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# A BILL FOR AN ACT

RELATING TO OCEAN RECREATION MANAGEMENT.

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

1           SECTION 1. The department of land and natural resources  
2 (department), division of boating and ocean recreation  
3 (division), is responsible for ocean recreation management in  
4 state ocean waters, among other responsibilities. Public safety  
5 and marine natural resources can be affected by a variety of  
6 environmental factors and emerging ocean recreation  
7 technologies, some of which may change rapidly and frequently.  
8 This Act is part of a comprehensive ocean recreation management  
9 package put forth by the department to ensure effective natural  
10 resource protection by providing better management and  
11 enforcement tools.

12           Under the existing ocean recreation management areas  
13 system, the division has the authority to designate areas around  
14 each island as an ocean recreation management area, which then  
15 allows it to designate zones and subzones within each area in  
16 which specific ocean recreation activities can occur in order to  
17 increase user safety and reduce user conflicts. However, the



1 current ocean recreation management areas system is a patchwork  
2 of designated and non-designated areas around each island,  
3 preventing user safety measures around some portions of each  
4 island. Furthermore, many residents have complained about the  
5 over-commercialization of state ocean waters and their resulting  
6 inability to enjoy the state ocean waters due to overcrowding  
7 and commercial operators taking over ocean access points,  
8 especially through the shoreline.

9 Therefore, the purpose of this Act is to revise the law  
10 regarding ocean recreation management areas to provide better  
11 management tools to the division by:

- 12 (1) Creating a uniform designation of ocean recreation  
13 management areas;
- 14 (2) Prohibiting commercial activity in ocean recreation  
15 management areas, except by use permit; and
- 16 (3) Prohibiting commercial activities originating from the  
17 shoreline in ocean recreation management areas  
18 statewide on weekends, state holidays, and federal  
19 holidays, except for certain specified commercial  
20 activities.



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

3 **"§200-24 Rules.** The department shall adopt rules pursuant  
4 to chapter 91 to implement the policy and purpose of this part,  
5 and to classify vessels into appropriate categories and classes.

6 The department shall adopt rules pursuant to chapter 91  
7 with respect to the following:

- 8 (1) The registration and numbering of vessels;
- 9 (2) The operation, use, and equipment of vessels on or in  
10 the waters of the State;
- 11 (3) The conduct of persons involved in boating accidents  
12 and in the reporting of accidents and other casualties  
13 and losses to the department;
- 14 (4) The designation of areas of the waters of the State  
15 and time periods during which thrill craft may be  
16 operated, and waters on or above which, and time  
17 periods during which, persons may engage in  
18 parasailing, commercial high speed boating, and water  
19 sledding; provided that in designating the areas, the  
20 department shall use the official recommendation of  
21 the National Marine Fisheries Service with regard to

1 the protection of protected marine life and habitats  
2 in adopting rules to implement this section, except as  
3 otherwise provided by law; and

4 (5) Procedures for a law enforcement officer to issue  
5 subpoenas or take custody of property pursuant to  
6 section [~~200-39(g)~~.] 200-39(f)."

7 SECTION 3. Section 200-37, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§200-37 Operation of thrill craft; parasailing; water  
10 sledding; commercial high speed boating.** (a) No person shall

11 operate a thrill craft unless the person is fifteen years of age  
12 or older.

13 (b) The department shall adopt rules to designate areas  
14 where, and time periods during which, thrill craft may be  
15 operated and parasailing, water sledding, and commercial high  
16 speed boating may be engaged in.

17 (c) No person shall operate a thrill craft in the waters  
18 of the State, except:

19 (1) In areas and during time periods designated by the  
20 department;



1 (2) Through areas designated by the department to serve as  
2 avenues for the ingress and egress of thrill craft  
3 between the areas designated under paragraph (1) and  
4 the shore;

5 (3) Authorized government personnel conducting operations  
6 approved by the department;

7 (4) Authorized film production permit holders conducting  
8 operations approved by the department; or

9 (5) When used to conduct ocean cleanup, as authorized by  
10 rules adopted by the department.

