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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
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**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Monday, February 6, 2023
1:05 P.M.
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 1388
RELATING TO OCEAN RECREATION COMMERCIAL PERMITS**

Senate Bill 1388 proposes to specify the methods by which the Department of Land and Natural Resources (Department) can issue new ocean recreation commercial permits and renew existing ocean recreation commercial permits; and specify that 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 Department strongly supports this Administration measure.**

The Department is currently in the process of addressing the rampant commercial marine activity taking place in the State near-shore waters. This will require limiting the number of commercial use permits for high use areas. In cases where commercial operating area use permits are being limited for a particular area, the Department believes the fairest way to issue those permits is to businesses that have been operating with a valid permit the longest. Once the permits are issued, the Department would like to issue any new operating permits by public auction.

Currently, Section 200-37(1), Hawaii Revised Statutes, addresses issuing commercial permits by auction. This section limits the Departments ability to auction commercial permits for only jet ski and parasail operations. The Department is requesting to amend the statute to allow for the option to issue all new commercial use permits by public auction.

The Department notes that this measure is not intended to affect existing commercial permits and includes clarifying language that only newly issued commercial use permits would be affected.

Mahalo for the opportunity to provide testimony in strong support of 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
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MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair

Senator Brandon J.C. Elefante, Vice Chair

NOTICE OF HEARING

DATE: Monday, February 6, 2023
TIME: 1:05 PM
PLACE: Conference Room 229 & Videoconference
State Capitol
415 South Beretania Street

TESTIMONY OF THE OCEAN TOURISM COALITION ON SB1388

The Ocean Tourism Coalition (OTC) represents over 300 ocean tour operators throughout the state. SB1388 (the "Bill") aims to address an issue in various Ocean Recreation Management Areas in the state, where DLNR-DOBOR has issued more commercial permits than allowed by the administrative rules.

OTC worked with DLNR-DOBOR to resolve this issue through a seniority-based system, which will issue permits to operators who have been operating the longest and have likely invested the most in the area. DLNR-DOBOR has stated that the only alternative to this solution would be to randomly select names. Therefore, a seniority-based solution seems more equitable.

However, the end result will be some operators losing their permits and likely their businesses. As a result, OTC recognizes that there will be many operators who will disagree with this Bill, as it will put them at a disadvantage in securing a permit. This is understandable and certainly not something OTC wants to see happen to the many people who have put in both time, hard work to operate a business, only to lose their permit through no fault of their own.

OTC would like to stress that this is a delicate situation, and that OTC is open to additional thoughts or ideas on solutions as there is likely more than one way to handle this issue. We would also like to express our reservations with certain parts of the Bill. In particular, § (g) of the Bill reads that permits will be issued until the amount allowed by law "**...or determined by the department to be a reasonable number.**" OTC is concerned that this would allow the department to reduce permits to numbers below what the administrative rules allow and cause greater harm than necessary. OTC has requested further clarification from DLNR-DOBOR on this point and its possible removal.

We thank DLNR-DOBOR for reaching out to us to find a solution to this difficult problem.

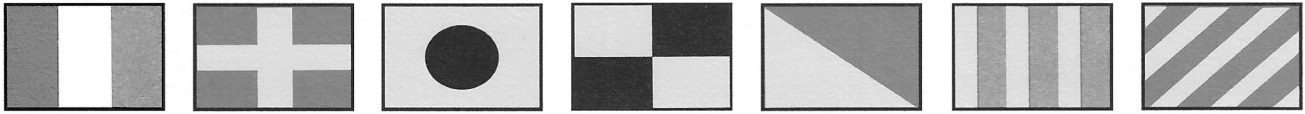
Sincerely,

Denver S. Coon

Director

OTC

T R I L O G Y



THE THIRTY-SECOND LEGISLATURE REGULAR SESSION OF 2023

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair
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TESTIMONY OF JAMES COON SPEAKING ON SB1388

My name is James Coon speaking with grave concerns about SB1388 (the "Bill") which attempts to resolve an issue in various Ocean Recreation Management Areas in the State where DLNR-DOBOR issued more commercial permits than allowed by the administrative rules. There are only a few areas in the State where this has happened. I don't believe DOBOR needs to create a whole new system of managing permits to solve this oversight.

The Ocean Tourism Coalition (OTC) worked with DLNR-DOBOR to help craft a bill that **resolves this issue using a seniority-based system to issue permits** to those that have been operating the longest and likely have invested the most time and capital into the area. The seniority based system aligns with the waiting list approach that DOBOR has traditionally used. **I support this seniority approach should this bill be passed.** However, the end result will be some operators losing their permits and likely their businesses through no fault of their own.

I also support OTC's reservations with certain parts of the bill. In particular, § (g) of the bill reads that permits will be issued to the amount allowed by law "**or determined by the department to be a reasonable number.**" OTC is concerned that this could allow the department to reduce permits to numbers far below what the administrative rules allow and cause greater harm than necessary.

Sincerely,

James E. Coon, Vice President
TRILOGY EXCURSIONS
808-870-9115

SB-1388

Submitted on: 2/6/2023 8:08:32 AM

Testimony for WTL on 2/6/2023 1:05:00 PM



| Submitted By | Organization | Testifier Position | Testify |
|-----------------|---------------------------------|--------------------|------------------------|
| Zachary LaPrade | Testifying for Calypso Charters | Comments | Written Testimony Only |

Comments:

The Ocean Tourism Coalition (OTC) worked in collaboration with DLNR-DOBOR to draft the bill, which proposes a seniority-based system for issuing permits to operators. This system would prioritize those operators who have been in the industry the longest and likely have made the most investment in terms of time and capital.

I support this seniority-based approach, as it aligns with the traditional waiting list approach used by DOBOR. However, I also understand that this approach may result in some operators losing their permits and potentially their businesses, even if it is not their fault.

Despite my support for the seniority approach, I have reservations about certain parts of the bill. Specifically, I am concerned about Section (g) of the bill, which allows the department to determine the "reasonable number" of permits to be issued. The OTC shares my concerns, as this language could potentially lead to a reduction of permits to a number far below what is allowed by the administrative rules, causing greater harm to the industry than necessary.