



**COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN
AFFAIRS**

Rep. Kaniela Ing, Chair

Rep. Nicole E. Lowen, Vice Chair

DATE: Wednesday, February 17, 2016

TIME: 9:00AM

PLACE: Conference Room 325

**TESTIMONY OF THE OCEAN TOURISM COALITION IN THE
STRONGEST OPPOSITION TO HB 2379**

Aloha Chair Ing, Vice Chair Lowen and Representatives on the
Committee on Ocean, Marine Resources, & Hawaiian Affairs:

My name is James E. Coon, President of the Ocean Tourism
Coalition (OTC), speaking in the STRONGEST OPPOSITION TO
HB 2379. In our opinion this bill presents one of the strongest
potential threats to our member's business survival ever to appear in
the legislature.

The OTC represents over 300 small ocean tourism businesses state
wide. Most of these are family businesses which are locally owned
and operated. Many of them have been in business for several
decades, are multi generation companies, and are an important and
valued part of their respective communities. It is important to point out
that there is already an established limit on the number of these
Ocean Tourism Companies that can operate out of State Small Boat
Harbors. These limits were established in the early 1980's so, except

for a few exceptions, this is not a situation where more companies are entering the market place each year.

Most of these Ocean Tourism companies, especially the snorkel dive companies, have a very few destinations geographically available to them where they can safely anchor without damaging coral and have protection from prevailing wind and waves. They have built their respective businesses on promoting and being stewards of these few specific destinations. Some of these destinations such as Molokini Crater and Honolua Bay are world renowned snorkel/dive destinations. (They are also Marine Life Conservation Districts).

Furthermore these destinations are only accessible in certain wind and sea conditions. Most are available in normal wind and sea conditions. When small craft advisories are in effect vessels are forced to find an alternate but not as good destination. This often results in passengers either canceling their trip or wanting a refund.

HB 2379 establishes a very broad framework for restricting long standing access and then offering that same access to a limited number of vendors on a highest bid Auction basis. Those companies that have the financial means to bid for the destination may survive depending on how much they bid, the other companies very likely may not. Again, there are only a limited few destinations where a vessel can access a calm area with day use moorings and have live coral gardens to take guests snorkeling. The companies that are unable to gain this access likely will not survive in the marketplace.

This legislation has been abruptly foisted on our industry with absolutely no stakeholder input. This will impact Ocean Tourism Companies state wide.

In Molokini there are 42 permits and 22 moorings on a first come first served basis so the Molokini operators already have to share this limited resource. They have done this for decades with good success. Furthermore the trade winds typically blow into Molokini by 11:00 am

which forces all vessels to leave. Vessels then go to a site on the Wailea Coast before returning to Maalaea Harbor. If North Trades are blowing Molokini is not accessible so Olowalu is the best option for the entire fleet, Kaanapali, Lahaina, and Maalaea.

Kaanapali operators have Honolua Bay if the swell is not too big. Again there are 10 companies that go to Honolua but only 3 moorings in the Bay and one other in the adjacent cove. Vessels already have to strictly limit time on a mooring and share with other vessels. To lose this access would be a huge financial hardship and very well could put companies out of business.

These Kaanapali companies are all already paying 3% of gross revenue to DLNR/DOBOR for the privilege of accessing the ocean. They have no harbor slips, no infrastructure, only the permission to load and unload passengers at Kaanapali Beach. To contemplate auctioning off the destination permits to a select few is not the best way to either protect the resource or the industry. This is an issue that is needs to be vetted out with the stake holders, not legislated with little or no input from the impacted parties.

Hawaii's Ocean Tourism Industry has the highest safety, quality and environmental stewardship in the world. It would be very irresponsible in our opinion to pass HB 2379 as written. We humbly ask you to consider options that will not adversely impact the lives of so many hard working people and Hold HB 2379.

Sincerely,

James E. Coon, President
Ocean Tourism Coalition
808-870-9115
captcoon@gmail.com

Bryan Y.Y. Ho

Attorney At Law, A Law Corporation
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bryanho@admiraltyattys.com

February 16, 2016

HONORABLE KANIELA ING

VIA E-MAIL @reping@capitol.hawaii.gov

Chair

Committee on Ocean, Marine Resources & Hawaiian Affairs
Room 311, State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: **HB 2379**

Public Hearing February 17, 2016 at 9:00 a.m.

