

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
WATER, LAND, & OCEAN RESOURCES**

**Friday, January 29, 2010
9:00 AM
State Capitol, Conference Room 325**

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

House Bill 2347 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
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
Century Square-1188 Bishop St., Ste. 1003
Honolulu, HI 96813-3304
(808) 537-4308 Phone (808) 533-2739 Fax
timlyons@hawaiiantel.net

January 29, 2010

Testimony To: House Committee on Water, Land, & Ocean Resources
Representative Ken Ito, Chair

Presented By: Tim Lyons, CAE
Executive Director

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

Chair Ito 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 in a year or two 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 is an anomaly as far as other permits that are issued. Under the terms of this bill each permit operator will still have to ask for a renewal by the Department for every five (5) year period but we believe that that is a hardship the businesses and permit owners can overcome assuming that they operate in a safe and legally required manner.

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

Thank you.

**HAWAIIAN PARASAIL INC
1085 Ala Moana Blvd. #101
Honolulu, Hawaii 96814**

January 27, 2010

**HOUSE OF REPRESENTATIVES
COMMITTEE OF WATER, LAND, & OCEAN RESOURCES
State Capitol Building room 438
Hearing of HB2347
Jan. 29, 2010 at 9:00 a.m.**

Testimony of MARK NEUMANN

To Rep. KEN ITO, Chairman and members,

In '1976 I introduced Parasailing to Hawaii. I spent the next 30 plus years laboring to stay in business while helping to build this industry into the hugely popular attraction it is today. Some of the other Parasail and Jet Ski operators are also part of the early pioneers of the industry here. We were in the business many years before being subjected to regulations by DLNR under the permit system, forced to except these regulations even while not agreeing to at least some in part. We all have some employees that have been with us for many years, in some cases decades, professional at their respective positions. They too have dedicated a good part of their lives to their jobs. We all deserve to continue with our professions and our businesses without government intervention.

In the Hawaii "SMALL BUSINESS BILL OF RIGHTS", article VII states that : "small businesses have the right to renewal of essential permits, licenses, registrations, or approvals, absent a specific reason for non-renewal." There has never been any explanation or reason given for the necessity of this regulation in question.

In contrast, there are numerous reasons why this regulation should be deleted, among them, is that this regulation is flagrantly discriminating and morally bankrupt. Parasailing and Jet Ski operators are the only commercial ocean activities permitted by the DLNR, and

subjected to this regulation. There should be a fair and even playing field between all the commercial ocean activity operators, either take away all of the other commercial ocean activity operator permits after a 20 year term or delete this regulation.

There is no justification for taking away these rights, previously allowed or given for 20 years, without a specific cause or reason for doing so. This is devastating to the permit holders entire life, a cruel act and morally disgraceful. I have my whole life savings invested into this business, decades of blood, sweat and tears. I have sacrificed having a family until late in my life so I could build this business. I provide jobs not take jobs. I have faithfully paid a percentage of my gross every month to the government for this permit. I have risked all this with a business that has this government waiting in place to reap the rewards of what I built after 20 years. Is this America.

Finally, this is an anti economic stimulus, in a climate having businesses all over the country closing. Then you have a government purposely, needlessly and forcefully taking away a perfectly legitimate and successful business.

I ask this committee to please help correct this violation of the Small Business Bill of Rights and violation of discrimination laws by passing this amendment.

A handwritten signature in black ink, appearing to read 'Mark Neumann', written in a cursive style.

**MARK NEUMANN
OWNER**

Request for floating platform off Waikiki runs into flak

By JAKE WILLIAMS
Advertiser Staff Writer

Four hotels and three organizations objected at a public hearing last night to a proposal to place a floating platform off Waikiki, but the State Board of Land and Natural Resources put off a decision until next month.

Mark Neumann is seeking board approval to place a 25 by 35 foot platform 3,600 feet offshore from the Royal Hawaiian Hotel to launch and land paraglide riders.

The board also heard an application for a permit to extend a Kaneohe Yacht Club floating pier to moor boats. There was no opposition to the proposal to extend the pier by some 400 feet in the southwest section of Kaneohe Bay.

Decisions will be made on both applications at the board's second meeting in

February. No date has yet been set for that meeting.

This morning the board meets at 10 a.m. and is scheduled to consider a proposal for 65-year leases to Mokauea Island fisherman as an educational and scientific community.

