
A BILL FOR AN ACT

RELATING TO KANEOHE BAY.

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

1 SECTION 1. The legislature finds that Kaneohe Bay,
2 including Ahu o Laka, also known as the sandbar, has a rich
3 cultural history that blends into the understanding of present-
4 day significance and is a sacred wahi pana to the native
5 Hawaiian lineal and generational inhabitants of Koolaupoko -
6 Waimanalo, Kailua, Kaneohe, Heeia, Kahaluu, Waihee, Kaalea,
7 Waiahole, Waikane, Hakipuu, and Kualoa. Over the years,
8 over-commercialization of Kaneohe Bay, including Ahu o Laka, has
9 been unnaturally encouraged via social media and through
10 unpermitted tour operators who can advertise and operate without
11 regard for laws, rules, regulations, and cultural awareness.
12 Kaneohe Bay and attractions in the bay such as Ahu o Laka are
13 advertised as "must see" tourist stops without the mention of
14 cultural awareness or significance, and non-permitted commercial
15 operators set up advertisements and online payment schemes and
16 bring guests, circumventing principles and intentions of the
17 original 1992 Kaneohe Bay master plan. This problem is



1 exacerbated because state entities responsible for protecting
2 resources do not work on weekends or holidays, which encourages
3 noncompliance with laws, rules, and regulations. Furthermore,
4 unauthorized advertising on social media and online has
5 increased private and rental vehicles parking illegally at Heeia
6 boat harbor and along both sides of Kamehameha highway, causing
7 unsafe traffic situations.

8 The legislature further finds that the Kaneohe Bay master
9 plan was developed pursuant to Act 208, Session Laws of Hawaii
10 1990, which established a framework for the sustainable
11 management of the bay's natural resources while accommodating a
12 variety of uses. A compromise of competing interests resulted
13 in a cap on the number of commercial enterprises and volume of
14 permitted commercial activity. The vision continues to be the
15 preservation and protection of the bay's natural resources for
16 the continuing enjoyment of all.

17 The legislature also finds that limits on commercial
18 activity have been exceeded by other activities not previously
19 envisioned and by new technologies that support their
20 proliferation. One example is the pre-positioning of rental
21 kayaks at Heeia state park and Heeia Kea pier; internet



1 advertisements for boats, kayaks, and other commercial
2 recreational uses; and the ability of customers to pay online
3 and through mobile money transfer platforms such as Venmo.

4 Accordingly, the purpose of this Act is to update the law
5 regarding restricted activities in Kaneohe Bay.

6 SECTION 2. Section 200-24, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§200-24[+] **Rules.** The department shall adopt rules
9 pursuant to chapter 91 to implement the policy and purpose of
10 this part, and to classify vessels into appropriate categories
11 and classes.

12 The department shall adopt rules pursuant to chapter 91
13 with respect to the following:

- 14 (1) The registration and numbering of vessels;
- 15 (2) The operation, use, and equipment of vessels on or in
16 the waters of the State;
- 17 (3) The conduct of persons involved in boating accidents
18 and in the reporting of accidents and other casualties
19 and losses to the department; [~~and~~]
- 20 (4) The designation of areas of the waters of the State
21 and time periods during which thrill craft may be



1 operated, and waters on or above which, and time
2 periods during which, persons may engage in
3 parasailing, commercial high speed boating, and water
4 sledding; provided that in designating the areas, the
5 department shall use the official recommendation of
6 the National Marine Fisheries Service with regard to
7 the protection of protected marine life and habitats
8 in adopting rules to implement this section, except as
9 otherwise provided by law[+];

10 (5) Prescribing procedures for enforcement personnel to
11 issue subpoenas and take custody of property suspected
12 to be used in unauthorized commercial ocean use
13 activity pursuant to section 200-39(h);

14 (6) Establishing administrative penalties and fines for
15 violations of section 200-39; and

16 (7) Prescribing any other procedures determined by the
17 department in its experience and discretion to
18 effectuate the intent of this part and the Kaneohe Bay
19 master plan."

20 SECTION 3. Section 200-39, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§200-39 Kaneohe Bay commercial ocean use activities;
 2 permits; restrictions. [~~(a)~~ For the purposes of this section,
 3 "~~ocean use activities~~" means commercial operation of thrill
 4 ~~craft, high speed boating, parasailing, water sledding, sailing~~
 5 ~~and snorkeling tours, glassbottom boat tours, or any other~~
 6 ~~similar commercial ocean recreation activity for hire.~~

7 ~~(b)~~] (a) Any other provision of this chapter to the
 8 contrary notwithstanding, no person shall operate thrill craft,
 9 parasailing, water sledding, or commercial high speed boating
 10 unless the person meets the requirements of section 200-37 and
 11 all rules adopted by the department that regulate or restrict
 12 these activities.

13 (b) No person shall conduct any commercial ocean use
 14 activity within Kaneohe Bay waters without a permit issued by
 15 the department.

16 (c) The following shall be construed as conducting
 17 commercial ocean use activity:

18 (1) Delivering or pre-positioning within one thousand feet
 19 of any shoreline of Kaneohe Bay any commercial ocean
 20 recreational equipment for hire; or



1 (2) Transporting customers to or from any location on
2 Oahu, including but not limited to Heeia Kea, the
3 Kaneohe Yacht Club, or any private residence, to
4 Kaneohe Bay to participate in unpermitted commercial
5 ocean use activity.

