

LINDA LINGLE  
GOVERNOR OF HAWAII



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

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**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
FINANCE**

**Wednesday, February 24, 2010  
11:00 AM  
State Capitol, Conference Room 308**

**In consideration of  
HOUSE BILL 2347, HOUSE DRAFT 1  
RELATING TO THE MAXIMUM TERM OF COMMERCIAL USE AND OPERATOR  
PERMITS FOR THRILL CRAFT AND PARASAILING**

House Bill 2347, House Draft 1 proposes to delete the maximum term of permit issue of 20 years for thrill craft and parasailing. The Department of Land and Natural Resources (Department) takes no position with the deletion of the maximum term of permit issue of 20 years.

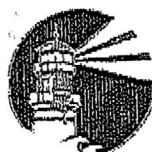
The Department notes that commercial thrill craft and parasail operators that have been issued a commercial use permit by the Department's Division of Boating and Ocean Recreation are the only commercial permittees that may have their commercial use permits issued at public auction after 20 years. All other commercial use permits are issued on a year to year basis and are renewed annually as long as the permittee has remained in compliance with all federal, state, and county laws. The Department feels that all commercial operators should be treated equally and that all commercial operator permits should either be renewed annually or be required to be offered at public auction every 20 years.

**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  
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ENGINEERING  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



# Ocean Tourism Coalition

*The Voice for Hawaii's Ocean Tourism Industry*  
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February 24, 2010

Testimony To: House Committee on Finance  
 Representative Marcus R. Oshiro, Chair

Presented By: Tim Lyons, CAE  
 Executive Director

Subject: H.B. 2347, HD 1 - RELATING TO THE MAXIMUM TERM OF COMMERCIAL  
 USE AND OPERATOR PERMITS FOR THRILL CRAFT AND PARASAILING

Chair Oshiro and Members of the Committee:

I am Tim Lyons, Executive Director of the Ocean Tourism Coalition and we support this bill.

The twenty (20) year maximum permit was a specialized response to a situation existing at the time which was undesired by the community. Unfortunately, we find that the twenty (20) year maximum causes a great hardship on the owner of that permit because after all, as the time grows near to expiration which it is currently doing, you have the equivalent of a "lame duck" permit.

Businesses must enter into long range plans, as well as long range applications. A permit which is going to expire at some point certain in the future does not afford the business, its investors or anyone else the incentive to take a risk with that business by investing or providing a loan.

We also find that the twenty (20) year maximum (as in the current law) is an anomaly as far as other permits that are issued.

Under the terms of this bill each permit operator will have to ask for a renewal by the Department annually. We agree. Most commercial permits are renewable annually and we see no reason to make this one different. We also think however, that the auction features should be removed and the number of permits set by administrative rule.

Based on the above, we can recommend support of this bill and would ask for your favorable consideration of our amendment.

Thank you.

## Bryan Y.Y. Ho

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February 23, 2010

HONORABLE MARCUS R. OSHIRO  
Chair  
Finance Committee  
39<sup>th</sup> Representative District  
Room 306, Hawaii State Capitol  
415 So. Beretania Street  
Honolulu, Hawaii 96813

VIA FACSIMILE

Re: *HB 2347, H.D. 1*  
Finance Committee Hearing  
Date: February 24, 2010  
Time: 11:00 a.m.  
Conf Room 308

Representative Oshiro:

I represent X-Treme Parasail, Inc., Diamond Head Parasail, Inc., and Diamond Head Parasail & Watersports, Inc., three commercial water sports companies that operate out of Kewalo Basin. Needless to say, my clients support HB 2347, H.D. 1, and strongly urge all members of your committee to pass this measure with one minor amendment.