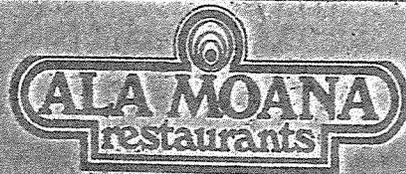
Neumann's proposal would bring a new activity to Waikiki. A paraglide business has been operating off Kona since last year. Riders are strapped into a parachute and pulled by a jet-powered boat at the end of a 330-foot line, reaching altitudes of about 150 feet.

Those opposing the platform raised a variety of concerns, including noise, potential danger to persons in the water, danger to boats from the platform and visual impact. The land board staff will not require an environmental impact

statement, but several government agencies raised concerns.

The Office of Environmental Quality Control was concerned about noise from the boat and suggested that riders be picked up as Ala Wai boat harbor instead of a small coral beach near Ft. DeRussy, as proposed by Neumann.

The Department of Transportation believes there will be a conflict with other uses and questioned the adequacy of the two 500-pound concrete anchors that would keep the platform in place. The Fish and Game Division suggested that the platform be towed to and from the area as a safety precaution. Opposed came from the Waikiki Improvement and Residents Associations, the Shoreline Protection Alliance and the Royal Hawaiian, Surfrider, Moana-Ocean Lanai and Sheraton-Waikiki hotels.



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City presents evidence in shooting suit

A 16-year-old who was accidentally killed by police in 1974 was shot in the head once—not twice as the family contends—according to a City document filed in Circuit Court.

The youth, Ivan Tadashi Kam, a Lilehua High student, died, police said, when a sergeant accidentally shot him.

Police had said Kam was driving a reportedly stolen car when he was involved in a three-car crash on Kam Highway.

When the sergeant approached Kam's car with his gun drawn, the pistol went off after the youth kicked or pushed open the car door and jarred the policeman, according to police.

In November Kam's family filed a multimillion-dollar suit against the City, contending that the shooting was not accidental. The removal of two for-

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VARIETY OF PIZZA
A LA CARTE DESSERTS
SIDE ORDERS BEVERAGES

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When the sergeant approached Kam's car with his gun drawn, the pistol went off after the youth kicked or pushed open the car door and jarred the policeman, according to police.

In November Kam's family filed a multimillion-dollar suit against the City, contending that the shooting was not accidental. The removal of two foreign metallic objects from Kam indicated he was shot twice and not accidentally, the suit said.

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January 28, 2010

Honorable Ken Ito
Chair: Water, Land, Agriculture & Hawaiian Affairs
48th Representative District
Hawaii State Capitol, Room 420
415 South Beretania Street
Honolulu, HI 96813

RE: HB2347

Dear Representative Ito:

My name is Jeff Krantz and I own and operate SeaBreeze Parasailing Co., Ltd. I am in favor of HB2347. The state is and should be concerned about job loss and the need to help struggling businesses. I ask for the passage of this bill; businesses such as ours are at a higher risk of failure because of the unfair and discriminatory sections of HRS 200-37.

I have maintained a water sport company that features Jet Ski and parasail for the last 23 years. I have made it through many down turns / recessions including 911 and stand as a symbol for small business. Perseverance can prevail, but at this time we need the legislature to help.

We are not alone in seeking changes to section 200-37, there are other companies facing similar circumstances. I ask you to please support us in these trying times and support us in an effort to set things straight.

There are some things that you should know about the parasailing and thrill craft companies to get a better understanding of the size and scope of their operation, and the economic impact they are feeling.

- 1. Jet ski/ thrill craft operators are only allowed to operate 6 units and must remain in areas designated by the DNLR .*
- 2. Parasailing companies are only allowed to operate one boat and must also remain in areas designated by DLNR.*

The statutes should be revised to remove the 20-year expiration of the permit and repeal the Saturday and holiday closures of thrill craft in Mauanalua Bay. The statute should promote uniformity

The sole purpose of HB2347 is to eliminate the 20 year term limit applicable to commercial parasail and thrill craft (jet ski) permits issued by the department of Land and Natural Resources ("DLNR). Parasail and Jet ski permits are the ONLY commercial permits issued by the DLNR subject to a term limit. When the term limit is up, the permits go back to DLNR and are subject to auction.

All other commercial permits issued by DLNR are renewed annually in perpetuity. The permit holder must comply with all applicable statutes and regulations. This term limit unfairly handicaps a company's ability to operate. This term limitation interferes with an operator's ability to secure financing and other long term commitments.

