

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
JUDICIARY**

**Tuesday, March 03, 2009**

**2:00 PM**

**State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 1310, HOUSE DRAFT 1  
RELATING TO OCEAN RECREATION**

House Bill 1310 proposes to: (1) Prohibit commercial operation of thrill craft, water sledding, parasailing, or high speed boating in Maunalua Bay, Oahu, on all Sundays and holidays; (2) Mandate that commercial use and operator permits (permit) for commercial thrill craft and parasailing activities shall no longer be issued at public auction, and (3) Remove the maximum term of a commercial use and operator permit issue of 20 years. The Department of Land and Natural Resources (Department) takes no position on prohibiting commercial operation in Maunalua Bay as the Department has not had an opportunity to consult with the community. The Department however does not support the proposed deletion of the existing language in section 200-37(l), Hawaii Revised Statutes (HRS).

Currently, no commercial operator shall engage in thrill craft, parasailing, water sledding, and high speed boating operations in Maunalua Bay (Bay), Oahu, on weekends and state and federal holidays. In addition, all commercial operations are prohibited on Sundays. This requirement was originally put in place due to the community's concerns with the amount of commercial activity taking place in the Bay which hampered their ability to engage in recreational activities. The Department notes that there are only two commercial thrill craft operators actively working in the Bay and parasailing and other commercial activities take place outside the Bay. Certainly, user conflicts between the variety of ocean recreation activities during high-use times like weekends and holidays continue to create public safety issues and therefore, this action may be premature.

The Department does not support the deletion of section 200-37(l), HRS, as the Department feels that the fairest and most equitable way to issue new commercial use and operator permits for commercial thrill craft and parasailing activities is by public auction.

**LAURA H. THIELEN**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**RUSSELL Y. TSUJI**  
FIRST DEPUTY

**KEN C. KAWAHARA**  
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  
KAIHOLAWA ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

February 25, 2009

Dear Representative:

On February 24, I attended the Hawaii Kai Neighborhood Board meeting and was disturbed to hear the high level of misinformation that is currently being circulated about HB 1310. Please do not be swayed by those who seek to stop this bill based upon misinformation and prejudices.

That night, I heard opposition to this bill from one speaker because of a jet ski accident (1986) that caused an inexperienced jet skier to run over a kayaker, killing her. What the speaker failed to acknowledge was that this involved a private jet ski was being operated on a weekend by a resident who allowed his 6 year-old child to operate the jet ski and had nothing to do with any commercial operation. Commercial jet ski operations:

- 1) Do not allow anyone who is less than 16 years of age to operate a jet ski. (the State law is 15)
- 2) Are confined to a set course in an area far from the beach and isolated from any other type of ocean activities.

This accident only reinforces the need for a commercial jet ski operation in the bay during the weekends and holidays so that residents can have a controlled safe first-time experience on a jet ski before they decide to operate one on their own.

In that meeting, a beachfront resident came to protest the bill because he felt that allowing commercial jet skis on the weekend would increase the degradation of the beach at Portlock. Nothing could be further from the truth as the Commercial jet ski area is located far from the beach and across the channel, thus any additional activity in that area would have almost no impact upon beach erosion. This is because:

- 1) It is the residential jet skiers who are not limited to a predefined area who run across the channel and along the shoreline.
- 2) Beach erosion has more to do with the fact that a man-made channel was dredged to allow ingress and egress into the Hawaii Kai Marina. According to a study conducted by Holmberg Technologies, most engineers and geologists generally agree that dredged and jettied channels are the major cause of widespread beach erosion.<sup>1</sup>

I also heard persons complaining that by allowing commercial jet ski operations during the weekend, it would somehow impede the use of Maunalua Bay by residents. During the weekend or on holidays, almost all the activity is either:

- 1) Private jet skis by the boat ramp, or
- 2) Boaters going in and out of the Marina or boat ramp through the channel, or
- 3) Kayakers, beach goers or surfers on the Portlock side of the channel.

I would be hard-pressed to find even one person utilizing the commercial jetski zone.

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<sup>1</sup> <http://www.erosion.com/beacherosion.asp>

I heard some complain that providing these operators with the right to run their operations for more than twenty years is wrong, because the State will not get additional revenue by going out to bid. Quite a few years ago, I was contracted by the City to review their food service operations at all of the municipal golf courses, the zoo and their beach concessions with the goal of providing them with recommendations on how they could improve both their revenues and the quality of food and service. During the course of my investigation, I found out that the primary cause of their problems could be traced to the City's policy of bidding out these contracts every five years with the minimum bid set at what the actual bid amount was for the previous operator. This created a situation whereas:

- 1) Very few experienced operators would bid because there was no guarantee that you could keep operating after five years even if you provided good food, good service and paid your rent on time.
- 2) Experienced operators were also not willing to bid as they would not be able to invest in any capital improvements without being able to make an appropriate return on their investment.
- 3) New, inexperienced operators would often overbid to win and then once they won the bid, would find out that they could not make any money unless they
  - a. Took dangerous shortcuts on their food and labor
  - b. Did not maintain or re-invest into their operations
  - c. Did not report all of their income and provide the City with their required percentage rent.
  - d. Stop paying their rent and then just wait to be evicted.

I caution the State that looking short-term is a very risky proposition that will end up hurting the State. The prospect of having experienced watersports companies that run first class operations, who hire quality employees, pay their rent on time and all taxes due is worth eliminating the onerous twenty year permit limit.

