

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAI'I | 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 House Committee on
WATER & LAND**

**Thursday, February 9, 2023
9:30 A.M.
State Capitol, Conference Room 430**

**In consideration of
HOUSE BILL 1134
RELATING TO KANEOHE BAY**

House Bill 1134 proposes to prohibit commercial ocean activity in Kāne'ōhe Bay waters without a permit from the Department of Land and Natural Resources (Department); and prohibit any person from advertising any commercial ocean use activity in Kāne'ōhe Bay waters for which the person does not have a permit, lease, or license. **The Department offers the following comments.**

All persons and companies wishing to engage in commercial operations in any state ocean waters are already required to obtain a commercial use permit from the Department's Division of Boating and Ocean Recreation (DOBOR). Penalties already exist for persons and companies who violate DOBOR commercial operation restrictions. DOBOR has brought civil enforcement actions against violators and has been successful in some instances, resulting in the Board of Land and Natural Resources imposing thousands of dollars in administrative fines and prohibiting the violators from obtaining any type of DOBOR permits for a particular period of time.

Unpermitted commercial activity is a pervasive problem statewide and is not only restricted to Kāne'ōhe Bay. The most common enforcement difficulty is proving that an operator was compensated for their services. DOBOR has mirrored its definition of "commercial activity" after the definition implemented by the City and County of Honolulu, which DOBOR believes is the strongest definition for effective enforcement. However, both DOBOR and the Department's Division of Conservation and Resources Enforcement (DOCARE) encounter difficulties when customers of illegal commercial operators refuse to admit that they paid for the operator's services. The illegal commercial operators can then claim that the individuals are friends and/or

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

family who did not pay for any services. Without being able to prove that the illegal commercial operator received compensation, an enforcement action would have a low likelihood of being successful.

To effectively monitor for illegal commercial activity statewide, DOBOR would need more staffing or the ability to re-allocate existing staff to ocean recreation activity monitoring. Due to staffing shortages and heavy workloads, DOBOR Harbor Agents are mostly stuck in the office handling clerical tasks, such as reviewing paperwork, accepting payments, and preparing letters. If DOBOR is able to execute its 2019 Strategic Plan, these Harbor Agents would be able to allocate more of their time to monitoring ocean recreation activities, responding more quickly to reports of illegal activity, and educating the public regarding ocean regulations. The DOCARE Marine Enforcement Unit that was established in the 2022 State Budget will also help with enforcement by ensuring that DOCARE can have a more consistent presence on beaches and ocean waters.

For the reasons above, the Department believes this measure is not necessary because it is duplicative of existing administrative rule restrictions. The Department instead recommends implementation of DOBOR's strategic plan, which would bring the essential programmatic changes for better monitoring, education, and enforcement.

Mahalo for the opportunity to comment on this measure.



Ka Moku'aina 'O Hawai'i Aha Moku O Pae'Aina

State of Hawai'i Aha Moku

P. O. Box 621

Honolulu, Hawaii 96809

Testimony of the Hawaii State Aha Moku
Before the Senate Committee on Water and Land

2/9/2023

9:30 A.M.

Conference Room 430 & Videoconference

IN SUPPORT of House Bill 1134

Relating to Kaneohe Bay

House Bill 1134 prohibits ocean use activity in Kaneohe Bay waters without a permit. It prohibits any person from advertising any commercial ocean use activity in Kaneohe Bay waters for which the person does not have a permit, lease, or license.

The Hawaii State Aha Moku (Aha Moku) strongly supports this measure.

For decades, the residents of Ko'olaupoko Moku have been trying to protect Kaneohe Bay, including Ahu O Laka from desecration and exploitation of its natural and cultural heritage. Ahu O Laka, more commonly known as the "sandbar" is a wahi pana, a cultural sacred place with deep ties between the lineal and cultural descendants of Ko'olaupoko.

Kaneohe Bay is held in such respectful esteem by the people that the Kaneohe Bay Master Plan was developed pursuant to Act 208, Session Laws of Hawaii, 1990 by the users of Kaneohe. An existing rule for Kaneohe Bay is that on Sundays and federal holidays, all commercial ocean use activities shall be prohibited. The DLNR Division of Conservation and Resources Enforcement (DOCARE) does its best to enforce these rules, but it is difficult when all payments and business is done on social media. Continuous illegal commercial activities do not recognize or practice resource sustainability.

The concerns of the Public Trust including the generational and lineal descendants of the kanaka maoli of Ko'olaupoko are carefully outlined in Section 3 of SB 1265 as well as the solutions that will finally protect our waters and our culture now and for future generations. We ask this committee to adopt SB 1265.

