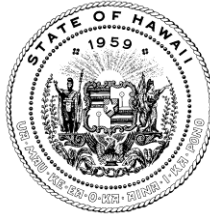


SB 2901

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
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

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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committees on  
WATER, LAND, AND AGRICULTURE  
and  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**Friday, February 5, 2016  
2:45 P.M.  
State Capitol, Conference Room 224**

**In consideration of  
SENATE BILL 2901  
RELATING TO COMMERCIAL ACTIVITY FOR OCEAN RECREATION AND  
COASTAL AREAS.**

Senate Bill 2901 proposes to amend the definition of “commercial activity” within Section 200-4(a), Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

The Department has experienced difficulty with enforcing unpermitted commercial activities occurring on the state navigable waters and shoreline areas because the courts require that there be an exchange of money in order to deem the activity commercial. Often times, the alleged perpetrator claims that the exchange of money occurred off site so the activity cannot be deemed commercial. This amendment to the commercial definition makes it clear that regardless of the exchange of money if the activities support the commercial operation in any way then the activity is considered commercial and must comply with all HRS and Hawaii Administrative Rule provisions.



**COMMITTEE ON WATER & LAND**

**Rep. Ryan I. Yamane, Chair**  
**Rep. Ty J.K. Cullen, Vice Chair**

**COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

**Rep. Derek S.K. Kawakami, Chair**  
**Rep. Sam Satoru Kong, Vice Chair**

**Date/Time of Hearing:** February 5, 2016, 2:45 PM (9:00AM HB2372)  
**Measure No. and Title:** SB2901 (HB2372)

**TESTIMONY OF THE OCEAN TOURISM COALITION IN THE  
OPPOSITON TO SB 2901**

Chairs, Vice Chairs & Senators of the Various Committees:

My name is Zachary LaPrade, member of the Ocean Tourism Coalition (OTC), speaking in the OPPOSITION TO SB 2901, but only to the extent it exceeds the intended scope of the new proposed definition of commercial activity.

The OTC represents over 300 small ocean tourism businesses state wide. We must have assurance that this amendment to the definition of "Commercial Activity" is not so broad as to capture non-boating revenue that comes from shore side shops and retail sales that may be owned by the same entities that run Ocean Tourism Companies. Only revenue produced and permitted by the Ocean Activity should be subject to DLNR tax.

We recognize the importance of clarifying the definition of "Commercial Activity". However we don't want the definition to be so broad that it will capture non-boating revenue. As such, we suggest the following language be added as the last sentence for Section 200-4(a)(9):

Notwithstanding the foregoing, commercial activity does not include (1) any land based

sports rental or retail providers that rent or sell beach and ocean equipment for recreational use in state ocean waters, including, but not limited to, snorkel equipment, surfboards, paddleboards, wetsuits and fins; and (2) any land based activity provider that advertises or sells vouchers and tickets for activities conducted in state ocean waters.

Sincerely,

Zachary LaPrade, Member



150 Lahainaluna Rd  
Lahaina, HI 96761  
(808) 667-0990 Office  
(808) 667-6707 Fax

**COMMITTEE ON WATER & LAND**

**Rep. Ryan I. Yamane, Chair**

**Rep. Ty J.K. Cullen, Vice Chair**

**COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

**Rep. Derek S.K. Kawakami, Chair**

**Rep. Sam Satoru Kong, Vice Chair**

**Date/Time of Hearing: February 5, 2016, 2:45 PM (9:00AM HB2372)**  
**Measure No. and Title: SB2901 (HB2372)**

**OPPOSITION TESTIMONY**

Chairs, Vice Chairs & Senators of Various Committees:

Hawaiian Style Beach Activities and its affiliates (the “Company”) employ close to 100 people in Hawaii’s boating and tourism industries. Part of our business is renting snorkel gear, paddleboards and surfboard rentals from land based locations. We believe the revised definition of commercial activity could be construed to include our business.

