



GOV. MSG. NO. 1406

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 09, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

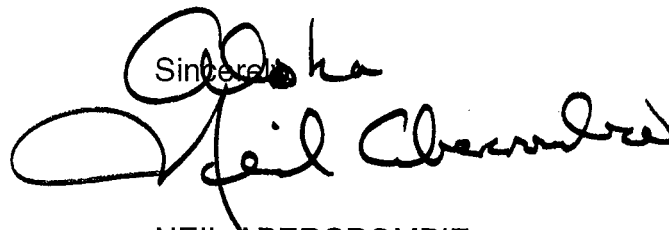
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 09, 2012, the following bill was signed into law:

HB2682 HD1 SD1

RELATING TO COMMERCIAL ACTIVITIES ON  
OCEAN WATERS.  
**Act 289 (12)**

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

## A BILL FOR AN ACT

RELATING TO COMMERCIAL ACTIVITIES ON OCEAN WATERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to authorize the department of land and natural resources to regulate commercial enterprises that operate out of private marinas and use state waters or marine resources. It is not the intent of this Act to provide for additional regulation of existing regulated commercial enterprises, but to address currently unregulated activities only.

SECTION 2. Section 200-3, Hawaii Revised Statutes, is amended to read as follows:

"[~~f~~]§200-3[+] Ocean recreation and coastal areas programs. The board shall assume the following functions of the department of transportation:

(1) Managing and administering the ocean-based recreation and coastal areas programs of the State;

(2) Planning, developing, operating, administering, and maintaining small boat harbors, launching ramps, and other boating facilities and associated aids to navigation throughout the State;



- (3) Developing and administering an ocean recreation management plan;
- (4) Administering and operating a vessel registration system for the State;
- (5) Regulating the commercial use of ~~[boating facilities,]~~ state waters and marine resources, including operations originating from private marinas;
- (6) Regulating boat regattas and other ocean water events;
- (7) Administering a marine casualty and investigation program;
- (8) Assisting in abating air, water, and noise pollution;
- (9) Conducting public education in boating safety;
- (10) Administering the boating special fund;
- (11) Assisting in controlling shoreline erosion;
- (12) Repairing seawalls and other existing coastal protective structures under the jurisdiction of the State; and
- (13) Removing nonnatural obstructions and public safety hazards from the shoreline, navigable streams, harbors, channels, and coastal areas of the State."

SECTION 3. Section 200-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



1       "(a) The chairperson may adopt rules necessary:

2       (1) To regulate the manner in which all vessels may enter  
3       the ocean waters and navigable streams of the State  
4       and moor, anchor, or dock at small boat harbors,  
5       launching ramps, and other boating facilities owned or  
6       controlled by the State;

7       (2) To regulate the embarking and disembarking of  
8       passengers at small boat harbors, launching ramps,  
9       other boating facilities, and public beaches;

10      (3) For the safety of small boat harbors, launching ramps,  
11      and other boating facilities, and the vessels anchored  
12      or moored therein;

13      (4) For the conduct of the public using small boat  
14      harbors, launching ramps, and other boating facilities  
15      owned or controlled by the State;

16      (5) To regulate and control recreational and commercial  
17      use of small boat harbors, launching ramps, and other  
18      boating facilities owned or controlled by the State  
19      and the ocean waters and navigable streams of the  
20      State;

21      (6) To prevent the discharge or throwing into small boat  
22      harbors, launching ramps, other boating facilities,



1 ocean waters, and navigable streams, of rubbish,  
2 refuse, garbage, or other substances likely to affect  
3 the quality of the water or that contribute to making  
4 the small boat harbors, launching ramps, other boating  
5 facilities, ocean waters, and streams unsightly,  
6 unhealthful, or unclear, or that are liable to fill  
7 up, shoal, or shallow the waters in, near, or  
8 affecting small boat harbors, launching ramps, and  
9 other boating facilities and the ocean waters and  
10 navigable streams of the State, and likewise to  
11 prevent the escape of fuel or other oils or substances  
12 into the waters in, near, or affecting small boat  
13 harbors, launching ramps, or other boating facilities  
14 and the ocean waters and navigable streams of the  
15 State from any source point, including[7] but not  
16 limited to[7] any vessel or from pipes or storage  
17 tanks upon land[~~. The rules may include.~~], including:

18 (A) Requirements for permits and fees for:

- 19 (i) The mooring, docking, or anchoring of  
20 recreational and commercial vessels or the  
21 launching of recreational or commercial