Respectfully,

Frances "Rocky" Kaluhiwa, Aha Moku Representative of Ko'olaupoko

Hawaii State Aha Moku

808-286-7955

Rockykaluhiwa1122@gmail.com

HB-1134

Submitted on: 2/6/2023 5:57:07 PM

Testimony for WAL on 2/9/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Paula Kelly	Individual	Support	Written Testimony Only

Comments:

I am fully in support of HB 1134 so we can stop the illegal operators on Kaneohe Bay.

HB-1134

Submitted on: 2/7/2023 5:04:10 PM

Testimony for WAL on 2/9/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Emmaline Padeken	Individual	Support	Written Testimony Only

Comments:

strongly support!

HB-1134

Submitted on: 2/8/2023 9:21:04 AM

Testimony for WAL on 2/9/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Justin Vierra	Hawaiian Civic Club of Honolulu	Support	Written Testimony Only

Comments:



Thursday February 9, 2023

House committee of Water and Land
IN SUPPORT OF HB 1134

HB 1134 prohibits ocean use activity in Kāneʻohe Bay waters without a permit. It prohibits any person from advertising any commercial ocean use activity in Kāneʻohe Bay waters for which the person does not have a permit, lease, or license.

The Hawaiian Civic Club of Honolulu strongly supports House Bill 1134

The residents of Koʻolaupoko Moku have been trying to protect Kāneʻohe Bay, including Ahu O Laka from desecration and exploitation of its natural and cultural heritage. Ahu O Laka, more commonly known as the "sandbar" a wahi pana, a cultural sacred place with deep ties between the lineal and cultural descendants of Koʻolaupoko.

The result of illegal commercial activity has wreaked havoc on windward communities and overwhelms harbors and facilities. Illegal operators use Heʻeia Kea Small boat harbor to conduct their illegal chartering activities. This activity leads to patrons parking illegally along Kamehameha Hwy causing unsafe traffic conditions for road users and First responders. Illegal commercial operators use bullying tactics to loiter and block off launching/docking zones in harbor making it unsafe for recreational users and subsistence fisherman to launch / retrieve vessels. Furthermore illegal operators who rent out ocean recreation vessels (I.e. kayaks) do not provide safety services, or PFD's (personal flotation devices). There has been numerous occasions where these patrons cross major boating channels in Kāneʻohe bay and end up in distress having to be rescued back to Shore.

Kāneʻohe Bay is held in such respectful esteem by the people that the Kāneʻohe Bay Master Plan was developed pursuant to Act208 Session Laws of Hawaiʻi, 1990 by the users of

Kāne‘ohe. An existing rule of Kaneohe bay is that on Sunday's and federal holidays, all commercial ocean use activities shall be prohibited.

The DLNR Division of Conservation and Resources Enforcement (DOCARE) does its best to enforce these rules, but it is difficult when all payments and business Transactions are done on Social media. Continuous Illegal commercial activities do not recognize or practice resource sustainability. The concerns of the Public Trust including the generational and lineal descendants of the kanaka maoli of Ko‘olaupoko are carefully outlined in Section 3 of SB 1265 as well as the solutions that will finally protect our waters and our culture now and for future generations.

We humbly ask this body to adopt HB 1134

Me ka ha‘aha‘a,
Justin Kawelaho‘ouluopuna Vierra
Alaka‘i, ‘Ahahui Siwila Hawai‘i o Honolulu



HB-1134

Submitted on: 2/8/2023 2:58:48 PM

Testimony for WAL on 2/9/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Joe Pickard	Individual	Support	Written Testimony Only

Comments:

Aloha members of the Committee. My name is Joe Pckard and I am writing to support HB1134. I'm a regular user of Kaneohe Bay and was involved in the drafting the Kaneohe Bay Master Plan. For over two years members of the Windward Community, Neighborhood Boards, Hawaii Institute of Marine Biology, Fishing, Commerical and Recreational community met and came up with a Plan to best manage the Bay for Hawaii's future generations. A consensus was reached and the limits to commercial recreation was then enacted into Law.

However, since the opening up of tourism after the COVID epidemic there have been a number of unpermitted tour operators conducting tours on the Bay which exceeds the limits outlined in the Kaneohe Bay Master Plan. Some operate from Heeia Pier while others operate from private residences, on State property along the Highways, or the Kaneohe Bay Yacht Club. These unpermitted operators do not pay State fees, General Excise Tax, nor have insurance to cover the State of Hawaii against accidents.

I strongly support HB 1134, in the hope it will help stop these unpermitted tours.

Mahalo,

Joe Pickard

HB-1134

Submitted on: 2/9/2023 6:51:33 AM

Testimony for WAL on 2/9/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Flora Obayashi	Individual	Support	Written Testimony Only

Comments:

Protect Kaneohe Bay against expanded commercial exploitation causing serious decline in biodiversity in an already environmentally sensitive body of water.