

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 Senate Committee on  
WATER AND LAND**

**Monday, February 6, 2023  
1:05 P.M.**

**State Capitol, Conference Room 229**

**In consideration of  
SENATE BILL 1265  
RELATING TO KANEOHE BAY**

Senate Bill 1265 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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BOARD OF LAND AND NATURAL RESOURCES  
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CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
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

Monday, February 6, 2023

1:00 PM

Conference Room 229 & Videoconference

**IN SUPPORT of Senate Bill 1265**

Relating to Kaneohe Bay

Senate Bill 1265 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

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**SB-1265**

Submitted on: 2/5/2023 3:30:14 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Justin Vierra	Testifying for Hawaiian Civic Club of Honolulu	Support	In Person

Comments:



*Hawaiian Civic Club of Honolulu*

*P.O. Box 1513*

*Honolulu , HI 96806*



Testimony of Justin Vierra (*Alaka'i HCCH*)

Before the Senate Committee on Water & Land

Monday February 6, 2023

Conference room 229

**IN SUPPORT OF SB 1265**

Senate Bill 1265 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 Senate Bill 1265**

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

Ko'olaupoko.

The result of illegal commercial activity has wreaked havoc on windward communities and overwhelms harbors and facilities. Illegal operators use He'eia 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 fishermen 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 Kāne'ohe bay and end up in distress having to be rescued back to Shore.

Kāne'ohe Bay is held in such respectful esteem by the people that the Kāne'ohe Bay Master Plan was developed pursuant to Act 208 Session Laws of Hawai'i, 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 SB 1265

Me ka ha'aha'a,

Justin Kawelaho'ouluopuna Vierra

*Alaka'i, 'Ahahui Siwila Hawai'i o Honolulu*







## KO'OLAUPOKO HAWAIIAN CIVIC CLUB

February 5, 2023

To: Lorraine Inouye, chair Senate Committee on Water and Land

From: Nancy Davlantes, Government Operations Committee

Subject: SUPPORT for SB1265 – Prohibiting commercial ocean use activity in Kaneohe Bay waters without a permit.

Aloha Chair Inouye and Committee Members,

Ko'olaupoko Hawaiian Civic Club writes in **STRONG SUPPORT** for the passage of SB1265, which would prohibit commercial ocean use activity in Kaneohe Bay without a permit. This year, our club voted on legislative priorities to mālama i ke kai, one of which was this issue, specifically concern regarding growing commercial activity on Kane`ohe Bay.

The Bay and Ahu o Laka are sacred wahi pana to native Hawaiians of Koolaupoko but have been sorely tested by unpermitted tour operators promoting and advertising on social media without regard for rules, regulations, and cultural awareness. This has been made worse because the state entities responsible for protecting these resources do not work on weekends or holidays—the times when Heeia Boat Harbor is busiest and when vehicles park illegally at the harbor and along both sides of Kamehameha Highway.

All this activity is contrary to what was envisioned when the Kaneohe Bay master plan was established in 1990 and sought to create a framework for managing the Bay's natural resources while accommodating approved uses. It is now past time to update the law regarding restricted activities in and on the Bay and to provide enforcement mechanisms for various entities to issue subpoenas and take custody of any personal property related to any violation of the rules.

For too long certain members of the public have been pushing the envelope to see what would be tolerated, and for too long those in charge of protecting this sacred place have been without the resources they need to do their job.

For these reasons, we **STRONGLY URGE** you to pass this bill out of committee.

*The Ko'olaupoko Hawaiian Civic Club was established in 1937 and is one of the largest in the Association of Hawaiian Civic Clubs nationwide. Ko'olaupoko HCC is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians and providing leadership and scholarships. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart."*

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*Ko`olau Foundation*

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February 5, 2023

To: Sen. Lorraine R. Inouye, Chair  
Sen. Brandon J.C. Elefante, Vice Chair  
& Members, Committee on Water & Land

From: Aaron D. Mahi, President  
Mahealani Cypher, Board Member  
Ko`olau Foundation

Re: S.B. 1268, Relating to Kaneohe Bay – Support

Aloha Chair Inouye, Vice Chair Elefante and Committee Members:

The Ko`olau Foundation strongly supports S.B. 1268, which would prohibit commercial ocean use activity in Kane`ohe Bay without a permit. We urge that the language of the bill be amended to include the prohibition on “any person, business or entity” from advertising any commercial ocean use activity in Kane`ohe Bay waters if they do not have a permit, lease or license.

Our organization has long supported the community’s efforts to malama our cultural and natural resources. It is part of our overall mission and purpose, to advocate for the rich history and heritage of Hawa`i nei. The people who live around Kane`ohe bay have raised concerns about over-commercialization of these near-shore waters and rich natural ecosystem of reefs and marine life.

The community’s Kane`ohe Bay master plan, which has helped to guide public policy regarding uses of this important marine resource, would limit the number of commercial ocean-related businesses in the bay.

We support this plan and those limitations, and urge passage of this bill which would reinforce those restrictions.

Mahalo for considering our mana`o.



**SB-1265**

Submitted on: 2/5/2023 1:05:59 PM

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

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ted Bohlen	Testifying for Hawaii Reef and Ocean Coalition	Support	Written Testimony Only

Comments:

HIROC supports prohibiting unpermitted commercial ocean use in Kaneohe Bay.

**LATE**

**SB-1265**

Submitted on: 2/5/2023 1:11:31 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Hiiaka Jardine	Individual	Support	Written Testimony Only

Comments:

Aloha,

As a life long resident of Kahalu'u, I strongly support this bill. I have seen first hand the chaos of commerical activity in the Kāne'ohe Bay region and the burden it creates for the community. I strongly urge you to pass this bill for the betterment of our Kāne'ohe Bay community.

Mahalo for your consideration,

Hi'iaka Jardine

**SB-1265**

Submitted on: 2/5/2023 5:23:57 PM

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

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Judy Lemus	Individual	Support	Written Testimony Only

Comments:

I am submitting testimony in support of SB1265, which prohibits commercial ocean use activity in Kaneohe Bay waters without a permit. As a former member and chair of the Kaneohe Bay Regional Council, I know that ongoing unauthorized commercial activities are a constant concern for community members. The Kaneohe Bay Master Plan is clear in its intent to limit commercial activity in the Bay so as to reduce human impacts on the state's only barrier reef lagoon system and largest estuary. A requirement for permits, leases, and licenses is a minimal and effective course of action to track and assess activity pressure from tourism. Please support this important measure and protect Kaneohe Bay with your vote.

**SB-1265**

Submitted on: 2/5/2023 8:12:20 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Paula Kelly	Individual	Support	Written Testimony Only

Comments:

There are too many illegal tour operators on the Bay. I support this bill to help remove the illegal operators.

**LATE**