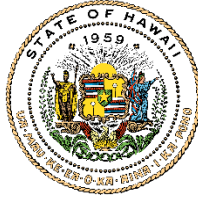


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
CONSUMER PROTECTION & COMMERCE

Tuesday, February 27, 2024
2:00 PM
State Capitol, Conference Room 329

In consideration of
HOUSE BILL 2475, HOUSE DRAFT 1
RELATING TO COMMERCIAL OCEAN ACTIVITY

House Bill 2475, House Draft 1 proposes to include advertisements and offers in the definition of "commercial activity" as used in chapter 200, Hawaii Revised Statutes, and provides that advertisements or offers for commercial activity are prima facie evidence that the owner made such advertisements and that the commercial activity is being operated at the location being advertised. **The Department strongly supports this administration measure.**

There has been a rapid expansion of commercial ocean recreational activity within a relatively short period of time, leading to overuse of boating facilities, strain on natural resources, and user conflicts between recreational and commercial ocean users. Many illegal commercial ocean operators claim that their customers are friends and/or family who are not paying for services, which hinders the Department's efforts to enforce illegal commercial ocean activity.

This measure expands on the authority provided by Act 232, Session Laws of Hawai'i 2023 (Act 232). The scope of Act 232 was restricted to Kāne'ōhe Bay ocean waters, and the Department believes that expanding the scope statewide will greatly assist the Department's efforts to enforce illegal commercial activity.

Thank you for the opportunity to testify on this measure.

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



Testimony Before The
House Committee on Consumer Protection & Commerce (CPC)
IN SUPPORT TO HB2475 HD1
February 27, 2024, 2:00PM, Room 329 & Via Zoom

We are Olan Leimomi Fisher and Kevin Chang, Kua'āina Advocate and Executive Director, respectively, testifying on behalf of [Kua'āina Ulu 'Auamo \(or KUA\)](#). "Kua'āina Ulu 'Auamo" stands for "grassroots growing through shared responsibility," and our acronym "KUA" means "backbone." **Our mission is to connect and empower communities to improve their quality of life through the collective care for their biocultural (natural and cultural) heritage, serving as a "backbone organization" that supports creative and community-driven solutions to problems stemming from environmental degradation.** Hawai'i's biocultural resources continue to be negatively impacted by political, economic, and social changes, and the increasing dangers of climate change make fostering and empowering resilient communities acutely critical.

Currently KUA supports three major networks of: (1) almost 40 mālama 'āina (caring for our 'āina or "that which feeds") community groups collectively referred to as E Alu Pū (moving forward together); (2) over 60 loko i'a (fishpond aquaculture systems unique to Hawai'i) and wai 'ōpae (anchialine pool systems) sites in varying stages of restoration and development, with numerous caretakers, stakeholders, and volunteers known as the Hui Mālama Loko I'a ("caretakers of fishponds"); and (3) the Limu Hui made up of over 50 loea (traditional experts) and practitioners in all things "limu" or locally-grown "seaweed." Our shared vision is to once again experience what our kūpuna (ancestors) referred to as **'āina momona** – abundant and healthy ecological systems that sustain our community resilience and well-being.

KUA supports HB2475 HD1 as an incremental step toward 'āina momona.

This bill will provide the Department of Land and Natural Resources' Division of Boating and Ocean Recreation (DLNR-DOBOR) with the necessary enforcement rules concerning what constitutes "commercial activity" to include the numerous ways these illegally unpermitted services are advertised via word of mouth, social media, etc.; and placing the burden of proof on the party that advertises. These **unpermitted operators often disregard laws and cultural understandings – likely spreading more misinformation than genuine knowledge of the Native Hawaiian culture, places, and animals – endangering conditions for everyone and confusing more and more tourists along the way.** We remind our legislators that DOBOR was transferred from DOT to DLNR stewardship in 1991 – over thirty years ago – and KUA appreciates this measure as a strong starting point to finally begin shifting DOBOR's mission and culture from previously prioritizing commercial and revenue generating activities to a more balanced approach *with preservation of our natural and cultural resources also considered at every turn.* **Nearshore resources and communities engaging in mālama 'āina – care for that which sustains us – have long awaited reforms in DOBOR due to the rampant over commercialization of our shared public trust resources.**

‘Āina Momona is not achievable without prioritizing the well-being of kama‘āina, locals and Native Hawaiians alike, that intimately know and care for our shared places.

Nearshore resources are currently impacted by rampant abuse by illegal commercial activity or abuse of legal commercial privileges, which among other things disturb fishing grounds, cause conflict and overcrowd of public areas, hinder access points, and impair community boat ramps. Community calls have often gone unheard due to DOBOR’s limited capacity and/or enforcement capabilities. Bills like HB2475 HD1 aim to address this overlooked and quickly growing issue. Please **PASS** HB2475 HD1.

Mahalo for this opportunity to submit testimony on this important issue.

Aloha ‘Āina Momona no nā kau ā kau.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
Tuesday, February 27, 2024 AT 2:00 P.M.**

To The Honorable Kyle T. Yamashita, Chair
The Honorable Lisa Kitagawa, Vice Chair
Members of the Committee on Finance

SUPPORT HB2475 RELATING TO COMMERCIAL OCEAN ACTIVITY

The Maui Chamber of Commerce **SUPPORTS HB2475** which includes advertisements and offers in the definition of "commercial activity" as used in chapter 200, HRS, and provides that advertisements or offers for commercial activity are prima facie evidence that the owner disseminated or directed dissemination of such advertisements or offers.

The Chamber notes that over the years, over-commercialization of state ocean waters has been unnaturally encouraged via social media and through unpermitted ocean tour operators who advertise and operate without regard for laws, rules, regulations, and cultural awareness. These unpermitted commercial operators set up advertisements and online payment schemes, circumventing commercial ocean activity laws and restrictions. Subsequently, when attempting to enforce against illegal commercial activity, department staff have oftentimes encountered difficulty in proving that commercial activity or compensation of the alleged illegal commercial operator occurred.

We support this bill which expands a tool used by DLNR to eliminate illegal operators. We applaud that DLNR can work with and collaborate with legal operators while eliminating scofflaws. The problems caused by illegal operators often cause a black eye and/or retaliatory actions on the entire industry, negatively impacting legal operators, who uphold industry standards.

For these reasons we **SUPPORT HB2475** and respectfully ask that it be passed.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.