Dear Chair Ing & Other Committee Members:

I submit the following testimony in opposition to HB 2379 on behalf of SeaBreeze Jetlev LLC, a permitted commercial watersports company operating in Maunalua Bay.

I'm sure you're aware SB 2908 is the Senate counterpart to HB 2379. Following the February 5, 2016 public hearing on SB 2908 before the Committees on Ways & Means; Water Land & Agriculture; and Commerce, Consumer Protection, & Health, the Chairs deferred further action on SB 2908 to give the DLNR, Division of Boating & Ocean Recreation ("DOBOR") additional time to consult with permit stakeholders and address concerns raised.

Thereafter, I spoke with DOBOR Administrator, Ed Underwood, by telephone on February 10, 2016, and was told DOBOR decided it was best to have SB 2908 and HB 2379 deferred indefinitely, and DOBOR's staff would advise the House and Senate committees of their decision. I received written confirmation from DLNR Chairperson, Suzanne Case, on February 13, 2016, that DOBOR's request had been communicated. I also received written confirmation from Senator, Rosalyn Baker, Chair of the committee for Commerce, Consumer Protection, & Health, that DOBOR's request for a deferral had been received. In light of DOBOR's request for a deferral of these measures, I respectfully submit it is no longer necessary to give HB 2379 further consideration or debate. In the event circumstances have changed and your Committee decides to consider HB 2379, Seabreeze Jetlev LLC opposes HB 2379 for the reasons set forth below.

By way of background, I have been licensed to practice law in the State of Hawaii since 1985. During that 31 year period, I have focused on admiralty & maritime matters and helped more than fifty commercial water sports companies resolve a variety of issues governed by Chapter 200, Hawaii Revised Statutes, and administrative rules promulgated by the Division of Boating & Ocean Recreation ("DOBOR"), Department of Land & Natural Resources, State of Hawaii. I also monitor and actively participate in the legislative and administrative rule making process by submitting written and verbal testimony regarding proposed changes. Through these experiences, I am intimately familiar with the provisions of these statutes, rules, the intended goals of the various provisions, and their underlying history.

DOBOR is responsible for managing and policing all commercial marine activities conducted within the zone extending from the high water mark on shore to three miles out to sea ("State Ocean Waters"). That responsibility includes issuance of commercial use permits for State Waters and enforcement of all statutes and rules governing these activities. Presently, there are only four water sports activities that are limited in total number of operators, physical location and days/hours of operation under Hawaii law. They are commercial: 1) parasail; 2) jet ski/thrillcraft; 3) water sledding; and 4) high speed boating. In 1988, after conducting extensive scientific studies, the State established Ocean Recreation Management Areas ("ORMA"), which set standards that were designed to, among other considerations, reduce user conflicts, ensure public safety and ensure the environmental health and welfare of State Ocean Waters, by limiting the total number of permits issued, areas vendors were allowed to operate, and the days/hours operations of these activities could occur. The level of activity allowed (i.e. number of permits authorized for each activity) in each designated ORMA around the State was expressly based on the findings and recommendations set forth in the scientific environmental studies performed.

My client opposes HB 2379 because it is redundant and superfluous to administrative rules DOBOR already has in place. DOBOR claims amending Hawaii Revised Statute §200-10 is necessary so DOBOR has the authority to limit the number of commercial permits issued for any one area and/or activity. The truth of the matter, however, is there are already limits on the number of commercial use permits established for specific geographic areas around the Hawaiian Islands. Specifically, the number of parasail, jetski, high speed boating and water sled permits are capped at the numbers established by environmental studies performed when the Ocean Recreation Management Areas ("ORMA") were first developed in 1988. Generally, the number of other types of commercial permits operating out of State small boat harbors is also subject to specific caps and cannot exceed the number of permits authorized by DOBOR HAR §13-231-58.

My client also opposes HB 2379 because it opens the door for DOBOR to have unfettered discretion to regulate any and all commercial marine activities conducted within the 3 mile boundary of State Ocean Waters without any safeguards or standards that DOBOR must satisfy to prove there are actual/valid "environmental" or "user safety" concerns that warrant the strict regulation and/or limitation of an activity. As noted above, the statutes/rules governing the only activities with special operating limits under State law, comparable to the regulatory powers proposed to be given to DOBOR under HB 2379, were only implemented after careful and

extensive environmental impact studies that analyzed the material data and guided the establishment of each ORMA and the operating capacity each ORMA could safely sustain. DOBOR is not required to adhere to similarly reliable principles under the current bill.