As a lifelong resident of East Oahu, I have seen Hawaii Kai grow from a swamp to a beautiful ocean-front community with a wide array of attractions and offerings to both residents and tourists alike. As a former ocean activity operator, I have informed thousands of residents and tourists that they could not enjoy our activity because it was a weekend or a holiday. Although I didn't like to disappoint tourists, it's the residents that I would feel most sorry for, because the weekend or holiday would be the only time that they had to enjoy the ocean activity. As a professor who teaches our students in the Community College system about the business of running successful hospitality and food service operations, I have always been against government setting up unnecessary obstacles to business. I truly believe that this bill has merit and deserves to be passed and I hope that you will agree with me.

Ron Takahashi  
Associate Professor  
Kapi'olani Community College

**Representative Jon Riki Karamatsu, Chair**  
**Representative Ken Ito, Vice-Chair**  
**Committee on Judiciary**

Name: DAVID SEST  
Address: 1645 Dole St - Han 96822

Support of HB1310 RELATING TO OCEAN RECREATION

I am writing to voice my strong support of this bill and its intent to delete the 20 year maximum permit term for parasailing and commercial thrill craft commercial use and operator permits. I also support deleting the entire provision that puts a permit up for auction after this 20 year maximum permit term.

Permit holders that have met the state's requirements in the statute (in compliance with all the rules, payment of taxes and a good safety record) should be able to own their businesses in perpetuity. No other ocean sports businesses such as Scuba diving, Commercial fishing, Catamarans, submarines are subjected to these types of restrictions. A 20 year term imposed by this statute is both discriminatory and unreasonable to our state's small business owners.

These types of businesses require significant capitalization to ensure safe operation; extensive employee training and on-going equipment investments. Please keep our tourist operations safe by encouraging experienced operators to stay in business. Please help small business by voicing your support of HB1310.

We must aggressively support our state's tourism operators and keep them viable entities by removing this unfair and unreasonable restriction.

I also support the amendment in this bill that will delete the prohibition of commercial operation of thrill craft, parasailing, water sledding or high speed boating in Mauanalu Bay on weekends and holidays. This section restricts the ability of these companies to offer activities on weekends and holidays. This limits revenue which affects the state in both permit fees and taxes. This provision is also discriminatory as other similar businesses do not such a punitive operating restriction. We must support our tourist businesses, keep them viable and healthy. I urge the committee to support and readily pass these measures.  
Thank you for this opportunity to testify.

HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON JUDICIARY

Rep. Jon Riki Karamatsu, Chair  
Rep. Ken Ito, Vice Chair

Rep. Della Au Belatti	Rep. Hermina M. Morita
Rep. Rida Cabanilla	Rep. Blake K. Oshiro
Rep. Mele Carroll	Rep. Joseph M. Souki
Rep. Robert N. Herkes	Rep. Clift Tsuji
Rep. Sylvia Luke	Rep. Glenn Wakai
Rep. Angus L.K. McKelvey	Rep. Barbara C. Marumoto
Rep. John M. Mizuno	Rep. Cynthia Thielen

NOTICE OF HEARING

DATE: Tuesday, March 03, 2009  
TIME: 2:00 p.m.  
PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

**OPPOSITION TO H.B. 1310 HD1; Relating to Ocean Recreation**

Good evening Chair Karamatsu, Vice-Chair Ito, Honorable Members of the House Committee on Judiciary. I am Roy Morioka, resident of Waialae-iki, Oahu on the shores of Maunalua Bay. I speak in opposition to this bill as it is not broken. The added competition and crowding on Saturdays by adding commercial activities to the already busy public activities that occur give rise to the potential to user conflicts and increased accidents. Such increased activities and stressors will further degrade the health of Maunalua Bay that is already in need of help.

All new permits should be auctioned as has been past practice as it affords the State the best return possible for an activity that uses public facilities and resources. Similarly, the twenty year sunset process further assures that the State receives just compensation through reopening for bid at the then prevailing economic value of such a permit and not allow current permit holders to gain unfair profit in perpetuity.

Thank you for this opportunity to testify.

Respectfully,  
Roy N. Morioka

# **JEANNINE JOHNSON**

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 537-7261 (w)

March 1, 2009

## COMMITTEE ON JUDICIARY

Rep. Jon Riki Karamatsu, Chair

Rep. Ken Ito, Vice Chair

Re: HB 1310, HD1 RELATING TO OCEAN RECREATION

Hearing: Tuesday, March 03, 2009 at 2:00 pm in Conf. Room 325

Aloha Chair Karamatsu, Vice Chair Ito and Honorable Committee Members,

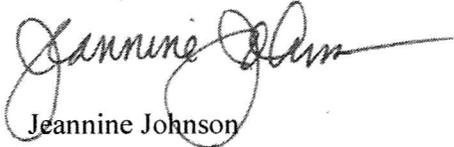
I strongly oppose HB 310 HD1 which deletes the prohibition of commercial operations of thrill craft, water sledding, parasailing, or high speed boating in Maunalua Bay, O'ahu, on Saturdays, and the requirement that permits be issued at public auction as well as the maximum term of permit issue of 20 years.

Maunalua Bay is currently heavily used for intense commercial and personal recreational activities five days a week. HB310 HD1 would only allow our residents to use Maunalua Bay only one day a week without having to compete with commercial operators. I have read most of the testimony in support of this bill and they are identical, mass mailed pieces purporting to promote tourism. A large majority are not from the Maunalua area that endorse money making visitor activities that pollute the Bay. I was born and raised in Niu Valley and my father, a fisherman from Miloli'i, would fish and catch squid in Maunalua Bay. Fishing in Hawai'i is a tradition woven into our communities and local culture that have been passed down for generations. Numerous kupuna who have fished in the waters of Maunalua Bay believe thrill craft, especially jet skis, have had a significant negative effect on the reef fish population. My 'ohana knows how important it is to protect our valuable resources we have left so that our keiki and mo'opuna will be able to fish like our kūpuna.