11 To the extent that the authorization to operate thrill  
12 craft pursuant to this subsection is inconsistent with any other  
13 law, including section 200-38, this subsection shall control.

14 (d) No person shall:

15 (1) Engage in parasailing; or

16 (2) Operate a motorized vessel towing a person engaged in  
17 parasailing;

18 on or above the waters of the State, except on or above areas  
19 and during time periods designated by the department.

20 (e) No person shall:

21 (1) Engage in water sledding; or



1 (2) Operate a motorized vessel towing a person engaged in  
2 water sledding;  
3 in the waters of the State, except in areas and during time  
4 periods designated by the department.

5 (f) No person shall engage in commercial high speed  
6 boating [~~or operate an open power boat capable of exceeding~~  
7 ~~forty miles per hour for commercial high speed boating purposes]~~  
8 in the waters of the State, except:

9 (1) In areas, along routes, and during time periods  
10 designated by the department; and

11 (2) In accordance with a permit issued by the department.

12 [~~(g) During all weekends and state and federal holidays,~~  
13 ~~no commercial operator shall operate a thrill craft, or engage~~  
14 ~~in parasailing, water sledding, or commercial high speed~~  
15 ~~boating, or operate a motor vessel towing a person engaged in~~  
16 ~~water sledding or parasailing in Maunalua Bay on Oahu as~~  
17 ~~provided for in section 200-38.~~

18 ~~(h) On Sundays, all commercial ocean recreation~~  
19 ~~activities, including those listed in this section, shall be~~  
20 ~~prohibited on Oahu in Maunalua Bay as provided for in section~~  
21 ~~200-38.~~



1       ~~(i)~~ (g) Between December 15 and May 15 of each year, no  
 2 person shall operate a thrill craft, or engage in parasailing,  
 3 water sledding, or commercial high speed boating, ~~or~~ operate a  
 4 motor vessel towing a person engaged in water sledding or  
 5 parasailing, or operate any commercial motorized water sports  
 6 equipment on the west and south shore of Maui ~~[as provided in~~  
 7 ~~section 200-38.]~~ from Pu'u Ola'i beach to Hawea point.

8       ~~(j)~~ (h) All commercial use and operator permits issued  
 9 by the department for commercial thrill craft, and parasailing  
 10 activities shall be fully transferable upon the payment of a  
 11 business transfer fee in an amount determined by the department,  
 12 which shall be no greater than six per cent of the transfer  
 13 price; provided that no more than one transfer every two years  
 14 shall be authorized with respect to any given permit, except  
 15 transfers between family members for the purpose of business  
 16 reorganization.

17       ~~(k)~~ (i) The department may immediately revoke a  
 18 commercial use permit without a hearing for any activity that  
 19 endangers or may endanger the health or safety of passengers or  
 20 the public, and may suspend or revoke a commercial use permit  
 21 for violation of any rules of the department if, after seventy-



1 two hours notice by the department of the violation, the permit  
2 holder fails to cure the violation; provided that the permit  
3 holder shall have ten days from receipt of the notice of  
4 suspension or revocation to request in writing an administrative  
5 hearing. The administrative hearing is solely for the purpose  
6 of allowing the permit holder to contest the basis for the  
7 suspension or revocation of the permit. The hearing shall be  
8 held within five working days of the department's receipt of the  
9 written request. The chairperson shall adopt rules pursuant to  
10 chapter 91 to implement the procedures governing the  
11 administrative hearing process. Within ten days after the  
12 conclusion of the hearing, the department shall [~~either~~]:

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

17 [~~(1)~~] (j) All new commercial use and operator permits  
18 issued by the department for commercial thrill craft and  
19 parasailing activities after June 18, 1996, shall be issued at  
20 public auction.