HB 2379 is defective and should not be passed because it is vague, ambiguous and overly broad. The bill does not provide a definition or guidance on what constitutes "reasonable" environmental or user safety concerns that properly warrants imposing limits operating limits on any commercial activity.

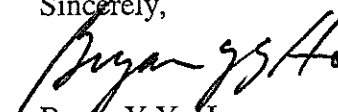
The bill is flawed because it does not delineate the nature and scope of DOBOR's authority to address concerns identified. It is not clear if it includes terminating existing permits and restricting the number of operators in any activity, or banning an activity in its entirety. Specific parameters on DOBOR's regulatory powers must be articulated to prevent confusion and abuse.

Right now, the public is able to apply for and obtain commercial use permits for State Ocean Waters to engage in any non ORMA regulated activity free of charge. This bill, by authorizing DOBOR, to make the issuance of future permits only being issued to the highest bidder at a DOBOR conducted auction, unfairly/unnecessarily restricts competition, potentially creates a false, mini monopolies by creating limited entry programs, which will result in higher prices charged to tourists and Kama'aina.

DOBOR disclosed this measure is sought to address concerns identified with a specific commercial activity and not environmental or user safety concerns arising out of the commercial use of State Oceans Waters generally. That activity is the commercial Manta Ray operators off the Kona coast. Based on my knowledge of and experience with the provisions of Chapter 200, HRS, and DOBOR's administrative rules governing commercial use permits, there is already an established framework in place that authorizes DOBOR to manage and resolve all user concerns that may exist in connection with the Kona Manta Ray commercial operators. Creating another layer of bureaucracy and government regulation is counterproductive.

If you have any questions, or require additional information, please do not hesitate to contact me.

Sincerely,



Bryan Y.Y. Ho

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 11:13 PM
To: omhtestimony
Cc: hawaiiifishingfanatic@gmail.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	Individual	Support	No

Comments:

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‘ĀINA HAINA COMMUNITY ASSOCIATION

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ainahainaassoc@gmail.com; www.ainahaina.org

Jeanne Ohta, President • Melia Lane-Kanahele, Vice-President • Art Mori, Treasurer • Kathy Takemoto, Secretary • Directors At Large: Jeff Carlson, Wayson Chow, Patricia Moore, Marie Riley

February 17, 2016

To: Representative Kaniela Ing, Chair
Representative Nicole Lowen, Vice Chair and
Members of the Committee on Ocean, Marine Resources, and Hawaiian Affairs

From: Jeanne Y. Ohta, President

RE: HB 2379 Relating to Commercial Use of State Ocean Waters
Hearing: Wednesday, February 17, 2016, 9:00 a.m., Room 325

The ‘Āina Haina Community Association writes in support of HB 2379 Relating to Commercial Use of State Ocean Waters, which allows the Department of Land and Natural Resources (DLNR) to limit commercial use of state ocean waters where it is reasonable for environmental or user safety considerations to do so.

At a neighborhood board meeting, we were surprised to hear that the issuing of commercial use permits was considered ministerial by DLNR and the department did not have the authority to limit those permits. The discussion was prompted by our concern over an increase of permits that would be issued as a result of new rules adopted 4/24/14 (HAR §13-256-3).

We believe that the public trust responsibilities of DLNR necessitate their ability to limit commercial permits especially if there are environmental or safety concerns. As our resources are limited, the number of permits issued should also be limited as necessary to protect the environment and the safety of our citizens.

We respectfully request that the committee pass this measure. Thank you for the opportunity to provide testimony in support.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 12:01 PM
To: omhtestimony
Cc: joey@h2osportshawaii.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joey Reposa	Individual	Oppose	No

Comments:

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Yu	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tristan Alexander	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Emi Skelton	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Augustus Santos	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Ramirez	Individual	Oppose	No

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Cc: wes@h2osportshawaii.com
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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Wesley Ogata	Individual	Oppose	No

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Cc: dean@h2osportshawaii.com
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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Nishimoto	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Krantz	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Duy Nguyen	Individual	Oppose	No

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Cc: sean@h2osportshawaii.com
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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Neal	Individual	Oppose	No

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Cc: mayumi@h2osportshawaii.com
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Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mayumi Moylan	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tsukasa Morishima	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kyoko Morishima	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joanne Moncrief	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Jackie Midwin	Individual	Oppose	No