1 vessels at small boat harbors, launching  
2 ramps, and other boating facilities; or

3 (ii) Other uses of these facilities;

4 (B) Requirements for permits and fees for use of a  
5 vessel as a principal place of habitation while  
6 moored at a state small boat harbor;

7 (C) Requirements governing:

8 (i) The transfer of any state commercial,  
9 mooring, launching, or any other type of use  
10 or other permit, directly or indirectly,  
11 including [7] but not limited to [7] the  
12 imposition or assessment of a business  
13 transfer fee upon transfer of ownership of  
14 vessels operating commercially from, within  
15 or in any way related to the state small  
16 boat harbors; and

17 (ii) The use of state small boat harbors,  
18 launching ramps, or other boating facilities  
19 belonging to or controlled by the State,  
20 including [7] but not limited to [7] the  
21 establishment of minimum amounts of annual  
22 gross receipts required to renew a



1 commercial use permit, and conditions under  
2 which a state commercial, mooring,  
3 launching, or any other type of use or other  
4 permit may be terminated, canceled, or  
5 forfeited; and

6 (D) Any other rule necessary to implement this  
7 chapter pertaining to small boat harbors,  
8 launching ramps, and other boating facilities  
9 belonging to or controlled by the State;

10 (7) To continue the ocean recreational and coastal areas  
11 programs and govern the ocean waters and navigable  
12 streams of the State, and beaches encumbered with  
13 easements in favor of the public to protect and foster  
14 public peace and tranquility and to promote public  
15 safety, health, and welfare in or on the ocean waters  
16 and navigable streams of the State, and on beaches  
17 encumbered with easements in favor of the public[  
18 ~~The rules may include~~], including:

19 (A) Regulating the anchoring and mooring of vessels,  
20 houseboats, and other contrivances outside of any  
21 harbor or boating facility, including:

22 (i) The designation of offshore mooring areas;



(ii) The licensing and registration of vessels, houseboats, and other contrivances; and the issuance of permits for offshore anchoring and mooring of vessels, houseboats, and other contrivances; and

(iii) The living aboard on ~~such~~ vessels, houseboats, or other contrivances while they are anchored or moored within ocean waters or navigable streams of the State.

The rules shall provide for consideration of environmental impacts on the State's aquatic resources in the issuance of any permits for offshore mooring;

(B) Safety measures, requirements, and practices in or on the ocean waters and navigable streams of the State;

(C) The licensing and registration of persons or organizations engaged in commercial activities in or on the ocean waters and navigable streams of the State;





1 (D) The licensing and registration of equipment  
2 utilized for commercial activities in or on the  
3 ocean waters and navigable streams of the State;

4 (E) For beaches encumbered with easements in favor of  
5 the public, the prohibition or denial of the  
6 following uses and activities:

7 (i) Commercial activities;

8 (ii) The storage, parking, and display of any  
9 personal property;

10 (iii) The placement of structures or obstructions;

11 (iv) The beaching, landing, mooring, or anchoring  
12 of any vessels; and

13 (v) Other uses or activities that may interfere  
14 with the public use and enjoyment of these  
15 beaches; and

16 (F) Any other matter relating to the safety, health,  
17 and welfare of the general public; [and]

18 (8) To regulate the examination, guidance, and control of  
19 harbor agents and their assistants [-]; and

20 (9) To regulate commercial activities in state waters  
21 including operations originating from private marinas;  
22 provided that no new or additional permits shall be



1 required for those commercial activities regulated by  
2 any other chapter.

3 For the purposes of this paragraph:

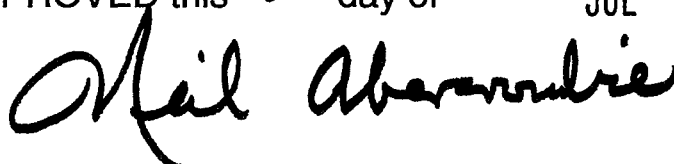
4 "Commercial activity" means to engage in any  
5 action or attempt to engage in any action for  
6 compensation in any form. The action or actions may  
7 include providing or attempting to provide guide  
8 services, charters, tours, and transportation to and  
9 from the location or locations for which such services  
10 are provided.

11 "Compensation" means money, barter, trade,  
12 credit, and other instruments of value, goods, and  
13 other forms of payment."

14 SECTION 4. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2012.

APPROVED this 9 day of JUL , 2012



GOVERNOR OF THE STATE OF HAWAII

