

ACT 317

S.B. NO. 1874

A Bill for an Act Relating to Kaneohe Bay.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature believes that Kaneohe Bay is a treasured natural resource that must be preserved and protected for future generations to use and enjoy. Act 208, Session Laws of Hawaii 1990, created the Kaneohe Bay Master Plan Task Force to address current and future uses of the Bay. The Task Force held twenty-one public meetings and addressed such issues as public open space and access, water quality, nearshore environment, water use, long-range planning, and the roles of government and other organizations. In May 1992, the Task Force issued the Kaneohe Bay Master Plan through the office of state planning.

The purpose of this Act is to implement the recommendations of the Kaneohe Bay Master Plan Task Force related to ocean use activities and facilitate ongoing cooperation between various parties involved with ocean use activities in Kaneohe Bay.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
KANEHOE BAY REGIONAL COUNCIL**

§ -1 **Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Council” means the Kaneohe Bay regional council.

“Lead agency” means the department of land and natural resources.

“Master plan” means the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990.

“Members” means the members of the Kaneohe Bay regional council.

§ -2 **Kaneohe Bay regional council; establishment.** (a) There is established within the department of land and natural resources, for administrative purposes only, the Kaneohe Bay regional council, which shall be composed of seven voting members appointed by the governor in accordance with section 26-34 and ex officio nonvoting members as provided in subsection (c). The members shall serve without compensation.

(b) The voting members of the council shall include one representative from each of the following: the Kaneohe neighborhood board, the Kahaluu neighborhood board, the Kaneohe Bay Commercial Operators Association, the Kaneohe Bay fishing panel established by this chapter, a Kaneohe Bay recreational boating association, the Hawaii institute of marine biology of the University of Hawaii, and the office of Hawaiian affairs.

(c) The director of health; the superintendent of education; two representatives of the department of land and natural resources, including one from the division of boating and ocean recreation and one from the aquatic resources division; the commanding officer of the Kaneohe Marine Corps Air Station; the director of the office of state planning; and the director of business, economic development, and tourism; or their designated representatives shall serve as ex officio nonvoting members of the council. Additionally, the council may designate representatives of other appropriate agencies as ex officio nonvoting members of the council.

(d) Four voting members shall constitute a quorum to do business and any action taken by the council shall be validated by a simple majority of the quorum.

(e) A chairperson shall be elected annually by the council from among the council’s voting members; provided that:

- (1) Only a nongovernmental member shall be elected as chairperson; and
- (2) No member may serve as chairperson for more than two consecutive years.

§ -3 **Kaneohe Bay regional council; general powers, duties, and functions.** The council shall have the following powers and duties and perform the following functions:

- (1) Facilitate the implementation of the master plan as it relates to ocean use activities;
- (2) Serve as a central coordinative clearinghouse of public and private activities in Kaneohe Bay, and as a repository and disseminator of information on the bay;
- (3) Facilitate productive interaction between users of the bay and the general public in order to develop a common vision and make recommendations for public policy related to the bay;
- (4) Recommend research, studies, data collection, and planning activities designed to provide additional information on Kaneohe Bay, with particular reference to the specific needs of the bay, and to publicize the

- results thereof, to the extent that these functions do not duplicate or supplant activities provided by other state or county agencies;
- (5) Advise and make recommendations to the State and the county on matters regarding the use of Kaneohe Bay by the general public, marine research programs, and commercial ocean use activities, including legislative matters;
 - (6) Develop short- and long-term goals based on the master plan, resources, and programs for Kaneohe Bay;
 - (7) Educate the public and users of Kaneohe Bay on the problems and needs of the bay through public education programs;
 - (8) Serve as the public advocate for Kaneohe Bay;
 - (9) Initiate and maintain contact with public, private, county, and state organizations, agencies, and individuals engaging in activities in Kaneohe Bay;
 - (10) Establish a Kaneohe Bay fishing panel to monitor fishing activities in the bay, as recommended in the master plan as it relates to ocean use activities; and
 - (11) Hold annual public hearings until 1999 on the status of the implementation of the master plan as it relates to ocean use activities and research being conducted by the Hawaii institute of marine biology.

§ -4 **Meetings.** All meetings of the council shall be conducted in accordance with chapter 92, and shall be held on the first Wednesday of each calendar quarter in each year of its operation.

§ -5 **Annual report.** The council shall submit semi-annual reports on its activities to the governor and the legislature, which may include recommendations consistent with the purposes of this chapter.”

SECTION 3. Chapter 200, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read:

“§200- **Kaneohe Bay ocean use activities; permits; restrictions.** (a) For the purposes of this section, “ocean use activities” means commercial operation of thrill craft, high speed boating, parasailing, water sledding, sailing and snorkeling tours, and glassbottom boat tours.

(b) Any other provision of this chapter to the contrary notwithstanding, no person shall operate thrill craft, parasailing, water sledding or commercial high speed boating unless the person meets the requirements of section 200-37 and all rules adopted by the department which regulate or restrict such activities.

(c) Permits issued by the department for the commercial operation of ocean use activities shall be limited to the number, by permit type and vessel and passenger capacity, provided in the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990; provided that passenger capacity for snorkeling tours and glassbottom boat tours shall be set through rules adopted pursuant to chapter 91. No thrill craft permit may be transferred more than five years after the effective date of this section; provided that transfers of permits may be made at any time between family members.

(d) On Sundays and federal holidays, all commercial ocean use activities shall be prohibited.”

2. By amending subsections (g) and (h) of section 200-37 to read:

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

(h) On Sundays, all commercial ocean recreation activities, including those listed in this section, shall be prohibited on Oahu in [Kaneohe Bay and] Maunalua Bay as provided for in section 200-38.”

3. By amending subsections (a) and (b) of section 200-38 to read:

“(a) Notwithstanding any other law to the contrary, no commercial operator shall operate a thrill craft, engage in parasailing, water sledding, or commercial high speed boating, operate a motorized vessel towing a person engaged in parasailing, or operate a motor vessel towing a person engaged in water sledding during all weekends and state and federal holidays on Oahu:

- (1) In Kaneohe Bay from Mokapu Point to Makahonu Point which includes commercial zones a, b, c, d, e, f, g, i, and j; and
- (2) In in Maunalua Bay from Kawaihoa (Portlock) Point to Wailupe Peninsula and commercial zones a, b, and c.

(b) Notwithstanding any other law to the contrary, all commercial ocean recreation activities shall be prohibited on all Sundays on Oahu in [Kaneohe Bay and] Maunalua Bay [as defined in subsection (a)(1) and (2)].”

SECTION 4. The office of state planning shall convene a Kaneohe Bay task force in 1997 to evaluate the status and effectiveness of the activities undertaken by the Kaneohe Bay regional council to improve circumstances relating to ocean use activities and well-being of the bay in light of past, present, and future research programs, implementation of the 1992 Kaneohe Bay master plan by the council, and changing public and environmental circumstances.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,500, or so much thereof as may be necessary for fiscal year 1993-1994, to support the operations of the Kaneohe Bay regional council. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval, and shall be repealed on July 1, 1998; except that SECTION 5 shall take effect on July 1, 1993.

(Approved June 21, 1993.)

Note

1. Edited pursuant to HRS §23G-16.5.