1        [~~(m)~~] (k) Each commercial use and operator permit issued  
2 by the department for commercial thrill craft and parasailing  
3 activities shall be valid for one year from the date of issuance  
4 and shall be renewed by the department for additional one-year  
5 periods; provided that the permit holder meets the following  
6 conditions:

7        (1) The permit holder shall be in compliance with all  
8 applicable rules of the department;

9        (2) The permit holder shall have timely filed and paid all  
10 applicable state taxes during the year; and

11       (3) The permit holder shall have a good safety record  
12 regarding the operation of a commercial thrill craft,  
13 or parasailing activity.

14       [~~(n)~~] (l) All commercial use and operator permits issued  
15 by the department for commercial thrill craft, and parasailing  
16 activities shall be subject to an annual review by the  
17 department, which shall include but not be limited to:

18       (1) The permit holder's compliance with applicable rules  
19 of the department;

20       (2) The permit holder's timely filing and payment of all  
21 applicable state taxes during the year; and



1 (3) The permit holder's safety record regarding the  
2 operation of a commercial thrill craft, or parasailing  
3 activity.

4 [~~(e)~~] (m) The department shall adopt rules to encourage  
5 water safety education and programs with respect to thrill  
6 craft, or parasailing activities."

7 SECTION 4. Section 200-38, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§200-38 Ocean recreation management areas.** (a) All  
10 waters of the State within three thousand feet seaward of the  
11 base line of the territorial sea are designated as ocean  
12 recreation management areas. Within each ocean recreation  
13 management area, the department may designate zones where  
14 specific recreational and commercial ocean activities may occur.

15 (b) Unless otherwise provided by this chapter or rules  
16 adopted by the department, no commercial activity, except for  
17 commercial activity originating from a commercial harbor under  
18 the jurisdiction of the department of transportation, may be  
19 conducted in an ocean recreation management area without a use  
20 permit from the department.



1 Any person who holds a valid commercial use permit on  
2 July 1, 2024, may continue to renew the commercial use permit;  
3 provided that the department may terminate a commercial use  
4 permit for cause or may deny renewal or reissuance if:

5 (1) The commercial use permit has been terminated or  
6 nonrenewed for cause; or

7 (2) The commercial use permit is not renewed before its  
8 expiration date, including any applicable extensions  
9 of the expiration date.

10 ~~[(a)]~~ (c) Notwithstanding any other law to the contrary,  
11 no person shall engage in any type of commercial ~~[operator shall~~  
12 ~~operate a thrill craft, engage in parasailing, water sledding,~~  
13 ~~or commercial high speed boating, operate a motorized vessel~~  
14 ~~towing a person engaged in parasailing, or operate a motor~~  
15 ~~vessel towing a person engaged in water sledding]~~ activity  
16 originating from the shoreline in any ocean recreation  
17 management area during all weekends and state and federal  
18 holidays ~~[on Oahu in Maunalua Bay from Kawaihoa (Portlock) Point~~  
19 ~~to Wailupe Peninsula and commercial zones a, b, and c.~~



1       ~~(b) Notwithstanding any other law to the contrary, all~~  
2 ~~commercial ocean recreation activities shall be prohibited on~~  
3 ~~all Sundays on Oahu in Maunalua Bay.~~

4       ~~(c) Notwithstanding any other law to the contrary, no~~  
5 ~~person shall operate a thrill craft, engage in parasailing,~~  
6 ~~operate a motorized vessel towing a person engaged in~~  
7 ~~parasailing, engage in commercial water sledding or commercial~~  
8 ~~high speed boating, or operate a commercial motor vessel towing~~  
9 ~~a person engaged in water sledding between December 15 and May~~  
10 ~~15 of each year in the waters of west and south Maui from Pu'u~~  
11 ~~Ola'i to Hawea Point.], except for commercial activity that:~~

- 12       (1) Originates from a commercial harbor under the  
13       jurisdiction of the department of transportation;  
14       (2) Originates from a state small boat harbor, boat launch  
15       ramp, or private facility;  
16       (3) Originates from Waikiki beach or Kaanapali beach; or  
17       (4) Is approved by the board.

18       (d) The department may adopt rules pursuant to chapter 91  
19 to further implement this section."