The DLNR states that the fairest and most equitable way to issue new commercial use and operator permits for commercial thrill craft and parasailing activities is by public auction so that all commercial operators should be treated equally. At the Hawai'i Kai Neighborhood Board meeting on February 24, 2009, Jet Skis Owner Jeff Kranz stated that he wanted to "level the playing field" for all commercial operators as well. The best way for that to happen is to follow the DLNR's standard operating permitting practices for all commercial operating permits and auction them annually.

E ola ke kai, e ola kakou (as the ocean thrives, so do we.) Please kōkua and help protect and preserve Maunalua Bay by opposing HB310 HD1.

Mahalo,



Jeannine Johnson

cc: Sen. Sam Slom  
Rep. Gene Ward  
Rep. Lyla Berg  
Rep. Barbara Marumoto

Jeannine Johnson, Legislative Sub-Committee Chair

**Kuli'ou'ou / Kalani Iki Neighborhood Board #2**

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 537-7261 (w)

March 1, 2009

COMMITTEE ON JUDICIARY

Rep. Jon Riki Karamatsu, Chair

Rep. Ken Ito, Vice Chair

Re: HB 1310, HD1 RELATING TO OCEAN RECREATION  
Hearing: Tuesday, March 03, 2009 at 2:00 pm in Conf. Room 325

Aloha Chair Karamatsu, Vice Chair Ito and Honorable Committee Members,

As Committee Chair of the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** Legislative Sub-Committee, it is my duty to inform you **Neighborhood Board #2** has on its March 5, 2009 agenda the attached Resolution regarding thrillcraft permits in Maunalua Bay. **Neighborhood Board #2** represents over 6,000 households, with a population of almost 20,000 people (State of Hawaii Data Book 2002) in East Honolulu.

The community of Hawai'i Kai will also be having a community meeting on Tuesday, March 3, 2009, with the DLNR to review HB1310 and other pending legislation. Therefore, I would strongly recommend that your Committee hold its decision-making on this bill until our communities have been able to consider the ramifications of HB1310 HD1.

Mahalo for your consideration.

Aloha,

  
Legislative Sub-Committee Chair  
**Kuli'ou'ou / Kalani Iki Neighborhood Board #2**

cc via email: Chair Robert Chuck  
Sen. Sam Slom  
Rep. Lyla Berg  
Rep. Barbara Marumoto  
Niu Valley Community Association  
Livable Hawai'i Kai Hui  
Mālama Maunalua

## RESOLUTION REGARDING THRILLCRAFT PERMITS IN MAUNALUA BAY

WHEREAS, Maunalua Bay is one of Hawai'i's largest bays that stretches from Kawaihoa (Kokohead) to Kūpikipiki'ō (Black Point). Maunalua Bay was formerly home to a great abundance of fish and fishponds. Since ancient times, stories recorded the great schools of mullet that traveled through Maunalua each year. Fish were so abundant that they would stretch as far as the eye could see;

WHEREAS, over the past century, Maunalua Bay has experienced dramatic changes. The destruction of the fishponds caused a massive loss of fish and biomass in the bay. The rapid growth of housing and cementation of fresh water streams generated heavy silt deposits that have decimated the coral reefs in the Bay. The great flocks of birds which once arrived from Canada have disappeared with the elimination of their habitat. Based on their long relationship with the waters of Maunalua Bay and their deep cultural understanding of the ocean, numerous kupuna who grew up in the area and fished in the waters of Maunalua Bay speak of the significant negative effects jet skis have had on the reef fish population and in the decline of the health of the Bay in general;

WHEREAS, Mālama Maunalua, in collaboration with more than a dozen partners including the Polynesian Voyaging Society, Hui Nalu Canoe Club, Mālama Hawai'i, NOAA, the University of Hawai'i and The Nature Conservancy, are working together to conserve and restore Maunalua Bay for future generations;

WHEREAS, Maunalua Bay is currently heavily used five days a week for intense commercial and personal recreational activities. The law prohibiting commercial businesses from operating in Maunalua Bay on Saturdays, Sundays or State holidays has been in effect since 1988 to protect those in our community as a result of an accident involving a thrill craft running over a woman and to protect migrating humpback whales;

WHEREAS, a report by the Noise Pollution Clearinghouse found that jet skis wreak an estimated \$900 million in noise annoyance costs on beachgoers, as well as hundreds of millions of dollars of additional costs to water recreationists and shoreline property owners. According to *Personal Watercraft Illustrated*, an average two-hour "thrill" ride on a thrill craft can dump between 3 and 4 gallons of gas and oil into the water and emit twice as much pollution as an equivalently powered motorboat;

WHEREAS, there are several bills moving through the Legislature which would permit the commercial operation of thrill craft, water sledding, parasailing or high speed boating in Maunalua Bay seven days a week which will only continue the rapid decline of the health of the Bay and seriously affect our community members who paddle, surf, fish, swim and enjoy the beauty of Maunalua Bay on weekend and holidays;

WHEREAS, the 260-acre Hawaii Kai Marina currently provides protected water for sailing, motor craft, water skiing, etc. and thus there is no basis to allow thrill craft operation in Maunalua Bay seven days a week other than to increase the profits of those with current permits to operate thrill craft, water sledding, parasailing, or high speed boating in Maunalua Bay;

WHEREAS, the Department of Land and Natural Resources (DLNR) believes that the fairest and most equitable way to issue new commercial use and operator permits for commercial thrill craft and parasailing activities is by public auction. All commercial use permits by the DLNR are issued on a year to year basis except for those holding current permits to operate in Maunalua Bay.