This 20 year term limit must be abolished; parasail and jet ski operators are entitled to equal treatment and protection under the law.

Sincerely,

Jeffrey Krantz
President
SeaBreeze Parasailing Co., Ltd.

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Thursday, January 28, 2010 2:13 PM
To: WLOtestimony
Cc: kathy@seabreezewatersports.com
Subject: Testimony for HB2347 on 1/29/2010 9:00:00 AM

Testimony for WLO 1/29/2010 9:00:00 AM HB2347

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: Kathy Takahashi
Organization: Individual
Address: 747 Ailuna Street Honolulu, HI. 96821
Phone: 808-306-7609
E-mail: kathy@seabreezewatersports.com
Submitted on: 1/28/2010

Comments:

TESTIMONY IN FAVOR OF HB 2347

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 provision that puts a permit up for auction after this 20 year maximum term.

Permit holders that have met the state's requirements in the statute (compliance with all the rules, payment of taxes and a good safety record) should be able to own their businesses in perpetuity. 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 capitalization to ensure safe operation; extensive employee training and on-going equipment investments. The idea that a business must surrender a permit won at auction back to the state after 20 years is absurd. Other state permitted businesses are not subject to such a harsh consequence.

We must aggressively support our state's tourism operators and keep them viable entities by removing this unfair, unreasonable and discriminatory restriction. There are no other permitted water sports activities that are subject to this punitive measure. The state is populated with numerous water sports activities such as catamaran rides, surfing, scuba diving, submarine tours, dinner cruises, etc. These activities do not have a 20 year or other finite restriction on their businesses. They operate in perpetuity. Long term operators are good for our state.

Long term operators become long term stewards of the resource they use. Short term operators become abusers of a resource as they are forced to cut corners to recoup initial investments which are high. Long term operators are invested in safe operations. Remove this 20 year term without any reservation.

Please readily pass this measure.
Thank you

FORM LETTER #1

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]

Sent: Thursday, January 28, 2010 2:11 PM

To: WLOtestimony

Cc: ayarealtor@gmail.com

Subject: Testimony for HB2347 on 1/29/2010 9:00:00 AM

Testimony for WLO 1/29/2010 9:00:00 AM HB2347

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Ayako Ancheta

Organization: Individual

Address:

Phone: 8083517151

E-mail: ayarealtor@gmail.com

Submitted on: 1/28/2010

Comments:

I am writing to voice my strong support of HB2347 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.

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

FORM LETTER #2**WRITTEN TESTIMONY FOR HB2347**

**HOUSE OF REPRESENTATIVES
Committee on Water, Land & Ocean Resources
Hearing at State Capitol, Rm. 438, 9:00 a.m.
Measure number HB2347**

Testifiers Name: Noemi A. Neumann

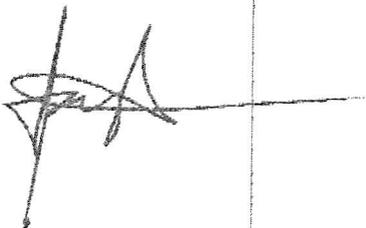
There is no conceivable legitimate reason or purpose for the State to discriminately take away the permit of a Parasail or Jet Ski operator, then stage an auction for that permit, other than for monetary gains, monetary gains that should be realized by the owner that has poured his blood and sweat into the business for 20 years, not the government.

In the Hawaii "SMALL BUSINESS BILL OF RIGHTS", article VII states that: "small businesses have the right to renewal of essential permits, licenses, registrations, or approvals, absent a specific reason for non-renewal." There has never been any explanation or reason given for the necessity of this regulation in question.

In contrast, there are numerous reasons why this regulation should be deleted, among them, is that this regulation is flagrantly discriminating and morally bankrupt. Parasailing and Jet Ski operators are the only commercial ocean activities permitted by the DLNR-DOBOR, subjected to this regulation. There should be a fair and even playing field between all the commercial ocean activity operators.

There is no justification for taking away the rights, previously allowed for 20 years, without a specific cause or reason for doing so. This is a cruel act and morally disgraceful.

I ask this committee to please help correct this violation of the Small Business Bill Of Rights by passing this amendment.



FORM LETTER #3Name: Jacob TannerCommittee: COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice Chair

DATE: Friday, January 29, 2010
TIME: 9:00 a.m.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

HB 2347 RELATING TO THE MAXIMUM TERM OF COMMERCIAL USE AND OPERATOR PERMITS FOR THRILL CRAFT AND PARASAILING

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