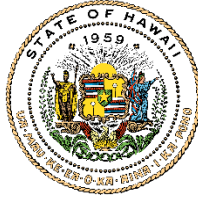


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

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  
WATER & LAND

Thursday, March 14, 2024  
10:00 AM  
State Capitol, Conference Room 430

In consideration of  
SENATE BILL 2721, SENATE DRAFT 2  
RELATING TO OCEAN RECREATION

Senate Bill 2721, Senate Draft 2 proposes to clarify that violation of part I of chapter 200, Hawaii Revised Statutes, relating to ocean recreation and coastal areas, or any rules adopted thereunder shall be subject to criminal penalties. **The Department of Land and Natural Resources (Department) offers comments and recommends amendments.**

This measure will help the Department's Division of Conservation and Resources Enforcement (DOCARE) with enforcement efforts related to areas and facilities under the jurisdiction of the Division of Boating and Ocean Recreation, including small boat harbors, boat launch ramp facilities, Waikīkī Beach, and Kā'anapali Beach. Without sufficient penalties to deter repeat violations, the Department has observed that the rates of illegal activities at these areas and facilities stayed the same or increased.

After discussion with the Department of the Attorney General, the Department offers a proposed House Draft 1 with amendments to specify which types of violations would be criminal, and having the remaining violations subject to administrative penalties. The proposed House Draft 1 is attached.

Mahalo 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

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## A BILL FOR AN ACT

RELATING TO OCEAN RECREATION.

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

1           SECTION 1. The legislature finds that small boat harbors  
2 and boating facilities are some of the most heavily trafficked  
3 facilities in the State, used by residents and tourists alike.  
4 The division of conservation and resources enforcement of the  
5 department of land and natural resources is responsible for  
6 enforcing all statutes and administrative rules of the  
7 department, across all State lands and waters, but spends a  
8 large part of its time responding to violations in small boat  
9 harbors and boating facilities.

10           Stricter penalties are needed to deter violators and repeat  
11 offenders in these areas. In addition, the language of section  
12 200-14, Hawaii Revised Statutes, is not clear on whether  
13 criminal penalties are authorized for violations of certain  
14 sections, which has hindered enforcement efforts.

15           Therefore, the purpose of this Act is to clarify and  
16 strengthen penalties authorized under sections 200-14 and 200-  
17 14.5, Hawaii Revised Statutes, to enable more effective

# S.B. NO. 2721

Proposed HD1

1 enforcement of laws and rules in and around Hawaii's small boat  
2 harbors and boating facilities.

3 SECTION 2. Section 200-14, Hawaii Revised Statutes, is  
4 amended and to read as follows:

5 **"§200-14 Violation of rules; penalty.** (a) [~~Except as~~  
6 ~~provided in subsection (b), any person who violates any rule~~  
7 ~~adopted by the department under this part or who violates this~~  
8 ~~part, shall be fined more than \$1,000 or less than \$50 for each~~  
9 ~~violation, and any vessel, the agents, owner, or crew of which~~  
10 ~~violate the rules of the department or this part, shall be fined~~  
11 ~~not more than \$1,000 or less than \$50 for each violation;~~  
12 ~~provided that in addition to or as a condition to the suspension~~  
13 ~~of the fines and penalties, the environmental court may deprive~~  
14 ~~the offender of the privilege of operating or mooring any vessel~~  
15 ~~in state waters for a period of not more than thirty days.] Any  
16 person who violates any provisions in this chapter or rules  
17 adopted by the department relating to reckless or unauthorized  
18 operation of a vessel, unauthorized vessel mooring, unauthorized  
19 commercial activity, unauthorized camping within state small  
20 boat harbors or boating facilities, animal abandonment within  
21 state small boat harbors or boating facilities, or creation of~~

# S.B. NO. 2721

Proposed HD1

1 animal colonies within state small boat harbors or boating  
2 facilities, shall be guilty of a petty misdemeanor.