Comments:

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jung Kwon	Individual	Oppose	No

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HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jourdan Krantz	Individual	Oppose	No

Comments:

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Submitted on: 2/15/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Krantz	Individual	Oppose	No

Comments:

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HB2379

Submitted on: 2/15/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Frank A Chun	Individual	Oppose	No

Comments:

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HB2379

Submitted on: 2/15/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
John Charleston	Individual	Oppose	No

Comments:

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To: omhtestimony
Cc: jim@h2osportshawaii.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
James Montenero	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 11:01 AM
To: omhtestimony
Cc: nick@h2osportshawaii.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Nick Yuzawa	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 10:58 AM
To: omhtestimony
Cc: scott@h2osportshawaii.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Ng	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 10:56 AM
To: omhtestimony
Cc: mrdeal702@yahoo.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Deal	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 10:54 AM
To: omhtestimony
Cc: jeff@mauidiveshop.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Strahn	Maui Dive Shop	Oppose	No

Comments:

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To: omhtestimony
Cc: takahashimark@yahoo.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Frederick Takahashi	Individual	Oppose	No

Comments:

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Sent: Monday, February 15, 2016 10:44 AM
To: omhtestimony
Cc: mailetakahashi@gmail.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Maile Takahashi	Individual	Oppose	No

Comments:

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To: omhtestimony
Cc: mailetakahashi@gmail.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Maile Takahashi	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 10:39 AM
To: omhtestimony
Cc: krantz3k@gmail.com
Subject: Submitted testimony for HB2379 on Feb 17, 2016 09:00AM

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Krantz	Individual	Oppose	No

Comments: DL&NR has advised they will withdraw this measure

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 15, 2016 10:25 AM
To: omhtestimony
Cc: reefour@aol.com
Subject: Submitted testimony for HB2379 on Feb 17, 2016 09:00AM

HB2379

Submitted on: 2/15/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Takahashi	Individual	Oppose	No

Comments: When the Senate bill was heard Senator Baker instructed the parties to work together to produce language that would achieve DL&NRS objectives. Subsequently, DL&NR has advised they will withdraw the bill and work within their HAR.

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To: omhtestimony
Cc: captsmurf2@hotmail.com
Subject: Submitted testimony for HB2379 on Feb 17, 2016 09:00AM

HB2379

Submitted on: 2/14/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gary P. Beals	Individual	Oppose	No

Comments: Define 'reasonable' as stated in the proposed Bill. Could impact commercial fishermen as written.

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Kahikolu Ltd., d/b/a Quicksilver
150 Lahainaluna Rd
Lahaina, HI 96761
(808) 667-0990 Office
(808) 667-6707 Fax

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Kaniela Ing, Chair
Rep. Nicole E. Lowen, Vice Chair

Date/Time of Hearing: February 17, 2016, 9:00 AM
Measure No. and Title: HB2379

STRONG OPPOSITION TESTIMONY

Chair Ing, Vice Chair Lowen and Senators of the OMH Committee:

Quicksilver Charters and its affiliates (the “Company”) employ close to 100 people in Hawaii’s boating and tourism industries. We strongly oppose this bill. At its core, HB2379 allows an agency to reestablish the number of commercial use permits in certain areas, and to auction those permits on a yearly basis.

HB2379 Will Destroy Businesses and Eliminate Steady Jobs

We recognize the importance of safety and environmental concerns. This bill, however, destroy a family-owned business that as operated in Maui for 30 years. 100 jobs would be lost, and 30 years of time and investment in Maui’s local economy would be wasted. Under a reasonable interpretation of HB2379, the department could decide to auction off our use permit that we have operated from for 30 years, and our company would be unable to operate.

HB2379 Eliminates Incentive for Companies to Invest and Reinvest in Their Businesses

If permits were auctioned on a yearly basic, or even every 5 years, HB2379 would create an unpredictable system that would discourage companies from investing in their employees, their brand and most importantly, their local communities. 1 year increments do to provide enough time for structuring and operating a successful business. Business owners would have no predictability.

Currently, charter boat operators have permits to operate at certain locations. The right to use these locations would be in jeopardy on a yearly basis, similar to a real property lease with a 1 year term. Except that if the charter boat permit is auctioned to the highest bidder after 1 year, that company can’t just move its employees to the building next door—the charter boat companies will have no were else to go. In Maui, there are very few snorkel destinations to visit where they can safely anchor in local weather conditions and without damaging coral. Entire companies have built their businesses on these specific destinations.

