 PM

Testimony for WAL on 1/31/2023 9:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Denver Saxton Coon  | Individual          | Oppose                    | Written Testimony<br>Only |

Comments:

This bill should not apply to vessels that are USCG inspected as this is duplicative of current rules and regulations. Trilogy agrees with the Ocean Tourism Coalition and suggests the language in Section 200(a) be changed to exempt vessels that are inspected by the USCG.

**HB-184**

Submitted on: 1/30/2023 10:43:07 AM

Testimony for WAL on 1/31/2023 9:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b> |
|---------------------|---------------------|---------------------------|----------------|
| Zachary LaPrade     | Calypso Charters    | Oppose                    | In Person      |

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

**HB-184**

Submitted on: 1/30/2023 10:46:41 AM

Testimony for WAL on 1/31/2023 9:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Phil Kasper         | Malolo Charters     | Oppose                    | Written Testimony Only |

Comments:

Dear Honorable Committee Members,

I hope this letter finds you well. I am writing to express my concerns regarding the proposed bill that would affect commercial ocean operators. In my opinion, this bill is excessive, duplicative, and would have a negative impact on the Maui community.

The United States Coast Guard already enforces strict safety regulations for commercial vessels in state waters. Imposing additional regulations could cause confusion and lead to increased costs for the industry.

The proposed requirement for a certified rescue diver or lifeguard on board each vessel is also problematic, particularly for the Maui community where lifeguard certifications are not readily available and staff turnover is high. This could harm small businesses.

Given these concerns, I would like to suggest that USCG certified vessels be exempt from the provisions of this bill. These operators are already meeting federal safety standards and should not be subject to additional state regulations.

Thank you for considering my perspective on this issue. I look forward to your favorable consideration of my recommendation.

Sincerely,

Christopher Kasper

**HB-184**

Submitted on: 1/30/2023 1:06:45 PM

Testimony for WAL on 1/31/2023 9:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Holly Hokenson      | Individual          | Support                   | Written Testimony Only |

Comments:

To whom it may concern,

My name is Holly Hokenson and I am a scuba diving guide working in Kailua Kona. I am writing today to voice my support for HB184 for the following reasons. I was working as crew on the first boat to arrive at the fatal accident in Makako Bay in April of 2022. I witnessed the crew of Sunlight on the Water tours attempt to take the body of their injured crew member from the ocean and I witnessed her blood loss from her lost limb while they attempted this. I cannot speculate what would have happened if the crew attempting to assist her had lifeguard/safety diver training. What I can say is that crew who had the training this bill is suggesting would have prior experience in pulling an unconscious person out of the water and experience in finding a tourniquet in a boat setting to get on her limb faster. I know this because in safety diver training the student is trained specifically to get an unconscious person from deep water onto a boat as quickly as possible. Multiple strategies are presented and practiced in this training to achieve that goal. Basic first aid training is given in these courses and related to a boat setting so that crew would have known exactly what could become a tourniquet in an emergency situation such as this.

I am communicating why this training would have been relevant in one specific situation. However, less severe situations happen everyday in aquatic tourism. In these situations HB184 could help ensure safety of people visiting Hawaii and the professionals that work in this field. If safety is the priority when it comes to aquatic tourism then the right decision is to support HB184 into law.

Thank you for your time.