
A BILL FOR AN ACT

RELATING TO RULES GOVERNING COMMERCIAL ACTIVITY FOR OCEAN
RECREATION AND COASTAL AREAS.

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

- 1 SECTION 1. Section 200-4, Hawaii Revised Statutes, is
2 amended to read as follows:
- 3 "§200-4 Rules. (a) The chairperson may adopt rules
4 necessary:
- 5 (1) To regulate the manner in which all vessels may enter
6 the ocean waters and navigable streams of the State
7 and moor, anchor, or dock at small boat harbors,
8 launching ramps, and other boating facilities owned or
9 controlled by the State;
- 10 (2) To regulate the embarking and disembarking of
11 passengers at small boat harbors, launching ramps,
12 other boating facilities, and public beaches;
- 13 (3) For the safety of small boat harbors, launching ramps,
14 and other boating facilities, and the vessels anchored
15 or moored therein;



- 1 (4) For the conduct of the public using small boat
2 harbors, launching ramps, and other boating facilities
3 owned or controlled by the State;
- 4 (5) To regulate and control recreational and commercial
5 use of small boat harbors, launching ramps, and other
6 boating facilities owned or controlled by the State
7 and the ocean waters and navigable streams of the
8 State;
- 9 (6) To prevent the discharge or throwing into small boat
10 harbors, launching ramps, other boating facilities,
11 ocean waters, and navigable streams, of rubbish,
12 refuse, garbage, or other substances likely to affect
13 the quality of the water or that contribute to making
14 the small boat harbors, launching ramps, other boating
15 facilities, ocean waters, and streams unsightly,
16 unhealthful, or unclean, or that are liable to fill
17 up, shoal, or shallow the waters in, near, or
18 affecting small boat harbors, launching ramps, and
19 other boating facilities and the ocean waters and
20 navigable streams of the State, and likewise to
21 prevent the escape of fuel or other oils or substances



1 into the waters in, near, or affecting small boat
2 harbors, launching ramps, or other boating facilities
3 and the ocean waters and navigable streams of the
4 State from any source point, including but not limited
5 to any vessel or from pipes or storage tanks upon
6 land, including:

7 (A) Requirements for permits and fees for:

8 (i) The mooring, docking, or anchoring of
9 recreational and commercial vessels or the
10 launching of recreational or commercial
11 vessels at small boat harbors, launching
12 ramps, and other boating facilities; or

13 (ii) Other uses of these facilities;

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

17 (C) Requirements governing:

18 (i) The transfer of any state commercial,
19 mooring, launching, or any other type of use
20 or other permit, directly or indirectly,
21 including but not limited to the imposition



1 or assessment of a business transfer fee
2 upon transfer of ownership of vessels
3 operating commercially from, within or in
4 any way related to the state small boat
5 harbors; and

6 (ii) The use of state small boat harbors,
7 launching ramps, or other boating facilities
8 belonging to or controlled by the State,
9 including but not limited to the
10 establishment of minimum amounts of annual
11 gross receipts required to renew a
12 commercial use permit, and conditions under
13 which a state commercial, mooring,
14 launching, or any other type of use or other
15 permit may be terminated, canceled, or
16 forfeited; and

17 (D) Any other rule necessary to implement this
18 chapter pertaining to small boat harbors,
19 launching ramps, and other boating facilities
20 belonging to or controlled by the State;



1 (7) To continue the ocean recreational and coastal areas
2 programs and govern the ocean waters and navigable
3 streams of the State, and beaches encumbered with
4 easements in favor of the public to protect and foster
5 public peace and tranquility and to promote public
6 safety, health, and welfare in or on the ocean waters
7 and navigable streams of the State, and on beaches
8 encumbered with easements in favor of the public,
9 including:

10 (A) Regulating the anchoring and mooring of vessels,
11 houseboats, and other contrivances outside of any
12 harbor or boating facility, including:

13 (i) The designation of offshore mooring areas;

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

19 (iii) The living aboard on vessels, houseboats, or
20 other contrivances while they are anchored



1 or moored within ocean waters or navigable
2 streams of the State.

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

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

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

14 (D) The licensing and registration of equipment
15 utilized for commercial activities in or on the
16 ocean waters and navigable streams of the State;

17 (E) For beaches encumbered with easements in favor of
18 the public, the prohibition or denial of the
19 following uses and activities:

20 (i) Commercial activities;



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

(iii) The placement of structures or obstructions;

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

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

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

(8) To regulate the examination, guidance, and control of harbor agents and their assistants; and

(9) To regulate commercial activities in state waters including operations originating from private marinas; provided that no new or additional permits shall be required for those commercial activities regulated by any other chapter.

~~[For the purposes of this paragraph:~~

~~"Commercial activity" means to engage in any action or attempt to engage in any action for compensation in any form. The action or actions may~~



~~include providing or attempting to provide guide
services, charters, tours, and transportation to and
from the location or locations for which such services
are provided.~~

~~"Compensation" means money, barter, trade,
credit, and other instruments of value, goods, and
other forms of payment.]~~

(b) All rules shall be adopted in accordance with chapter
91 and shall have the force and effect of law.

(c) For the purposes of this section:

"Commercial activity" means to engage in any action or
attempt to engage in any action designed for profit, including,
but not limited to, exchange or buying and selling of
commodities; providing services relating to or connected with
trade, traffic, or commerce in general; any activity performed
by a commercial operator, its employees, or its agents in
connection with providing services; and soliciting business,
including, but not limited to, display or distribution of
notices, business cards, or advertisements for commercial
purposes. Notwithstanding the foregoing, the following shall
not constitute a "commercial activity":



1 (1) Any land-based sales of watersports equipment or
2 merchandise related to watersports and ocean
3 recreation activities; and

4 (2) Any land-based advertisements or sales of vouchers or
5 tickets for activities conducted in the waters of the
6 State."

7 SECTION 2. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on December 24,
13 2088.



Report Title:

Commercial Activity for Ocean Recreation and Coastal Area
Programs; Definition

Description:

Amends the definition of "commercial activity" within section
200-4(a), Hawaii Revised Statutes. (HB2381 HD2)

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