HB2379 Discourages Long-Term Employment and Would Drive Down Wages

Hawaii's maritime trade is essential to its economy. If each year charter boats didn't know if they would be operating with a commercial use permit, the employees of the charter boat would have no predictability. Employee turnover would be rampant. Also, long-term, stable employment is essential to a happy workforce. Employees would be rushing to apply on the charter boat that was successful at the auction. The increased supply of employees would drive down wages, and HB2379 would discourage generations of Hawaii residents from participating in the maritime trade, including those employees that have the best experience and safety record.

HB2379 Cites "User Safety" as a Justification, but Annual Renewals to the Highest Bidder Create a Large Safety Concern

The United State Coast Guard maintains ongoing relationships with the charter boat companies on Maui. Many of these relationships would be difficult to maintain if operators changed on a yearly basis. Also, new crew would have to be trained if permits change ownership on a yearly basis. Additionally, the department would have to continually familiarize themselves with ownership and companies methods of operations. This continuous turnover is a tremendous safety concern.

Finally, boat companies that weren't awarded permits to certain destinations may be desperate to keep their businesses alive, and they would attempt to access other snorkel locations in dangerous wind and sea conditions.

Additionally, HB2379 overlooks that many areas are already environmentally protected.

Suggested Amendment to Bill

If this bill must be passed, we recommend the following revision:

- (1) Section 1(d), add the following to the end of the sentence **"...unless such state ocean areas have meaningful environmental protections and user limitations; for example, Molokini Shoal"**
- (2) Section 1(e), add that **"prior to any auction, the department must first offer permits to users with consistent use over a significant period of time."**

Conclusion

This bill could be devastating if passed, and would completely disrupt a stable and productive sector of Hawaii's tourism industry. We respectfully request that you consider the real problems that are created by this bill and avoid passing this bill.

Sincerely,

Zachary LaPrade



Four Winds II & Maui Magic
1279 SOUTH KIHAI ROAD, #110
KIHAI, HI 96753-5222

808.879.8177
kford@MauiClassicCharters.com

COMMITTEE ON OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS

Rep. Kaniela Ing, Chair
Rep. Nicole E. Lowen, Vice Chair

DATE: Wednesday, February 17, 2016
TIME: 9:00 AM
PLACE: Conference Room 325

TESTIMONY OF MAUI CLASSIC CHARTERS, INC

**STANDING IN OPPOSITION ON HB 2379
RELATING TO COMMERCIAL USE OF STATE OCEAN WATERS**

Aloha Chair Ing, Vice Chair Lowen and Representatives on the Committee on Ocean, Marine Resources & Hawaiian Affairs:

My name is Kevin Ford, President of Maui Classic Charters, Inc., and I thank you for the opportunity to add input on HB 2379, relating to Commercial Use of State Ocean Waters.

Our company, Maui Classic Charters, Inc., has some concerns regarding this bill and would like to share them with you.

We have been in business for over 30 years, operating snorkel boat charters from Maalaea Small Boat Harbor to Molokini and Coral Gardens, off the coast of Maui. It has always been our mission to protect Hawaii's unique and fragile reefs and waters and to introduce our amazing underwater world to our guests and local families alike.

We certainly understand the need for conservation and protection of our marine resources, and abide by all the rules and regulations. We have Molokini Shoal MLCD Use Permits for both of our boats and provide monthly statistics as required.

What concerns us is the wording:

- (d) The department may limit commercial use of state ocean waters where it is reasonable for environmental or user safety considerations to do so.

- (e) When commercial use is limited under subsection (d), the department may issue commercial use permits by public auction.
- (f) Each commercial use permit issued by the department shall be valid for one year from the date of issuance and may be renewed by the department for additional one-year periods; provided that the permit holder shall be in compliance with the applicable rules of the department.

Why would these commercial permits be issued by public auction? Shouldn't the entities that have abided by all the rules and have visited these sites regularly for years, be given the permits?

Is this measure just a method for generating more money, rather than rewarding long time commercial companies that shown good stewardship for many years?

Are these permits to be auctioned off YEARLY? How does a company come up with any business plan not knowing whether their permits would be renewed? Our company employs over 25 people, many whom have been with us for years. Their jobs could be in jeopardy should this measure pass.