NOW, THEREFORE, BE IT RESOLVED that the Kuli'ou'ou / Kalani Iki Neighborhood Board #2 by this Resolution opposes changing current laws to permit the commercial operation of thrill craft, water sledding, parasailing or high speed boating in Maunalua Bay seven days a week; and

BE IT FURTHER RESOLVED that the Kuli'ou'ou / Kalani Iki Neighborhood Board #2 believes all commercial operators should be treated equally and fairly and supports standardizing all DLNR permits, including the requirement of annual public auction for permits in Maunalua Bay.

Approved and Adopted \_\_\_\_\_, 2008 \_\_\_\_\_, Chairperson

**karamatsu3-Leanne**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 01, 2009 5:14 PM  
**To:** JUDtestimony  
**Cc:** eschiff@pixi.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Eric Schiff  
Organization: Individual  
Address: 5524 Pia St. Honolulu, HI  
Phone: 808-377-5114  
E-mail: [eschiff@pixi.com](mailto:eschiff@pixi.com)  
Submitted on: 3/1/2009

**Comments:**

I oppose HB 1310, HD1. The limitation for thrill craft to operate Mon-Fri in Moanalua Bay is sufficient and should not be extended to any weekend days.

COMMITTEE ON JUDICIARY  
Rep. Jon Riki Karamatsu, Chair  
Senator Ken Ito, Vice Chair

March 3, 2009

RE: HB1310 HD1 scheduled to be heard by JUD on Tuesday, 3/3/09 at 2:00 pm in conference room 325.

**My name is Brian F. Funai and I am testifying in opposition to HB1310 HD1.**

I am concerned that added commercial activity in Maunalua Bay on weekends will increase congestion, shut out residents and create an unsafe condition. I believe part of the original reason for restricting commercial activity, especially high speed boating and jet ski activities, resulted from tragedies in which spearfishermen and divers were injured or killed by collisions with jet skis.

A fellow whom I only knew by name and who lived down the road from me in Hawaii Kai was spear fishing in the bay for tako when he was hit and killed by a jet ski. I remember news of this incident very clearly and am quite concerned that this bill would again create an unsafe condition at worst and a situation where many residents will be shut out from enjoying Maunalua Bay. The weekends are our only opportunity to enjoy our own neighborhood.

Thank you for your time and allowing me to testify.

Brian F. Funai  
Kaneohe, HI 96744

**karamatsu3-Leanne**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 02, 2009 12:55 AM  
**To:** JUDtestimony  
**Cc:** rcshanklin@hotmail.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Roland Shanklin  
Organization: Individual  
Address:  
Phone:  
E-mail: [rcshanklin@hotmail.com](mailto:rcshanklin@hotmail.com)  
Submitted on: 3/2/2009

Comments:  
I oppose HB1310

# Bryan Y.Y. Ho

Attorney At Law, A Law Corporation  
Suite 909, Davies Pacific Center  
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bryanho@admiraltyattys.com

March 2, 2009

HONORABLE JON RIKI KARAMATSU  
Chair  
Judiciary Committee  
41<sup>ST</sup> Representative District  
Room 302, Hawaii State Capitol  
415 So. Beretania Street  
Honolulu, Hawaii 96813

Re: ***HB 1310, H.D. 1***  
Hearing: 3/3/09  
Time: 2:00 p.m.  
Room 325

Representative Karamatsu:

I submit this written testimony in opposition to HB 1310, H.D. 1 to the extent it proposes to delete the Saturday ban on the commercial operation of jet skis, parasailing, water sledding and high speed boating in Maunalua Bay under Hawaii Revised Statute § 200-37(g), (h) and §200-38. I strongly urge you and the other members of the Judiciary Committee to vote against HB 1310, H.D. 1 and, instead, consider the passage of SB 367, S.D. 1 in its place. SB 367, S.D. 1 incorporates all changes proposed for HRS §§ 200-37 and 200-38 under HB 1310, S.D. 1 except for removal of the Saturday ban of commercial ocean recreation activity.

The weekend/holiday ban on commercial jetski operations was first implemented in 1990 via Act 313 (H.B. 2994) to address the following express findings and conclusions made by the Legislature after conducting an environmental assessment study, as well as, significant debate and participation by members of the Hawaii Kai and Portlock communities:

1. ***The operation of thrill craft and high speed motorized vessels in the waters of the Sate poses an unacceptable risk of harm to humans and the environment.***

HONORABLE JON RIKI KARAMATSU

March 2, 2009

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2. *The operation of thrill craft and high speed motorized vessels in some of the State's heavily used recreational waters has resulted in the severe injury and death of recreational swimmers, not to mention a number of "close calls";*
3. *The operation of thrill craft and high speed motorized vessels in the waters of the State poses a visual and aural nuisance to the residents in the communities in which they are operated.*
4. *The Legislature declares that the waters of the State used extensively by recreational swimmers should be safe from the dangers of thrill craft and high speed motorized vessels which, by their very nature, are inherently risky vessels.*
5. *In view of the inherently risky nature of thrill craft and high speed motorized vessels and the documented injuries and deaths that thrill craft and high speed motorized vessels have inflicted on people, the legislature declares that the unrestrained operation of thrill craft and high speed motorized vessels in the waters of the State poses and unacceptable risk of harm to humans and the environment.*
6. The Legislature is cognizant that, except as otherwise provided by law, all ocean areas appertaining to any government management shall be and are forever granted to the people for the free and equal use by all persons. However, *the State is mindful that in managing and regulating ocean use, priority should be given to those seeking non-commercial recreational opportunities as opposed to those seeking commercial recreational opportunities. To be a commercial operator is a privilege and not an exclusive right.* (Emphasis added)

See: Act 313, 1990 Session Laws Of Hawaii; Conf. Com. Rep. No. 15, (H.B. No. 2994, H.D. 1, S.D. 1, C.D. 1), Senate Journal (1990), at p. 668; and Conf. Com. Rep. No. 15 on H.B. 2994, Senate Journal (1990), at p. 762-763.

