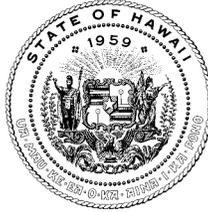


**SB**

**90**

**EDT/WTL**

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 Senate Committees on  
ECONOMIC DEVELOPMENT AND TECHNOLOGY  
and  
WATER, LAND, AGRICULTURE AND HAWAIIAN AFFAIRS**

**Wednesday, February 11, 2009  
1:15 PM  
State Capitol, Conference Room 016**

**In consideration of  
SENATE BILL 90  
RELATING TO COMMERCIAL ACTIVITIES ON OCEAN WATERS**

Senate Bill 90 proposes to allow the Department of Land and Natural Resources (Department) the ability to regulate commercial activities originating from governmental and private boating facilities as well as occurring on the ocean waters of the State. The Department does not support this measure.

The Department currently issues commercial use permits for the State small boat harbors, launch ramps, and related facilities as well as requiring all equipment used for commercial purposes on State waters to be registered with the Department. Requiring the Department to regulate commercial activities originating on private or public property will be very burdensome and difficult to enforce.

The Department has established ten Ocean Recreation Management Areas (ORMA) around the State for the purpose of reducing user conflicts both recreationally and commercially. This allows the Department to regulate various activities on a case-by-case basis and allows the Department the ability to amend ORMA's by administrative rules.

Section 200-4 (5), Hawaii Revised Statutes, states, "To regulate and control recreational and commercial use of small boat harbors, launching ramps, and other boating facilities owned or controlled by the State and the ocean waters and navigable streams of the State;" The statute already authorizes the Department to regulate commercial activities taking place in State waters making additional revisions to the existing statute unnecessary.

**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  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**From:** Noa Napoleon [freeoceanaxs@yahoo.com]  
**Sent:** Tuesday, February 10, 2009 10:19 AM  
**To:** EDTTestimony  
**Cc:** Sen. Carol Fukunaga  
**Subject:** SB 90

**Noa Napoleon  
1750 Kalakaua Ave #103  
Hon, HI 96815**

Testimony in **Support** of SB 90

Re: Commercial Activities on Ocean Waters

Hearing Date: Feb 11. 2009  
Time: 1:15 pm  
Room 016

Senate Committees  
Economic Development and Taxation (EDT)  
Water and Land (WTL)

By adding this regulatory function to DLNR Boating division you are ensuring that state assets (capitol improvements, facility upgrades, maintenance programs etc.), are adequately and properly managed by division staff. As you know the proposed Recreational Renaissance Project (SB 949), deals with asset management only and does not speak to the additional need for specialized expertise and or for better over -all management per say. Areas under DLNR that have been overlooked or neglected in the past are specifically addressed in this bill, which is why I strongly support it. I have become especially concerned with the portions of this bill that deal with regulation of commercial activities on our public beaches, and do strongly support the effort to ensure that commercial obstructions such as the storage of commercial equipment are scrutinized and properly regulated as is already required by law. Most if not all of Hawaii's public beaches are being inundated with roving commercial businesses that are not adequately regulated by the state to ensure that the public enjoyment of those beaches are protected. Loop holes in the rules are supported by "past practices" theories which have the effect of negating enforcement efforts. The result is the pitting of commercial users against the general public in many cases. I would just suggest that SB 90 be amended slightly to add that DOBOR (division of Boating and Ocean Recreation) create an additional position within its division called "**ORMA Officer of Licensing and Permitting.**" By creating this position it would free boating officials to focus on boating and harbor issues without distraction, in addition to allowing for more direct and hopefully effective management of beach related commercialism. I am not against commercialism of this nature but do believe that a better regulatory system would ensure that the division is doing its part to protect against harmful social and environmental effects that unregulated commercialism may cause. Mahalo for your consideration of this measure.

Noa Napoleon

## fukunaga4 - Michelle

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 10, 2009 11:54 AM  
**To:** EDTTestimony  
**Cc:** gillpaulc@yahoo.com  
**Subject:** Testimony for SB90 on 2/11/2009 1:15:00 PM

Testimony for EDT-WTL 2/11/2009 1:15:00 PM SB90

Conference room: 016  
Testifier position: oppose  
Testifier will be present: Yes  
Submitted by: Paul Gill  
Organization: Individual  
Address:  
Phone:  
E-mail: [gillpaulc@yahoo.com](mailto:gillpaulc@yahoo.com)  
Submitted on: 2/10/2009

Comments:  
re: SB 90

I am opposed to adding DLNR oversight to private marinas.