Shouldn't the commercial operators that have been doing business in these waters for many years, be grandfathered in? Or, is it, whom ever has the deepest pockets, wins?

The wording of this bill is entirely too broad. As commercial tour operators, we cannot even begin to fathom how this HB 2379 might be interpreted in the future. There needs to be much more clarification as to all of the ramifications.

Also, it would be helpful and beneficial for all of the tour boat operators, to have been informed about this bill much earlier and queried as to what our concerns would be. The Department of Land and Natural Resources has all of our addresses and could have sent out notices of the proposed bill.

Again, thank you for letting us voice our concerns.

Sincerely,

Kevin Ford, President of Maui Classic Charters, Inc

(808) 879-8177

kford@MauiClassicCharters.com

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 16, 2016 2:19 PM
To: omhtestimony
Cc: matt.htfa@gmail.com
Subject: Submitted testimony for HB2379 on Feb 17, 2016 09:00AM

HB2379

Submitted on: 2/16/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Ross	Individual	Comments Only	Yes

Comments: While management and regulation of commercial ocean activity is needed, as a commercial fisherman I am concerned that our activities could be affected by HB 2372 and HB 2379. We are already licensed and permitted under HRS 189-2, which is more appropriate for our activities. Fishing is very from tourism and ocean recreation, and regulating both in the same manner is unlikely to work. Also, this bill may potentially be in conflict with Article XI, section 6 of the Hawaii State Constitution.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 16, 2016 12:53 PM
To: omhtestimony
Cc: meriley2001@yahoo.com
Subject: Submitted testimony for HB2379 on Feb 17, 2016 09:00AM

HB2379

Submitted on: 2/16/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
marie riley	Individual	Support	No

Comments: The bill contains very important and timely health and safety measures. It also includes term limitations for commercial permits, which are necessary to promote competition and provide the public with the best choices.

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Sent: Tuesday, February 16, 2016 12:44 PM
To: omhtestimony
Cc: rkailianu57@gmail.com
Subject: *Submitted testimony for HB2379 on Feb 17, 2016 09:00AM*

HB2379

Submitted on: 2/16/2016

Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Ho`omana Pono, LLC	Support	Yes

Comments:

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From: Bruce Morita <kaneohesandbar@gmail.com>
Sent: Sunday, February 14, 2016 6:06 PM
To: omhtestimony
Subject: Fwd: Opposition to HB 2379

Begin forwarded message:

From: Bruce Morita <kaneohesandbar@gmail.com>
Subject: Opposition to HB 2379
Date: February 9, 2016 at 6:21:38 PM HST
To: OMHtestimony@capitol.hawaii.gov

House Committee on Ocean Marine Resources, and Hawaiian Affairs
HB 2379

Windward Sea Yacht Charters, Inc.
2250 Kalakaua Ave. #404-3
Honolulu, Hi 96815

Re: HB 2379

To Whom It May Concern:

We are strongly opposing HB 2379 since the language in the bill does not address the problem with recreational boaters.

This bill is suggesting that limiting the commercial operators will solve the environmental and user safety issues.

Logically if this train of thought is used, limiting recreational users will also solve the environmental and safety issues.

Who will determine what is reasonable? If certain people who are opposed to any commercial activity complains enough about safety and harming of the environment, will you limit the number of permits without an environmental study or a study by a third party to look at safety issues? Obviously, this bill does not have any funding for any studies.

The last few decades, bills have been passed without any studies. Anecdotal evidence by recreational boaters who are not on the water 7 days a week were used to place passenger capacity limits on Kaneohe Bay. Although we were at every

hearing, nobody could provide any evidence of environmental concerns that were backed up by studies.

As time passed, overcrowding issues at the sandbar were determined to be directly related to drinking by recreational boaters on 3 day weekends.

When they passed the ban on drinking on three day weekends, the overcrowding and partying stopped.

Limiting the number of boaters using the ramp per day will also increase safety on the bay. Limiting the number of rental pontoon boats from the Marine base will solve some overcrowding issues. Charging a fee for parking at the ramp will reduce overcrowding. Day use permits for recreational boaters will limit the number of people on the water.

Checking boaters' license at the the pier on weekends will definitely decrease the number of boaters. Those people shouldn't be out on the water anyway. Checking for safety equipment on boats will also limit boaters on a particular day. Stopping recreational boaters from illegally operating on the bay will automatically decrease the number of boaters and increase safety.