HONORABLE JON RIKI KARAMATSU

March 2, 2009

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On February 9, 2009, the House Water, Land & Ocean Resources ("WLO") Committee passed HB 1310, as amended, proposing to allow the commercial operation of jetski in Maunalua Bay on Saturdays. WLO passed this measure even though the Committee:

1. Was provided extensive written testimony regarding the legislative history and underlying health, safety and policy considerations that led to the implementation of the weekend and holiday ban on commercial jetski operations in Maunalua Bay under Act 313;
2. Was not provided any evidence or information that prior concerns expressed by community members regarding: 1) conflicts between weekend recreational and commercial jetski operators; 2) noise levels resulting from commercial operations; and 3) hazards associated with increased levels of thrill craft, are no longer valid, warranting the continued enforcement of the weekend and holiday prohibition of commercial jetski operations.
3. Received written testimony from DLNR's Chair, Laura H. Thielen, explaining that the weekend and holiday ban was "originally put in place due to the communities concerns with the amount of commercial activity taking place in the (Maunalua) Bay which hampered their ability to engage in recreational activities." Chair Thielen further stated, "*... user conflicts between the variety of ocean recreational activities during high-use times like the weekends and holidays continue to create public safety issues and therefore, this action may be premature.*"  
Emphasis added.

Given the significant research and debate that went into developing HRS §§200-37 and 200-38, as well as, the Ocean Recreation Management Area ("ORMA") plan for Maunalua Bay, if this committee is presented with a choice between SB 367, S.D. 1 and HB 1310, H.D. 1, there is no question the Senate version is the preferred course under the present circumstances. The protections afforded by these statutes are significant and genuine and unless there is clear and convincing evidence presented, after conducting an updated environmental assessment, that demonstrates the hazards and threat to public safety that originally warranted the weekend and holiday ban on commercial ocean recreation activities no longer exists, it should not be abolished purely for economic reasons. After all, to be a commercial operator is a privilege and not an exclusive right. It would be improper for this Legislature to unilaterally substitute its lay opinion in place of the current carefully crafted, thoroughly studied, fully debated, well reasoned, and science based ORMA plan for Maunalua Bay.

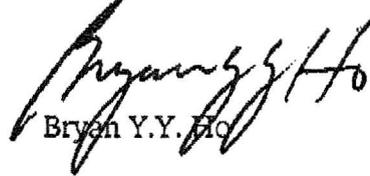
HONORABLE JON RIKI KARAMATSU

March 2, 2009

Page 4

If you have any questions, please do not hesitate to contact me.

Sincerely,



Bryan Y.Y. Ho

cc: Hon. Kenneth Ito (Vice Chair)  
Hon. Della Au Belatti  
Hon. Rida Cabanilla  
Hon. Mele Carroll  
Hon. Robert N. Herkes  
Hon. Sylvia Luke  
Hon. Angus L.K. McKelvey  
Hon. John M. Mizuno  
Hon. Hermina M. Morita  
Hon. Blake K. Oshiro  
Hon. Joseph M. Souki  
Hon. Cliff Tsuji  
Hon. Glenn Wakai  
Hon. Barbara C. Matsumoto  
Hon. Cynthia Thielen

**Committee on Judiciary**  
**Tuesday, March 3, 2009, 2:00 P.M.**  
**Conference Room 325**

**TESTIMONY IN STRONG OPPOSITION TO HB 1310**

Chair Karamatsu and Committee Members:

I am a lifelong resident of the Hawaii Kai community, and for the last 25 years I have been privileged to reside on property along Maunalua Bay. Sadly, in that period of time, I have watched as run-off from the development of neighboring Hawaii Loa ridge and pollutants from commercial thrill crafts have combined to turn what was once sandy beaches into silt and sludge. This hostile environment has nearly choked out the fish and other sea life, as well as the native seaweed that was once found in abundance here. Instead, the water fronting most of the property along Maunalua Bay is now blanketed by a non-native, invasive seaweed which thrives in the current ocean conditions, and which goes back faster than residents can work to eradicate it.

HB 1310 is in direct opposition to the 1980's community effort, Maunalua Bay Recreational Plan, which reserves recreational opportunities for the local community on weekends and holidays – a restriction which provides for the safety of fishermen, surfers and others who may enjoy the bay at this time.

As is the case with most development – especially in Hawaii – an environmental impact assessment should be conducted before the enactment of this proposed legislation, so as to ensure the future health of Maunalua Bay for the next generation.

I thank you for your consideration of this testimony, and urge this committee to hold HB 1310.