3 (b) Any person who violates any rule adopted by the  
4 department under this part regulating vehicular parking or  
5 traffic movement shall have committed a traffic infraction as  
6 set forth in chapter 291D, the adjudication of which shall be  
7 subject to the provisions contained therein. A person found to  
8 have committed such a traffic infraction shall be fined not more  
9 than:

10 (1) \$100 for a first violation;

11 (2) \$200 for a second violation; and

12 (3) \$500 for a third or subsequent violation.

13 ~~(c) [Notwithstanding the provisions of subsection (a)~~  
14 ~~establishing a fine of not more than \$1,000 or less than \$50 for~~  
15 ~~each violation, any person who violates any rule adopted by the~~  
16 ~~department relating to unauthorized discharge, dumping, or~~  
17 ~~abandoning, in any state boating facility or state waters, of~~  
18 ~~any petroleum product, hazardous material, or sewage in~~  
19 ~~violation of the state water quality standards established by~~  
20 ~~the department of health, shall be fined not more than \$10,000~~  
21 ~~for each day of violation, and any vessel, the agents, owner, or~~  
22 ~~crew of which violate the rules of the department shall be fined~~

# S.B. NO. 2721

Proposed HD1

1 ~~not more than \$10,000 for each day of violation.]~~ In addition  
2 to, or as a condition to the suspension of, any criminal fines  
3 and penalties, the environmental court may deprive the offender  
4 of the privilege of operating any vessel, including but not  
5 limited to any thrill craft or vessel engaged in parasailing or  
6 water sledding, in certain geographical areas of the waters of  
7 the State for a period of not more than twelve months."

8 SECTION 3. Section 200-14.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "[+]§200-14.5[+] **General administrative penalties.** (a)  
11 Except as otherwise provided by law, the board is authorized to  
12 set, charge, and collect administrative fines and to recover  
13 administrative fees and costs, including attorney's fees and  
14 costs, or bring legal action to recover administrative fines and  
15 fees and costs, including attorney's fees and costs, or payment  
16 for damages or for the cost to correct damages resulting from a  
17 violation of this chapter or any rule adopted thereunder.

18 (b) In addition to, or as a condition to the suspension  
19 of, any administrative fines and penalties, the board may  
20 deprive the offender of the privilege of registering or titling  
21 any vessel for use on state waters, or mooring any vessel in any  
22 state small boat harbor, boating facility, or state waters, for

# S.B. NO. 2721

Proposed HD1

1 a period of not more than twenty-four months. Each day or  
2 instance of violation shall constitute a separate offense.

3 [~~(b)~~] (c) For violations involving pollution of the waters  
4 of the State, the administrative fine shall be as follows:

5 (1) For a first violation or a violation beyond five years  
6 of a previous violation, a fine of not more than  
7 \$10,000;

8 (2) For a second violation within five years of a previous  
9 violation, by a fine of not more than \$15,000; and

10 (3) For a third or subsequent violation within five years  
11 of the last violation, by a fine of not more than  
12 \$25,000.

13 [~~(e)~~] (d) For all other violations the administrative fine  
14 shall be as follows:

15 (1) For a first violation or a violation beyond five years  
16 of a previous violation, a fine of not more than  
17 \$5,000;

18 (2) For a second violation within five years of a previous  
19 violation, by a fine of not more than \$10,000; and

20 (3) For a third or subsequent violation within five years  
21 of the last violation, by a fine of not more than  
22 \$15,000.

# S.B. NO. 2721

Proposed HD1

1           ~~[(d)]~~ (e) Any criminal action against a person for any  
2 violation of subtitle 8 of title 12 or any rule adopted  
3 thereunder shall not preclude the State from pursuing civil  
4 legal action to recover administrative fines, fees and costs, or  
5 damages against that person. Any civil legal action to recover  
6 administrative fines, fees and costs, or damages for any  
7 violation of subtitle 8 of title 12 or any rule adopted  
8 thereunder shall not preclude the State from pursuing any  
9 appropriate criminal action against that person. All fines,  
10 fees and costs, or damages recovered by the department under  
11 this section shall be deposited in the boating special fund."