Some say that the State has the duty to protect the environment and the safety of the general public. The general public also includes tourists that come to Hawaii. In some States, they have tried to ban non-residents from entering a public beach near private residences.

Those rules were overturned because non-residences are considered part of the public entitled to use public lands. I feel strongly that over the years, non-residents have been treated unfairly because they were on a commercial excursion. They are looked upon as unwanted people that take up all the resources of Hawaii.

Please look into restricting recreational boaters as another way to protect the environment and increase safety.

Sincerely yours,

Bruce Morita
President
Windward Sea Yacht Charters, Inc.

LATE

TESTIMONY HAWAII HOUSE BILL 2379

DATE: FEBRUARY 16, 2016

TO: OMH, House Committee on Ocean, Marine Resources, & Hawaiian Affairs

Aloha,

I have loved the ocean and spent my career of over 35 years in Hawaiian Waters. I run a Maui company which employs 32 professionals who make their living on the ocean.

It is with great concern that I submit testimony opposing some of the proposed amendments to Hawaii House Bill 2379. Specifically, I oppose section (d) and (e) which reads as follows.

(d) The department may limit commercial use of state ocean waters where it is reasonable for environmental or user safety considerations to do so.

(e) When commercial use is limited under subsection (d), the department may issue commercial use permits by public auction.

It is important to protect the environment and the safety of ocean users. Unfortunately, section (e) which proposes to issue commercial permits by public auction does not serve to protect either the environment or it's users.

Offering the commercial permits up for public auction will have devastating effect on companies like ours, which have spent entire careers building a foundation from which we operate our respective businesses. We are the stewards who serve to protect the environment we feed our families from, and as such are one of the state's valuable assets in the field, which help protect the environment, by setting examples of respectful use and care of our oceans.

Companies like ours have invested no small amount of capital and great effort into our business. As a single operator, we pay over \$200,000 annually in GET and harbor use tax to the State of Hawaii. We support many local businesses, where we purchase our supplies. This in turn helps them to provide for their employees and families. How is it even possible to consider auctioning off permits assigned to companies like ours, which have contributed and invested so much, for so long, into the State of Hawaii, our business and communities?

If we are not the highest bidder, do we simply shut the doors and invite the banks to repossess our boats? Do we tell our employees and their families, "Sorry, thanks for your 20 years of loyal service, maybe the new permit holder will hire you"? I know this sounds a bit dramatic, because it's difficult to understand why this section of the bill is even under consideration.

We believe it is reasonable to cease issuing new permits for areas of concern. Taking away the permits from those of us who have built our business on these areas will have devastating impact.

There are other reasonable solutions, such as artificial reef systems which have been introduced very successfully world wide, including 2,700 public artificial reefs covering over 8,000 miles of tidal coastline in Florida alone. One of the healthiest reef systems on Maui, is the result of an artificial reef which formed upon the collapsed concrete pier and pilings at Mala Wharf. You can snorkel off the beach at this location and see a wide variety of marine animals thriving in this tiny little unplanned "man-made" reef. There are solutions to preserve our environment, and keeping users safe. Taking away commercial permits and offering them up for public auction is not one of them.

Mahalo for your time.

Scott Turner
CEO
Maui-Molokai Sea Cruises



From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 16, 2016 9:43 PM
To: omhtestimony
Cc: annmarie@hawaii.rr.com
Subject: Submitted testimony for HB2379 on Feb 17, 2016 09:00AM

HB2379

Submitted on: 2/16/2016
Testimony for OMH on Feb 17, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Marie Kirk	Individual	Support	No

Comments: Aloha to the Ocean, Marine Resources and Hawaiian Affairs Committee, I am writing you in STRONG SUPPORT of HB 2379. Currently, there are no rules or regulations set up for the commercial ocean activity permitting process on where commercial activities are taking place, how many permits are active in an area and how they affect community members use of ocean areas and the natural resources. Our traditional ocean recreational community areas are now being turned into commercial activity areas creating conflict with community ocean users and posing a threat to our natural resources. This is happening to our ocean waters statewide. HB 2379 is common sense legislation for limiting the commercial permit system where it is reasonable to protect the public, user safety and our environmental and natural resources. Please SUPPORT HB 2379. Mahalo, Ann Marie Kirk

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