Sincerely,

Ola Souza

**Committee on Judiciary**

**Tuesday, March 3, 2009, 2:00 P.M.**

**Conference Room 325**

**TESTIMONY IN STRONG OPPOSITION TO HB 1310**

Chair Karamatsu and Committee Members:

I am a lifelong resident of the Hawaii Kai community, and for the last 25 years I have been privileged to reside on property along Maunalua Bay. Sadly, in that period of time, I have watched as run-off from the development of neighboring Hawaii Loa ridge and pollutants from commercial thrill crafts have combined to turn what was once sandy beaches into silt and sludge. This hostile environment has nearly choked out the fish and other sea life, as well as the native seaweed that was once found in abundance here. Instead, the water fronting most of the property along Maunalua Bay is now blanketed by a non-native, invasive seaweed which thrives in the current ocean conditions, and which goes back faster than residents can work to eradicate it.

HB 1310 is in direct opposition to the 1980's community effort, Maunalua Bay Recreational Plan, which reserves recreational opportunities for the local community on weekends and holidays – a restriction which provides for the safety of fishermen, surfers and others who may enjoy the bay at this time.

As is the case with most development – especially in Hawaii – an environmental impact assessment should be conducted before the enactment of this proposed legislation, so as to ensure the future health of Maunalua Bay for the next generation.

I thank you for your consideration of this testimony, and urge this committee to hold HB 1310.

Sincerely,

Pohai Souza

## karamatsu3-Leanne

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 02, 2009 3:22 PM  
**To:** JUDtestimony  
**Cc:** augustussantos@yahoo.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: Augustus Santos  
Organization: Individual  
Address: 626 8th Ave Honolulu, HI.  
Phone: 778-9338  
E-mail: [augustussantos@yahoo.com](mailto:augustussantos@yahoo.com)  
Submitted on: 3/2/2009

**Comments:**

I fully support HB1310 as it is fair that a business should not be auctioned at any time by the State of Hawaii.

I also support a Saturday at Maunalua Bay so the locals can have an opportunity to try jet ski.

Please pass this bill/

## karamatsu3-Leanne

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 02, 2009 5:08 PM  
**To:** JUDtestimony  
**Cc:** WKM1220@aol.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position: support  
Testifier will be present: Yes  
Submitted by: Wade Matsueda  
Organization: Individual  
Address: 527-5 Pepeekeo st Honolulu, Hi  
Phone: 808-282-9233  
E-mail: [WKM1220@aol.com](mailto:WKM1220@aol.com)  
Submitted on: 3/2/2009

### Comments:

Im writting this testamony today in support of HB1310. My name is Wade Kamuela Matsueda and I will be one of many who will be affected by the outcome of this bill. I have read through some of the testamonies, for and against this bill. Through my readings I found good points that are for this bill that and some points against this bill that were made without properly catagorizing recreational/commercial thrillcraft facts.

My comments about the opposition.

I read alot about how dangerous jetskis are, how fast they travel, and there has been injuries. Yes, this is all true. I am born and raised in Hawaii Kai's waterfont, I have been using Maunalua Bay my Whole Life and have seen many recreational seagoers performing dangerous and foolish acts. Drinking and boating, dozens of Jetskis zipping around in every direction at speeds exceeding 60 mph, total chaos. On a different note, this is not how commercial Jetskis operate.

I am a Captain of SeaBreeze Watersports Jetski operation and my testimony to our operating procedures are as follows.

- 1) our jetskis will not operate on maunalua Bay waters unless it is mechanically restricted to half its max speed (30mph).
- 2) no one under the influence of any contraband substances will be allowed to operate our Jetskis.
- 3)our Jetskis are to remain in our designated area at all times following a clockwise lap pattern around our three bouys.
- 4)all jetskis must remain at a distance of 100ft of each other.
- 5)everyone must respect the ocean, our reef is fragile do not touch, do not interfere with any wildlife.

Need I say more to show how controlled and safe our operation is. We give not only tourists but even the working class Locals, who cant afford their own Jetskis or boat an opportunity to spend some time in Hawaii Kai and have fun on the bay. It can't be reserved only for the privilaged residents of Hawaii Kai, can it?

Furthermore I have worked in the Hawaii Kai Watersports since 1994. I'm local, have always done my best to conserve my birthplace and want the best for it. With all the talk of our impact on the bay I find it absurd to point the enviornmental finger at watersports and the construction of homes and run off into Koko Marina that feeds pollutants into the bay, all those grassy lawns and its fertilizers, c'mon. Our Jetskis have zero emissions into the water, for starters.

I can go on and on. Finally, why would we go against something that will provide jobs . Are we supposed to take away peoples careers and through their families on the street. I have two daughters and one on the way. How could we allow families to be built by providing jobs out here and then once established have your life torn away. Don't send us to the streets.

Support HB1310 again and again

Monday, March 2, 2009

I have been working at SeaBreeze Watersports for the past 15 years. My family depends on the income I earn from this job that I have devoted almost half of my life to. I find it hard to believe that someone can build a company from nothing and have it taken away, most likely to some one with no experience or proven safety record. I have been the Head Parasail Captain for the last fifteen years and it has taken me almost as long to learn the ins and outs of my job. I do not believe it fair or safe for someone else to come in and take away my livelihood. I also do not believe that anyone else can do a better job in operating a safe and responsible watersports company as Jeff and Courtney Krantz have. They support 24 other employees and their families and support dozens of small businesses in the Hawaii Kai area. In these tough economic times I feel the State of Hawaii has the responsibility to do all it can to support small businesses such as SeaBreeze Watersports. We are not asking for \$700 billion dollars, all we want is HB1310 to be passed so that we can operate our business like any other business in the State of Hawaii and not be fearful of having it taken from us.