We recognize the importance of clarifying the definition of “Commercial Activity”. However we don’t want the definition to be so broad that it will capture non-boating revenue. As such, we suggest the following language be added as the last sentence for Section 200-4(a)(9):

**Notwithstanding the foregoing, commercial activity does not include (1) any land based sports rental or retail providers that rent or sell beach and ocean equipment for recreational use in state ocean waters, including, but not limited to, snorkel equipment, surfboards, paddleboards, wetsuits and fins; and (2) any land based activity provider that advertises or sells vouchers and tickets for activities conducted in state ocean waters.**

We respectfully request that the above language be included in the revised definition of “commercial activity” to prevent an overexpansion of the definition.

Sincerely,

Zachary LaPrade

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**Subject:** \*Submitted testimony for SB2901 on Feb 5, 2016 14:45PM\*  
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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer	Individual	Oppose	No

Comments:

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**Date:** Thursday, February 04, 2016 10:16:18 AM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Starsong	Individual	Oppose	No

Comments:

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**Cc:** [melanie@fair-wind.com](mailto:melanie@fair-wind.com)  
**Subject:** \*Submitted testimony for SB2901 on Feb 5, 2016 14:45PM\*  
**Date:** Thursday, February 04, 2016 3:03:12 PM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Melanie Eccard	Individual	Oppose	No

Comments:

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**Date:** Thursday, February 04, 2016 10:26:44 AM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Blunt	Fair Wind Cruises	Oppose	No

**Comments:**

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Fred	Individual	Oppose	No

Comments:

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**Cc:** [jackie@fair-wind.com](mailto:jackie@fair-wind.com)  
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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Jackie Moore-Andresen, PHR	Fair Wind Cruises	Oppose	No

Comments:

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**Date:** Thursday, February 04, 2016 10:46:50 AM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

**Comments:**

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Penn Henderson	Individual	Oppose	No

Comments:

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**Subject:** \*Submitted testimony for SB2901 on Feb 5, 2016 14:45PM\*  
**Date:** Thursday, February 04, 2016 12:26:57 PM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

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

Comments:

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**Subject:** Submitted testimony for SB2901 on Feb 5, 2016 14:45PM  
**Date:** Thursday, February 04, 2016 2:12:30 PM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Alicia Starsong	Individual	Comments Only	No

Comments: I am concerned with the redefining of commercial activities to include selling commodities. Request this be clarified & that sales of gift shop items be excluded.

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**Date:** Thursday, February 04, 2016 12:07:04 PM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

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

Comments: Absolutely oppose this legislation. Right now a permit is required to operate a business in state waters. This could end that ability without any real basis such as an environmental study. It is heavy handed and will affect tourism and our intent to be a world class destination.

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**Subject:** Submitted testimony for SB2901 on Feb 5, 2016 14:45PM  
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**SB2901**

Submitted on: 2/3/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
James E. Coon	Individual	Comments Only	No

Comments: We must have assurance that this amendment to the definition of "Commercial Activity" is not so broad as to capture non-boating revenue that comes from shore side shops and retail sales that may be owned by the same entities that run Ocean Tourism Companies. Only revenue produced and permitted by the Ocean Activity should be subject to DLNR tax

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**Date:** Thursday, February 04, 2016 5:04:29 PM

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**SB2901**

Submitted on: 2/4/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Almaraz	Individual	Oppose	No

Comments: I oppose this bill as written particularly in the revision of the term "commercial activity" which I believe is too broad in its definition; specifically with the multiple inclusions of the word "any". I believe the previous definition of commercial activity suffices unless there is a specific intent of this revision which should then be recognized and clearly defined.

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**Date:** Wednesday, February 03, 2016 4:01:33 PM

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**SB2901**

Submitted on: 2/3/2016

Testimony for WLA/CPH on Feb 5, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Kersten	Individual	Oppose	No

Comments: Needs to clarify "Commercial Activities" sales not in-house sales of retail items i.e. t-shirt sales etc...

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