

ACT 258

S.B. NO. 3248

A Bill for an Act Relating to Ocean Recreation Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 200-37, Hawaii Revised Statutes, is amended to read as follows:

“§200-37 Operation of thrill craft; parasailing; water sledding; commercial high speed boating. (a) No person shall operate a thrill craft unless the person is fifteen years of age or older.

(b) The department shall adopt rules to designate areas where, and time periods during which, thrill craft may be operated and parasailing, water sledding, and commercial high speed boating may be engaged in.

(c) No person shall operate a thrill craft in the waters of the State, except:

(1) In areas and during time periods designated by the department; and

(2) Through areas designated by the department to serve as avenues for the ingress and egress of thrill craft between the areas designated under paragraph (1) and the shore.

(d) No person shall:

(1) Engage in parasailing; or

(2) Operate a motorized vessel towing a person engaged in parasailing; on or above the waters of the State, except on or above areas and during time periods designated by the department.

(e) No person shall:

(1) Engage in water sledding; or

(2) Operate a motorized vessel towing a person engaged in water sledding; in the waters of the State, except in areas and during time periods designated by the department.

(f) No person shall engage in commercial high speed boating or operate an open power boat capable of exceeding [40] forty miles per hour for commercial high speed boating purposes in the waters of the State, except:

(1) In areas, along routes, and during time periods designated by the department; and

(2) In accordance with a permit issued by the department.

(g) During all weekends and state and federal holidays, no commercial operator shall operate a thrill craft, or engage in parasailing, water sledding, or commercial high speed boating, or operate a motor vessel towing a person engaged in water sledding or parasailing in Maunaloa Bay on Oahu as provided for in section 200-38.

(h) On Sundays, all commercial ocean recreation activities, including those listed in this section, shall be prohibited on Oahu in Maunaloa Bay as provided for in section 200-38.

(i) Between December 15 and May 15 of each year, no person shall operate a thrill craft, or engage in parasailing, water sledding, or commercial high speed boating, or operate a motor vessel towing a person engaged in water sledding or parasailing on the west and south shore of Maui as provided in section 200-38.

(j) All commercial use and operator permits issued by the department for commercial thrill craft, and parasailing activities shall be [nontransferable and shall expire upon the dissolution, sale, or transfer of any or all interests in the corporation, business entity, or person to which the permit was originally issued.] fully transferable upon the payment of a business transfer fee in an amount determined by the department, which shall be no less than ten per cent of the transfer price; provided

that no more than one transfer every two years shall be authorized with respect to any given permit.

(k) The department may immediately revoke a commercial use permit without a hearing for any activity that endangers or may endanger the health or safety of passengers or the public, and may suspend or revoke a commercial use permit for violation of any rules of the department if, after seventy-two hours notice by the department of the violation, the permit holder fails to cure the violation; provided that the permit holder shall have ten days from receipt of the notice of suspension or revocation to request in writing an administrative hearing. The administrative hearing is solely for the purpose of allowing the permit holder to contest the basis for the suspension or revocation of the permit. The hearing shall be held within five working days of the department's receipt of the written request. The chairperson shall adopt rules pursuant to chapter 91 to implement the procedures governing the administrative hearing process. Within ten days after the conclusion of the hearing, the department shall either:

- (1) Lift the suspension;
- (2) Suspend the permit for a period of not longer than one year; or
- (3) Revoke the permit.

(l) All new commercial use and operator permits issued by the department for commercial thrill craft, and parasailing activities after the effective date of this Act shall be issued at public auction.

(m) Each commercial use and operator permit issued by the department for commercial thrill craft, and parasailing activities shall be valid for five years from the date of issuance and shall be renewed by the department for additional five-year periods, not to exceed a maximum of ten years; provided that the permit holder shall have met the following conditions:

- (1) The permit holder shall be in compliance with all applicable rules of the department;
- (2) The permit holder shall have timely filed and paid all applicable state taxes during the year; and
- (3) The permit holder shall have a good safety record regarding the operation of a commercial thrill craft, or parasailing activity.

(n) Upon expiration of the ten year period, the permit may be offered for public auction as provided in this chapter; provided that the previous permit holder shall be offered the right of first refusal in accordance with departmental rules; and provided further that the permit holder shall agree to match the highest bid offered at the public auction.

(o) All commercial use and operator permits issued by the department for commercial thrill craft, and parasailing activities shall be subject to an annual review by the department which shall include but not be limited to:

- (1) The permit holder's compliance with applicable rules of the department;
- (2) The permit holder's timely filing and payment of all applicable state taxes during the year; and
- (3) The permit holder's safety record regarding the operation of a commercial thrill craft, or parasailing activity.

(p) The department shall adopt rules to encourage water safety education and programs with respect to thrill craft, or parasailing activities.''

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall not apply to existing permits issued by the department of land and natural resources pursuant to section 200-39, Hawaii

Revised Statutes. Upon the repeal of section 200-39, Hawaii Revised Statutes, the provisions of chapter 200, Hawaii Revised Statutes, shall apply to the Kaneohe bay ocean use activities regulated by the department of land and natural resources.

SECTION 4. This Act shall take effect upon its approval; provided that the term of each commercial use and operator permit validly issued as of the effective date of this Act shall be extended by the department to conform with this Act if the permit holder:

- (1) Is in compliance with applicable rules of the department;
- (2) Has timely filed and paid all applicable state taxes during the year; and
- (3) Has a good safety record regarding the operation of a commercial thrill craft or parasailing activity;

provided further that no permit validly issued as of the effective date shall be put up for public auction by operation of this Act until the end of the extended term of the permit.

(Approved June 18, 1996.)