Sincerely,

Scott Ng

RE: Strongly Oppose House Bill 1310 and SB367

We strongly oppose House Bill 1310. It will increase commercial activity in Maunalua Bay. Maunalua Bay is a natural resource not a saleable commodity. It is a residential area that was forced to accept commercial activities that DOBOR allowed to continue to operate in spite of hours of testimony by local residents, canoe paddlers, surfers, and kayakers in the 1990's. Three areas inside the reef on shallow reef flats were given over to commercial jet-ski operators and vast areas outside the reef were given over to parasailing and high speed boating.

The State imposed a 20 year limit to the leases and promised that these areas would be returned for the enjoyment of all and not be put out for bid as operators went out of business.

Do not allow the thrill craft operations to change the rules.

The community went through a long process that developed rules and regulations that at least limited jet-skis and commercial thrill craft operations to 5 days a week from 8:30 to 3:30 pm that gave some relief on weekends and holidays.

The State allowed unprecedented ocean leasing and when the commercial thrill craft is in operation no one is permitted to paddle, surf, or transit through large areas of Maunalua Bay. The Ocean Recreational Management Plan was adopted May 15, 1990. The problem is there is no management. The businesses are allowed to self-police and add new activities without public input. Now they want to increase their days of operation to 7 days a week and on holidays as well. The commercial operators already have 22 days out of the month and we have only 9 days.

The jet-ski operators have conducted commercial parties on the jet-ski rafts at night and use the excuse that they are private parties and there is no enforcement. The operators continuously exceed the 5 knot speed limit in the channels shuttling their customers back and forth to the rafts.

Commercial activities were not allowed to operate from the boat ramp in the ORMP but the DLNR has apparently now granted numerous commercial permits crowding it for recreational boaters. They have allowed increased commercial use of the Bay with no public input.

We are strongly in opposition of HB 1310.

Residents need Maunalua Bay for recreation and the reefs need protection from thrill craft operating on the shallow reef flats.

Poor economic conditions do not justify prostituting our natural areas.

Malama Maunalua

Marshall & Barbara Rosa

6973 Kalaniana'ole Hwy.

[RosaM002@hawaii.rr.com](mailto:RosaM002@hawaii.rr.com)

395-1400 phone

To Whom it may concern:

My name is John-Brandon K.M. Pang. I am writing in response to bills HB1310 and SB367. My position on both matters is a tough one. I am an employee of Sea Breeze Watersports and also a local resident of Hawaii Kai. I am torn between my employer and my community. I have been working in the watersport business since 1993. I have been through several companies working various jobs from crew on a parasail boat, to a jet ski instructor, to a powerboat operator, to dive boat captain, and now back around to a parasail captain. This is the only life I know and have come to know over the past 16 years. It has provided me with endless opportunities that would not have been available if not employed on the bay. I have learned about the tides, marine life, business, and most importantly here in Hawaii, tourism. Without tourism here in Hawaii, more than 80% of us would not be employed. Tourism is what keeps us alive. It's what keeps me alive. These two bills that are being introduced will have a big effect on tourism here in Hawaii and more importantly here in Hawaii Kai.

HB1310 is being introduced to allow the commercial operators of jet ski's to operate on Saturday's. I don't agree with this bill due to the fact that there isn't enough days that the public is allowed to use the portion of the bay that the jet ski operations take up. I don't think that it would be fair to the public to take one more day away from them to give a company that is allowed to operate five out of the seven days a week one more day to operate. I have access to a jet ski and on my days off, which happen to be the weekends, I do use it right here in Hawaii Kai. If both companies were allowed to operate on Saturday's, that's one less day that I would be able to use the area allowed by the State. If there were some amendments to the bill, perhaps some of which the public and the companies could agree upon where both sides win, then I would back this bill. However, with the way that the bill stands right now, I am not able to support HB1310.

On the other hand, SB367, is a bill that I think should be passed. I don't think that it is fair to put a limit of permit ownership on a company. Being a person that has worked here in Hawaii Kai for 16 years, I have become accustomed to my job and lifestyle. I could not imagine having a job one year and possibly no job the next. I do believe in fair business but to put a limit of one company holding a permit for 20 years sounds a little biased. You could use any other business as an example and see how they would feel if you told them that they could only be in business for twenty years. I don't think that you would get a very good response. Sure this bill could use some amendments on the time limit, but once again, the public needs to be involved. The public needs to be given a chance to bid on the available permits.

With these two bills, I believe that there needs to be some major overhauling of the two to accommodate both the business owner, and the public.

Thank you for your time,

John-Brandon K.M. Pang

## karamatsu3-Leanne

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 03, 2009 7:34 AM  
**To:** JUDtestimony  
**Cc:** kathy@seabreezewatersports.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position:  
Testifier will be present: Yes  
Submitted by: Kathleen Takahashi  
Organization: Individual  
Address: 6729 Hawaii Kai Drive Honolulu, HI  
Phone: 394-2623  
E-mail: [kathy@seabreezewatersports.com](mailto:kathy@seabreezewatersports.com)  
Submitted on: 3/3/2009

**Comments:**

I want to voice my strong support for HB1310 as it removes an unjust and discriminatory provision relating to the term of permits in the State of Hawaii.

This section applies only to parasailing and jet skiing permits and removes this provision. Isn't it better to legislate than to litigate?

This bill also extends the operating days to allow thrill craft on Saturdays which mirrors less than operations in Kaneohe bay - another recreational bay shared by commercial and residential.

Waikiki operates 7 days. Although some may argue this is strictly commercial, there are thrill craft permits directly in the Waikiki area - not just Keahi lagoon.

We must have uniformity in the boating laws. Please support and pass this bill.