The DLNR is already understaffed and under-budgeted for Hawaii State waters. Adding additional areas of regulatory function would add cost to the state of Hawaii, and cause the DLNR to be required to patrol an even larger area of responsibility.

The U. S. Coast Guard and the Department of Land And Natural Resources, already has the responsibility to regulate Commercial and private operators in Federal and State waters.

**fukunaga4 - Michelle**

---

**From:** carl [mjellings@hawaii.rr.com]  
**Sent:** Sunday, February 08, 2009 1:05 AM  
**To:** EDTTestimony; WTLTestimony  
**Cc:** Laura.Thielen@hawaii.gov

SB90

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, February 11, 2009  
TIME: 1:15 p.m.  
PLACE: Conference Room 016

State Capitol

415 South Beretania Street

Good Afternoon Honorable Senators

Fishers as I , have supported this bill for going on several years now,,Our Hopes as what this Bill will provide is to further protect traditional akule habitat from overuse,consistent noise pollution and resource displacement. should this Bill make it The Department of Land and Natural Resources may regulate numbers of permitted vessels from Private marina"s

for the last 7 Years there has been non stop habitat degradation off the Waianae Coast. this past year with the economy slowing we have seen much less transits along our coastline.and when we do see them they are mostly offshore ,this has coincidentally or not produced very good fishing .

Just a heads up they will be blasting the entrance to Ewa"s Haseko"s new harbor any day now, I foresee Commercial vessels from this facility built and fitted with powerful engines made capable for high speed transiting in order to seek clean calm waters at least 8 miles away off our

Waianae Coast. adding to an already congested Kahe Point snorkel site and possibly even worse our Makaha site over 18 miles away. as vessels on a daily basis exit Ewa"s new private marina and travel West Bound at the very least 7 miles of well documented akule grounds will die.

I Humbly ask again Your support this year SB90

Mahalo Carl Paoo Jellings SR.

THE SENATE  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, February 11, 2009  
TIME: 1:15 p.m.  
PLACE: Conference Room 016  
State Capitol  
415 South Beretania Street

**Strong support** of S.B. 90 Relating to Ocean Resources; Commercial Activities; DLNR

Chairs Fukunaga and Hee, Vice-chairs Baker and Tokuda, and Honorable Members of the Committee on Economic Development and Technology and Committee on Water, Land, Agriculture, and Hawaiian Affairs, I am Roy Morioka, a retiree and fisherman from Waialae-iki, Oahu and I thank you for hearing this important measure and allowing me to testify in strong support of S.B. 90 as it provides the department of land and natural resources (DLNR) much needed authority to provide consistent management to fairly regulate all types of commercial activities in and on ocean waters to effectively oversee our coastal marine ecosystem. This bill mirrors S.B. 2196 SD2, HD1 of the 24<sup>th</sup> Legislature and provides for the comprehensive management of activities that affect the coastal marine ecosystem through the regulation of commercially permitted uses of both governmental and private boating facilities, and commercial activities in and from private marinas not currently regulated by any other chapter.

The KoOlina Marina and soon to be opened Haseko Hoakalei Marina with its proposed 1,400 slips, six launching ramps, and associated marina facilities, plus the proposed Disney Resort at KoOlina present the potential to create a tremendous increase in commercial ocean-based activities along Oahu's southwest coastline. If such activities remain unregulated the potential increase in near shore activities by boat based and ocean related commercial activities will exponentially increase surely causing severe adverse and irreparable degradation of the coastal ecosystem and environment of our precious marine resources including the valuable near shore pelagic species such as opelu and akule.

I have observed and experienced the impacts of such activities on the coast of Maunalua Bay, Oahu. There are no longer large schooling aggregations of akule and the opelu schools and the species that once inhabited the reefs have diminished significantly in these waters with the tremendous land-based developments over the ridges along the bay since the late 1950's, the hardening of streams and rivulets, the loss of Kuapa Pond and its estuarine habitat to the Hawaii-Kai development, the increased para-sailing, dive-tour, jet-skiing and other commercial recreational activities in the bay. Already the unregulated dolphin and whale watching cruises that ply the southwest coastline at high speeds from KoOlina are disrupting the schooling aggregations of akule thus adversely impacting their behavior, habitat and surrounding ecosystem.

Please provide the DLNR this legislative authority to effectively and equitably manage all commercial activities in ocean waters (commercial fishermen are already regulated by the DLNR) to protect the near shore marine ecosystem through comprehensive regulation from both public and private marinas/harbors. I thank you again for this opportunity to testify in strong support and humbly seek your consideration also in support.

Sincerely,  
Roy N. Morioka