

JAN 20 2017

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# A BILL FOR AN ACT

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RELATING TO BOATING.

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

1       SECTION 1. The legislature finds that water safety in  
2 ocean recreation management areas is of paramount importance.  
3 While commercial operators at ocean recreation management areas  
4 and other beaches have traditionally been respectful of the  
5 public's safety and established area protocols, recent practices  
6 by some commercial operators have drawn complaints from  
7 beachgoers. In particular, commercial thrill craft operators at  
8 Hanakao park in the Kaanapali ocean recreation management area  
9 on Maui are reputed to frequently disregard established safety  
10 protocols by operating their boats at high speeds and  
11 unacceptably close to members of the public. People have  
12 complained that thrill craft operators transporting their  
13 customers between the beach and offshore commercial sailing or  
14 thrill craft rides have almost collided with adults and keiki  
15 swimming in the water.

16       The legislature further finds that many of the commercial  
17 operators who place the public in danger are new employees who



1 have not developed an understanding or a knowledge of water  
2 safety rules, lifesaving techniques, and the customary public  
3 and cultural practices, including uses of the area and the  
4 right-of-way given to each user under the law.

5 The purpose of this Act is to establish a water safety  
6 certificate program for commercial operators within ocean  
7 recreation management areas. This program is intended to create  
8 a more harmonious environment for people who use public resource  
9 areas by helping commercial operators to be more aware of the  
10 rules for the ocean recreation management areas.

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

13 1. By amending subsection (k) to read:

14 "(k) The department may immediately revoke a commercial  
15 use permit without a hearing for any activity that endangers or  
16 may endanger the health or safety of passengers or the public,  
17 including canoe paddlers, and may suspend or revoke a commercial  
18 use permit for violation of any rules of the department if,  
19 after seventy-two hours notice by the department of the  
20 violation, the permit holder fails to cure the violation;  
21 provided that the permit holder shall have ten days from receipt



1 of the notice of suspension or revocation to request in writing  
2 an administrative hearing. The administrative hearing is solely  
3 for the purpose of allowing the permit holder to contest the  
4 basis for the suspension or revocation of the permit. The  
5 hearing shall be held within five working days of the  
6 department's receipt of the written request. The chairperson  
7 shall adopt rules pursuant to chapter 91 to implement the  
8 procedures governing the administrative hearing process. Within  
9 ten days after the conclusion of the hearing, the department  
10 shall either:

- 11 (1) Lift the suspension;
- 12 (2) Suspend the permit for a period of not longer than one  
13 year; or
- 14 (3) Revoke the permit."

15 2. By amending subsection (m) to read:

16 "(m) Each commercial use and operator permit issued by the  
17 department for commercial thrill craft and parasailing  
18 activities shall be valid for one year from the date of issuance  
19 and shall be renewed by the department for additional one-year  
20 periods; provided that the permit holder meets the following  
21 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~~[-]~~; and
- (4) The permit holder shall have completed the annual water safety education course established by the department pursuant to subsection (o)."

3. By amending subsection (o) to read:

"(o) The department shall adopt rules to ~~[encourage]~~ establish a mandatory annual water safety education [and programs] course with respect to thrill craft~~[-or]~~ and parasailing activities. The department shall assess and collect a fee of not less than \$5 for each person enrolling in the water safety education course, which shall include awareness of traditional canoe practices. All fees collected for the water safety education course shall be deposited into the boating special fund."



1       SECTION 3. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$           or so much  
3 thereof as may be necessary for fiscal year 2017-2018 and the  
4 same sum or so much thereof as may be necessary for fiscal year  
5 2018-2019 to be deposited into the boating special fund.

6       SECTION 4. There is appropriated out of the boating  
7 special fund the sum of \$           or so much thereof as may be  
8 necessary for fiscal year 2017-2018 and the same sum or so much  
9 thereof as may be necessary for fiscal year 2018-2019 for water  
10 safety education courses.

11       The sums appropriated shall be expended by the department  
12 of land and natural resources for the purposes of this Act.

13       SECTION 5. Once the department of land and natural  
14 resources has collected sufficient fees for water safety  
15 education courses totaling an amount equal to the appropriation  
16 in section 2 of this Act, the department shall transfer that  
17 same amount from the boating special fund to the general fund.

18       SECTION 6. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



# S.B. NO. 379

1 SECTION 7. This Act shall take effect on July 1, 2017.

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INTRODUCED BY:

Anthony H. Baker



# S.B. NO. 379

**Report Title:**

Boating; Thrill Craft; Water Safety Education; Appropriation

**Description:**

Requires commercial thrill craft and parasailing operators to complete a water safety education course. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