**karamatsu3-Leanne**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 03, 2009 7:35 AM  
**To:** JUDtestimony  
**Cc:** mailetakahashi@yahoo.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position: support  
Testifier will be present: Yes  
Submitted by: Maile Takahashi  
Organization: Individual  
Address: 6729 Hawaii Kai Drive Honolulu, HI  
Phone: 389-1230  
E-mail: [mailetakahashi@yahoo.com](mailto:mailetakahashi@yahoo.com)  
Submitted on: 3/3/2009

**Comments:**

I want to voice my strong support for HB1310 as it removes an unjust and discriminatory provision relating to the term of permits in the State of Hawaii.

I also support extending operating days to include Saturday so our locals can enjoy this activity.

Thank you.

**karamatsu3-Leanne**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 03, 2009 7:36 AM  
**To:** JUDtestimony  
**Cc:** takahashimark@yahoo.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: Mark Takahashi  
Organization: Individual  
Address: 6729 Hawaii Kai Drive Honolulu, HI  
Phone: 389-4515  
E-mail: [takahashimark@yahoo.com](mailto:takahashimark@yahoo.com)  
Submitted on: 3/3/2009

**Comments:**

I want to voice my strong support for HB1310 -

Removal of 20 year expiration term for parasailing and jet skiing permits is the right thing to do. Business must survive.

I also support extending operating days to include Saturday so our locals can enjoy this activity.

Thank you.

## karamatsu3-Leanne

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 03, 2009 7:39 AM  
**To:** JUDtestimony  
**Cc:** mbender@hawaii.rr.com  
**Subject:** Testimony for HB1310 on 3/3/2009 2:00:00 PM

Testimony for JUD 3/3/2009 2:00:00 PM HB1310

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: Mary Bender  
Organization: Individual  
Address: 520 Lunalillo Hm. Rd. #315 Honolulu, HI  
Phone: 396-0384  
E-mail: [mbender@hawaii.rr.com](mailto:mbender@hawaii.rr.com)  
Submitted on: 3/3/2009

**Comments:**

I strongly support HB1310 as it removes an unjust and discriminatory provision. Business owners must be allowed to own their companies for as long as they want - not our state dictates. This is not right.

I also support opening the bay to these operators one additional day - Saturday. This is a reasonable compromise.

I am in strong opposition to HB 1310. I am an ocean user, and resident of Maunalua Bay. My community that uses the ocean for paddling, surfing, and fishing will be negatively affected by this bill. I am concerned that the environment will be negatively affected. There are scientific studies that show the negative impact of thrillcraft in nearshore waters. The ocean using public is already being excluded from the areas of the ocean that the commercial operators use 5 days a week. The weekends and holidays must be preserved for the use of the public. This bill puts the business interests of two commercial operators ahead of the environment, the ocean using public, and the future of our bay. Do you want our keiki to be able to have a healthy Maunalua Bay in the future? Do you want to make sure that the community ocean users are not excluded from more of Maunalua Bay? If so, please oppose this bill.

Thankyou,  
Anne Rosa

RE :STRONGLY OPPOSE HB 1310, SB367

I am strongly opposed to HB 1310 and SB 367 and would like to see both bills deferred for lack of public input.

As a resident of Maunalua Bay and an ocean user I feel both bills should have been brought to the community before being submitted.

The bills are in opposition to the community's desire to limit commercial use and protect the Bay's environment.

In the late 1980's the community testified overwhelmingly to remove all commercial activity in Maunalua Bay. Jet ski and thrillcraft companies had moved in and were taking over Maunalua and Kaneohe Bay. A community activist group was formed that included residents of both areas, CATCH, Citizens Against Thrillcraft Hawaii. Both residential bays wanted the commercial activities moved to Keehi Lagoon. Senator Donna Ikeda introduced bills to remove all commercial activity from Maunalua Bay after hearing testimony from the community, residents, surfers, paddlers, swimmers, divers and other ocean users.

In 1990 the Ocean Recreation Management Plan was enacted by the State as their answer to reduce user conflicts. The DLNR designated zones for commercial activity 5 days a week and preserved weekends and holidays for the community.

In Maunalua Bay they allowed the thrillcraft to operate in the areas they were already in. The areas designated for jetski operation is inside the reef on shallow reef flat which is being damaged every day.

The DLNR knowingly allows this damage to continue five days a week, approximately 245 a year. Scientific data already gathered can prove the damage that is being done.

Now the commercial operators want Saturdays and also wanted Sundays which would cause more damage to the environment and take away the areas from other ocean users.

The reef that is being destroyed used to have lobster and turtles, fish and limu.

I have lived here all my life and seen the environment of the bay degraded.

My father worked the Konohiki when Maunalua Bay was a rich fishery.

It should be allowed to recover. Would you allow this activity to take place in Hanauma Bay? If so then just go ahead and pass these bills. Maybe I am the only resident that is against these bills.

Why were these bills introduced that only benefit two commercial thrillcraft operators without any community input? They should be deferred so the community can discuss and give input before the law is changed.

Marshall K Rosa  
6973 Kalaniana'ole Hwy

Hon, HI 96825

Brandon Deal

In support of HB 1310

My name is Brandon Deal and I am in support of HB 1310. I am a full time employee of SeaBreeze Watersports and I want to see this bill pass. I am concerned about my job now and in the future. I work out on the water and I care about what goes on out there. It is also important for you to know that we are mindful of what goes on in the bay and we are willing, able, and available to provide rescue services when needed, which is almost a daily occurrence.

Thank You for considering my testimony and please pass this bill.