6 The burden of proof shall be on the person cited for unlawful
7 commercial ocean use activity that the conduct is not in
8 violation of this chapter or that it is permitted pursuant to a
9 permit, lease, or license issued by the department.

10 (d) No person shall advertise any commercial ocean use
11 activity within Kaneohe Bay waters for which the person does not
12 have a permit from the department. Advertisement in print; by
13 word of mouth; or online in any form, including through social
14 media, of unpermitted commercial ocean use activities or
15 commercial ocean recreational equipment shall be prima facie
16 evidence that:

17 (1) The owner of the advertised commercial ocean use
18 activity or commercial ocean recreational equipment
19 disseminated or directed the dissemination of the
20 advertisement in that form and manner; and



1 (2) The commercial ocean use activity or commercial ocean
2 recreational equipment is being operated at the
3 location advertised.

4 The burden of proof shall be on the provider of the commercial
5 ocean use activity or the owner of the commercial ocean
6 recreational equipment to establish that the equipment is not
7 being used for unpermitted commercial ocean use activity or that
8 the conduct is pursuant to a permit, lease, or license issued by
9 the department, including the division of state parks.

10 [~~(e)~~] (e) Permits issued by the department for [the]
11 commercial [~~operation of~~] ocean use activities in Kaneohe Bay
12 shall be limited to the number and locations, by permit type and
13 vessel and passenger capacity, provided in the Kaneohe Bay
14 master plan developed pursuant to Act 208, Session Laws of
15 Hawaii 1990, until applicable rules consistent with the master
16 plan are adopted by the department; provided that the passenger
17 capacity for snorkeling tours and glassbottom boat tours shall
18 be set through rules adopted pursuant to chapter 91. No thrill
19 craft permit may be transferred after June 21, 1998; provided
20 that transfers of permits may be made at any time between family
21 members.



1 ~~[(d)]~~ (f) On Sundays and federal holidays, all commercial
2 ocean use activities shall be prohibited.

3 ~~[(e)]~~ (g) All rules adopted by the department with regard
4 to Kaneohe Bay shall be drafted in consultation with the Kaneohe
5 Bay regional council. For those provisions of the Kaneohe Bay
6 master plan previously adopted by the legislature, the rules
7 adopted by the department shall be in accordance with those
8 provisions. Notwithstanding subsection ~~[(e)]~~ (e) to the
9 contrary, if the department determines for safety or
10 environmental protection reasons that a permitted use should be
11 relocated, the department may relocate the permitted use and the
12 department shall have discretion to permit vessel substitution
13 with a similar length vessel; provided that the increase is
14 ~~[not]~~ no greater than ten per cent of the current vessel length.

15 For those provisions of the Kaneohe Bay master plan
16 developed pursuant to Act 208, Session Laws of Hawaii 1990, not
17 previously adopted by the legislature, the master plan shall be
18 used as the recommended guideline in the adoption and
19 implementation of rules with regard to the regulation of all
20 activities in Kaneohe Bay.



1 (h) Citations for violations of this section or any rules
2 of the department adopted pursuant to this section may be issued
3 by the department, including the division of conservation and
4 resources enforcement of the department, or Honolulu police
5 department. In enforcing this section, any duly authorized
6 employee, agent, or representative of the department, including
7 the division of conservation and resources enforcement of the
8 department, or law enforcement officer of the Honolulu police
9 department shall have the power to issue subpoenas and take
10 legal custody of any personal property that is the subject of or
11 related to any violation of this section or rules established by
12 the department pursuant to this section. The property may be
13 released only upon approval by the board or the court that has
14 jurisdiction over the case. All costs associated with custody
15 and storage of the property shall be at the owner's cost and
16 expense.

17 (i) In addition to any penalties and fines established by
18 rules adopted by the department, any person who violates this
19 section or any rule adopted pursuant to this section shall be
20 subject to the penalties and fines set forth in sections 200-14
21 and 200-14.5.



1 (j) As used in this section:

2 "Commercial ocean recreational equipment" means thrill
3 craft; watercraft for high-speed boating, parasailing, water
4 sledding, sailing, snorkeling, diving tours, fishing tours, or
5 glassbottom boat tours; kayaks; canoes; any manner of
6 surfboards, sailboards, paddleboards, or related watercraft; and
7 watercraft for any other similar commercial ocean activity.

8 "Commercial ocean use activity" means any:

9 (1) Commercial operation, or the providing for hire, of
10 thrill craft; high-speed boating; parasailing; water
11 sledding; sailing; snorkeling; diving tours; fishing
12 tours; glassbottom boat tours; kayaks; canoes; any
13 manner of surfboards, sailboards, paddleboards, or
14 related watercraft; or any other similar commercial
15 ocean activity; or

16 (2) Renting for use or hire any vessel or equipment used
17 in any of the activities listed in paragraph (1).

18 "Commercial ocean use activity" does not include commercial
19 fishing, commercial ocean activity providers operating pursuant
20 to a permit issued by the department, or those operating



1 pursuant to an existing lease or license issued by the
2 department."

3 SECTION 4. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on June 30, 3000.

6



Report Title:

Kaneohe Bay; Restrictions; Commercial Ocean Use Activities;
Commercial Ocean Recreational Equipment; Permits

Description:

Prohibits commercial ocean use activity in Kaneohe Bay waters without a permit. Prohibits any person from advertising any commercial ocean use activity in Kaneohe Bay waters for which the person does not have a permit. Establishes enforcement mechanisms for the prohibitions. Effective 6/30/3000. (HD2)

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