The sole purpose of HB 2347 is to eliminate the 20 year term limit applicable to commercial parasail and thrill craft (jet ski) permits issued by the Division of Boating & Ocean Recreation ("DOBOR"), Department of Land & Natural Resources. The change in law is necessary to correct an inherent conflict and patent unfairness that currently exists between parasail/jet ski permits and all other commercial permits issued by DOBOR. Parasail and jet ski permits are the only commercial permits subject to: 1) a permit fee that is calculated on the higher amount of a fixed fee or 3% of their gross sales; and 2) a 20 year term limit, at the end of which the permit automatically expires and is made available for re-issuance to the general public by public auction. All other commercial permits issued by DOBOR pay a fixed permit fee and are renewed annually in perpetuity. As long as the permit holder has complied with all applicable statutes and regulations, as well as, paid all taxes owed, renewal of these permits is

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automatic and a matter of right, without risk of the permit automatically expiring and being given to another operator. It is patently unfair that parasail and jet ski operators are charged the highest permit fees of any commercial ocean recreation business in the State, yet they do not enjoy the same rights and protections as other commercial operators. Parasail and jet ski permits should be annually renewable in perpetuity as well.

The incumbent parasail/jet ski permit holder's right, under the current law, to retain their permit for another 20 year term by agreeing to match the highest bid offered at the auction is of no consequence or consolation. My clients are genuinely concerned that under the current system their livelihood could be jeopardized by someone that does not know the business and submits a bid that is so high, when combined with all other operating expenses, the business cannot operate at a profit. Under that scenario, it would be foolish for the incumbent to retain the permit at the higher rate knowing any future operation will result in certain loss. The current system also does not protect permit holders from speculators that are not interest in operating a parasail/jet ski business, but are looking to acquire the permit simply for the purpose of reselling it at a profit, which stems from the fact there are only a limited number of permits available. No other commercial permit is subject to this type of arbitrary exposure to increased fees and termination of their business. Parasail and thrill craft operators are entitled to equal treatment and protection under the law.

The 20 year term limit should also be abolished because it unfairly handicaps a company's ability to operate successfully and maintain the highest standards of safety. A new parasail boat, with shipping to Hawaii, costs approximately \$200,000. Based on a sale that occurred within the last year, a used boat in good condition costs \$80,000. Every vessel must be operated by a U.S. Coast Guard licensed captain and a single trained deck hand. A brand new jet ski costs between \$6,000 - \$8,000. Taking into consideration transportation, labor expenses, fuel, maintenance, insurance, permit and mooring fees, a 20 year term is not long enough for a single owner, much less a hui of investors, to recoup their investment at a fair rate of return, while simultaneously reinvesting a portion of profits generated in providing ongoing training of personnel in safety and industry standards and regular maintenance and/or upgrading of equipment.

The expiration of these permits at the end of 20 years also interferes with an operator's ability to secure financing and other long term commitments. Banks are not willing to loan money, issue lines of credit and grant other privileges because the life of the operation is uncertain.

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Lastly, the limited term hinders the permit holders ability to hire and retain quality employees. It is difficult to make long term commitments to employees when it is possible the business may cease to exist if the operator cannot retain it's permit at the end of the term.

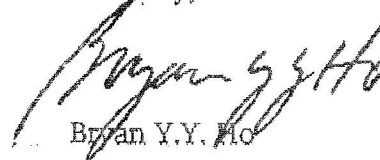
**SUGGESTED AMENDMENT**

Your committee might consider consolidating subparagraphs (l) and (n). These sections state commercial use/operator permits shall be made available to the general public by auction. Instead of having separate redundant paragraphs, the statute would be more concise and clearer with just one paragraph that lists all situations in which permits shall be issued by auction.

In addition to permits that are new and/or have been revoked by the Department of Land & Natural Resources, Division of Boating & Ocean Recreation ("DOBOR"), the statute should be expanded to state permits that: 1) are voluntarily surrendered by the permit holder; and 2) expire because they were not renewed at the end of their term, shall also be made available by public auction.

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

Sincerely,



Bryan Y.Y. Ho

cc: Hon. Marilyn B. Lee (Vice Chair - FIN)  
Hon. Karen L. Awana  
Hon. Isaac W. Choy  
Hon. Sharon E. Har  
Hon. Chris Lee  
Hon. Roland D. Sagum  
Hon. Jessica Wooley  
Hon. Lynne Finnegan

Hon. Henry J.C. Aquino  
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Hon. James K. Tokioka  
Hon. Kyle T. Yamashita  
Hon. Gene Ward