

JAN 20 2012

A BILL FOR AN ACT

RELATING TO COMMERCIAL WATERSPORTS.

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

SECTION 1. Section 200-23, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Commercial watersports equipment" means any equipment that is designed to be used on or in the water, including kayaks, surfboards, stand-up paddleboards, and kite-boards, for any trade or business. "Commercial watersports equipment" does not include any equipment that is used as part of an organized, permitted event, such as a canoe regatta or marine regatta. The department may adopt rules pursuant to chapter 91 to specify the types of equipment that shall be deemed "commercial watersports equipment" pursuant to this section."

SECTION 2. Section 200-37, Hawaii Revised Statutes, is amended to read as follows:

"§200-37 Operation of thrill craft; parasailing; water sledding; commercial high speed boating[-]; commercial watersports equipment. (a) No person shall operate a thrill craft unless the person is fifteen years of age or older.



(b) The department shall adopt rules to designate areas where, and time periods during which, thrill craft may be operated [~~and~~]; parasailing, water sledding, and commercial high speed boating may be engaged in[~~-~~]; and commercial watersports equipment may be operated.

(c) No person shall operate a thrill craft in the waters of the State, except:

(1) In areas and during time periods designated by the department;

(2) Through areas designated by the department to serve as avenues for the ingress and egress of thrill craft between the areas designated under paragraph (1) and the shore;

(3) Authorized government personnel conducting operations approved by the department; or

(4) Authorized film production permit holders conducting operations approved by the department.

(d) No person shall:

(1) Engage in parasailing; or

(2) Operate a motorized vessel towing a person engaged in parasailing;



on or above the waters of the State, except on or above areas and during time periods designated by the department.

(e) No person shall:

(1) Engage in water sledding; or

(2) Operate a motorized vessel towing a person engaged in water sledding;

in the waters of the State, except in areas and during time periods designated by the department.

(f) No person shall engage in commercial high speed boating or operate an open power boat capable of exceeding forty miles per hour for commercial high speed boating purposes in the waters of the State, except:

(1) In areas, along routes, and during time periods designated by the department; and

(2) In accordance with a permit issued by the department.

(g) No person shall operate commercial watersports equipment on or in the waters of the State without a use permit issued by the department. A permittee shall pay fees to the department for the use permit that shall be equal to three per cent of the gross revenues derived from the use of the equipment or \$200 per month, whichever is greater.



1 ~~[(g)]~~ (h) During all weekends and state and federal
2 holidays, no commercial operator shall operate a thrill craft,
3 or engage in parasailing, water sledding, or commercial high
4 speed boating, or operate a motor vessel towing a person engaged
5 in water sledding or parasailing in Maunalua Bay on Oahu as
6 provided for in section 200-38.

7 ~~[(h)]~~ (i) On Sundays, all commercial ocean recreation
8 activities, including those listed in this section, shall be
9 prohibited on Oahu in Maunalua Bay as provided for in section
10 200-38.

11 ~~[(i)]~~ (j) Between December 15 and May 15 of each year, no
12 person shall operate a thrill craft, or engage in parasailing,
13 water sledding, or commercial high speed boating, or operate a
14 motor vessel towing a person engaged in water sledding or
15 parasailing on the west and south shore of Maui as provided in
16 section 200-38.

17 ~~[(j)]~~ (k) All commercial use and operator permits issued
18 by the department for commercial thrill craft, ~~[and]~~ parasailing
19 activities, and commercial watersports equipment shall be fully
20 transferable upon the payment of a business transfer fee in an
21 amount determined by the department, which shall be no greater
22 than six per cent of the transfer price; provided that no more



1 than one transfer every two years shall be authorized with
2 respect to any given permit, except transfers between family
3 members for the purpose of business reorganization.

4 ~~[(*)]~~ (1) The department may immediately revoke a
5 commercial use permit without a hearing for any activity that
6 endangers or may endanger the health or safety of passengers or
7 the public, and may suspend or revoke a commercial use permit
8 for violation of any rules of the department if, after seventy-
9 two hours notice by the department of the violation, the permit
10 holder fails to cure the violation; provided that the permit
11 holder shall have ten days from receipt of the notice of
12 suspension or revocation to request in writing an administrative
13 hearing. The administrative hearing is solely for the purpose
14 of allowing the permit holder to contest the basis for the
15 suspension or revocation of the permit. The hearing shall be
16 held within five working days of the department's receipt of the
17 written request. The chairperson shall adopt rules pursuant to
18 chapter 91 to implement the procedures governing the
19 administrative hearing process. Within ten days after the
20 conclusion of the hearing, the department shall either:

21 (1) Lift the suspension;



(2) Suspend the permit for a period of not longer than one year; or

(3) Revoke the permit.

~~[(1)]~~ (m) All new commercial use and operator permits issued by the department for commercial thrill craft and parasailing activities after June 18, 1996, shall be issued at public auction.

~~[(m)]~~ (n) Each commercial use and operator permit issued by the department for commercial thrill craft ~~[and]~~, parasailing activities, and commercial watersports equipment shall be valid for one year from the date of issuance and shall be renewed by the department for additional one-year periods; provided that the permit holder meets the following conditions:

(1) The permit holder shall be in compliance with all applicable rules of the department;

(2) The permit holder shall have timely filed and paid all applicable state taxes during the year; and

(3) The permit holder shall have a good safety record regarding the operation of a commercial thrill craft, ~~[or]~~ parasailing activity~~[-]~~, or commercial watersports equipment.



1 ~~[-n-]~~ (o) All commercial use and operator permits issued
2 by the department for commercial thrill craft, ~~[and]~~ parasailing
3 activities, and commercial watersports equipment shall be
4 subject to an annual review by the department which shall
5 include but not be limited to:

6 (1) The permit holder's compliance with applicable rules
7 of the department;

8 (2) The permit holder's timely filing and payment of all
9 applicable state taxes during the year; and

10 (3) The permit holder's safety record regarding the
11 operation of a commercial thrill craft, ~~[or]~~
12 parasailing activity~~[-]~~, or operation of commercial
13 watersports equipment.

14 ~~[-o-]~~ (p) The department shall adopt rules to encourage
15 water safety education and programs with respect to thrill
16 craft, ~~[or]~~ parasailing activities~~[-]~~, or commercial watersports
17 equipment."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

Phai Gan
[Signature]



S.B. NO. 2516

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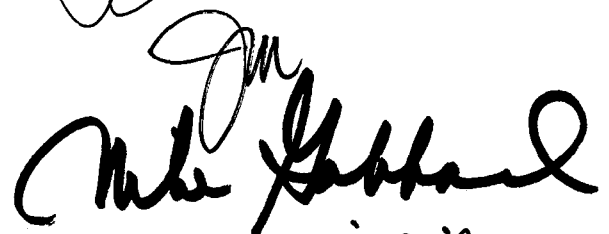
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S.B. NO. 2516

Report Title:

DLNR; Use Permits; Commercial Watersports Equipment

Description:

Requires DLNR to adopt rules to designate areas where, and time periods during which, commercial watersports equipment may be operated. Prohibits persons from using commercial watersports equipment without a use permit issued by DLNR. Requires a permittee to pay fees to DLNR for a use permit for commercial watersports equipment. Requires DLNR to conduct an annual review of the use permits issued for commercial watersports equipment. Defines "commercial watersports equipment."

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