12           SECTION 4. Section 200-25, Hawaii Revised Statutes, is  
13 repealed:

14           ~~["§200-25 Fines and penalties. Any person violating this~~  
15 ~~part, or any rule adopted pursuant to this part, shall be fined~~  
16 ~~not less than \$50 and not more than \$1,000 or sentenced to a~~  
17 ~~term of imprisonment of not more than thirty days, or both, for~~  
18 ~~each violation; provided that in addition to, or as a condition~~  
19 ~~to the suspension of, the fines and penalties, the environmental~~  
20 ~~court may deprive the offender of the privilege of operating any~~  
21 ~~vessel, including but not limited to any thrill craft or vessel~~

# S.B. NO. 2721

Proposed HD1

1 ~~engaged in parasailing or water sledding, in the waters of the~~  
2 ~~State for a period of not more than thirty days." ]~~

3 SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon approval.



# S.B. NO. 2721

Proposed HD1

**Report Title:**

DLNR; Boating; Ocean Recreation; Penalties; Administrative Fines

**Description:**

Amends penalties for violations of laws and administrative rules governing boating and ocean recreation by aligning penalties with the severity of the prohibited conduct. Specifies which violations are subject to criminal penalties.

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

**SB-2721-SD-2**

Submitted on: 3/13/2024 7:10:48 AM

Testimony for WAL on 3/14/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Zachary LaPrade	Ocean Tourism Collation	Support	Written Testimony Only

Comments:

Dear Chair, Vice Chair, and Members of the Committee,

I am writing to express my full support for Senate Bill No. 2721, S.D. 2, regarding ocean recreation and coastal area regulations. The amendments made by the legislature have addressed the concerns I previously expressed, particularly the inclusion of an "intentional" requirement for violations.

By specifying that individuals must knowingly or intentionally violate the regulations to be subject to criminal penalties, the bill ensures fairness and prevents unjust punishment for inadvertent infractions.

Furthermore, the increased penalties outlined in the bill serve to deter violators and repeat offenders, thereby enhancing public safety and protecting our valuable coastal resources.

Therefore, I urge the committee to move forward with the passage of Senate Bill No. 2721, S.D. 2. The amendments made have addressed the concerns raised by stakeholders like myself, and the bill now stands as a vital step towards effective enforcement of ocean recreation regulations in our state.

Thank you for your attention to this matter.

Sincerely,

Zachary LaPrade

Director



# MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON WATER & LAND  
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 430  
Thursday, March 14, 2024 AT 10:00 A.M.**

To The Honorable Linda Ichiyama, Chair  
The Honorable Mahina Poepoe, Vice Chair  
Members of the Committee on Water & Land

### **SUPPORT SB2721SD2 RELATING TO OCEAN RECREATION**

The Maui Chamber of Commerce **SUPPORTS SB2721 SD2.**

The Chamber notes the language of section 200-14, Hawaii Revised Statutes, is not clear regarding whether criminal penalties are authorized for violations of the section, which has hindered enforcement efforts. Therefore, the purpose of this bill is to clarify that criminal penalties are authorized under section 200-14, Hawaii Revised Statutes.

We understand and agree with punishing those operating without permits, those doing egregious acts like vandalizing the property or trespassing, and repeat offenders. In our last testimony, we noted that this bill was written so broadly, we were concerned that it may impact legal, permitted operators who mistakenly break a rule that may have been modified or a new rule of which they were not aware. Departmental rules may change and be implemented without the same level of notification or public input as laws. Thus, legally permitted operators may not be informed of the changes and be subject to possibly harsh penalties.

We appreciate the previous committee clarifying this to protect those who were uninformed of rule changes and that penalties will only be for those who “knowingly or intentionally” violate the rules. Permittees’ businesses are reliant upon the harbors. They want to protect the harbors and their private property there, so they are normally good stewards.

For these reasons we **SUPPORT SB2721 SD2.**

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.

**SB-2721-SD-2**

Submitted on: 3/11/2024 3:59:47 PM

Testimony for WAL on 3/14/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

Yes to clarifying that violation of part I of chapter 200, HRS, relating to ocean recreation and coastal areas, or any rules adopted thereunder shall be subject to criminal penalties.