20       SECTION 5. 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) Any other provision of this chapter  
3 to the contrary notwithstanding, no person shall operate thrill  
4 craft, parasailing, water sledding, or commercial high speed  
5 boating unless the person meets the requirements of section 200-  
6 37 and all rules adopted by the department that regulate or  
7 restrict these activities.

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

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

18           (1) The owner of the advertised commercial ocean use  
19 activity or commercial ocean recreational equipment  
20 disseminated or directed the dissemination of the  
21 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 a person charged with a  
5 violation of this section to establish that the equipment is not  
6 being used for unpermitted commercial ocean use activity or that  
7 the person's conduct is pursuant to a use permit, lease, or  
8 license issued by the department.

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

20           ~~[(e) On Sundays and federal holidays, all commercial ocean~~  
21 ~~use activities shall be prohibited.~~



1       ~~(f)~~] (e) All rules adopted by the department with regard  
2 to Kaneohe Bay shall be drafted in consultation with the Kaneohe  
3 Bay regional council. For those provisions of the Kaneohe Bay  
4 master plan previously adopted by the legislature, the rules  
5 adopted by the department shall be in accordance with those  
6 provisions. Notwithstanding subsection (d) to the contrary, if  
7 the department determines for safety or environmental protection  
8 reasons that a permitted use should be relocated, the department  
9 may relocate the permitted use and the department shall have  
10 discretion to permit vessel substitution with a similar length  
11 vessel; provided that the increase is no greater than ten per  
12 cent of the current vessel length.

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

19       ~~(g)~~] (f) Citations for violations of this section or any  
20 rules of the department adopted pursuant to this section may be  
21 issued by any law enforcement officer. In enforcing this



1 section, any law enforcement officer shall have the power to  
2 issue subpoenas and take legal custody of any personal property  
3 that is the subject of or related to any violation of this  
4 section or rules established by the department pursuant to this  
5 section.

6 ~~[(h)]~~ (g) Property confiscated pursuant to this section  
7 may be released only upon approval by the board or a court of  
8 competent jurisdiction. Storage of confiscated property shall  
9 be at the sole risk and expense to the owner. The department  
10 may charge reasonable storage fees to the owner for storage of  
11 any property confiscated pursuant to this section.

12 ~~[(i)]~~ (h) Any property confiscated pursuant to this  
13 section that remains unclaimed for more than ten working days  
14 after it has been released pursuant to subsection ~~[(h)]~~ (g) may  
15 be sold at public auction. If the department does not, or is  
16 unable to, sell the property at public auction, the department,  
17 after giving public notice of intended disposition, if that  
18 notice was not previously included in a public auction notice,  
19 may sell the property by negotiation, retain and use the  
20 property, donate the property to any other government agency, or  
21 dispose of the property as junk.



1       ~~(j)~~ (i) Any penalties established in rule pursuant to  
2 this section shall be separate and in addition to any other  
3 fees, charges, and fines imposed by the department.

4       ~~(k)~~ (j) As used in this section:

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

11       "Commercial ocean use activity" means and includes:

- 12       (1) Any commercial operation of commercial ocean  
13               recreational equipment, or any other similar  
14               commercial ocean activity;
- 15       (2) Providing any commercial ocean recreational equipment  
16               for rent or hire; or
- 17       (3) Delivering for hire or pre-positioning within one  
18               thousand feet of any shoreline of Kaneohe Bay for  
19               hire, any commercial ocean recreational equipment.

20       "Commercial ocean use activity" shall not include commercial  
21 fishing, commercial ocean activity authorized by a use permit



1 issued by the department, or activity authorized by an existing  
2 lease or license issued by the department."

3 SECTION 6. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 3000.



**Report Title:**

Ocean Recreation Management Areas; Commercial Ocean Activity

**Description:**

Designates all ocean waters of the State within 3,000 feet from shore as ocean recreation management areas (ORMAs). Prohibits commercial activity in ORMAs unless authorized by use permit. Prohibits commercial activities originating from the shoreline in ORMAs on weekends and state and federal holidays, with certain exceptions. Effective 7/1/3000. (HD1)

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

