

STAND. COM. REP. NO. 1832

Honolulu, Hawaii

APR 06 2023

RE: H.B. No. 1134
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Commerce and Consumer Protection and Ways and Means, to which was referred H.B. No. 1134, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO KANEOHE BAY,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit commercial ocean use activity in Kaneohe Bay waters without a permit;
- (2) Prohibit any person from advertising any commercial ocean use activity in Kaneohe Bay waters for which the person does not have a permit; and
- (3) Establish enforcement mechanisms for the prohibitions.

Your Committees received testimony in support of this measure from the Ko'olau Foundation, Hawaii State Aha Moku, Kaneohe Bay Regional Council, Ko'olaupoko Hawaiian Civic Club, and three individuals. Your Committees received comments on this measure from the Department of Land and Natural Resources.

Your Committees find that Kaneohe Bay and attractions in the bay, such as the Kaneohe Bay sandbar, have been excessively promoted via social media and through unpermitted tour operators



who advertise and operate without regard for laws, rules, regulations, and cultural consideration. Non-permitted commercial operators set up advertisements and online payment schemes and bring guests, circumventing the principles and intentions of the original 1992 Kaneohe Bay master plan. On weekends or holidays, the laws, rules, and regulations meant to protect Kaneohe Bay often go unenforced. This measure strengthens the laws regarding restricted activities at Kaneohe Bay, thus preserving one of the State's important resources.

Your Committees acknowledge the concerns raised in testimony that the Department of Land and Natural Resources (DLNR) may have difficulty proving that a commercial operator was compensated for their services, complicating enforcement efforts. Amendments to this measure are therefore necessary to address these concerns.

Accordingly, your Committees have amended this measure by:


- (1) Deleting language that would have required DLNR to establish administrative penalties and fines for violations of section 200-39, Hawaii Revised Statutes;
- (2) Clarifying that any law enforcement officer shall have the authority to issue citations and otherwise enforce the provisions established by this measure;
- (3) Clarifying DLNR's authority to hold, store, and charge fees for confiscated property;
- (4) Inserting language authorizing DLNR to dispose of confiscated property after it remains unclaimed for more than ten working days;
- (5) Clarifying that penalties established by rule pursuant to section 200-39, Hawaii Revised Statutes, shall be separate and in addition to any other fees, charges, and fines imposed by DLNR;
- (6) Clarifying the definition of "commercial ocean use activity"; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



Additionally, your Committees further request that, as this measure advances through the Legislative process, a delayed implementation date be considered to provide sufficient time for current operators to phase out their commercial operations at Kaneohe Bay.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1134, H.D. 2, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1134, H.D. 2, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and Ways
and Means,



DONOVAN M. DELA CRUZ, Chair




JARRETT KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

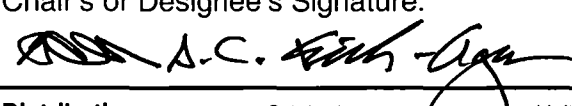
Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1134 HD2	WTL, CPN/WAM	4/4/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton	✓			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 1134 HD 2	Committee Referral: WTL, CPN/WAM	Date: 4/4/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
AQUINO, Henry J.C.	X			
DECOITE, Lynn	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
KIM, Donna Mercado	X			
LEE, Chris	X			
MORIWAKI, Sharon Y.				X
SHIMABUKURO, Maile S.L.				X
WAKAI, Glenn	X			
FEVELLA, Kurt	X			
TOTAL	11			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes