

ACT 129

S.B. NO. 2078

A Bill for an Act Relating to Ocean Recreation.

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

SECTION 1. Section 200-37, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (j) to read:

“(j) All commercial use and operator permits issued by the department for commercial thrill craft, and parasailing activities shall be fully transferable upon the payment of a business transfer fee in an amount determined by the department, which shall be no [less] greater than [ten] six per cent of the transfer price; provided that no more than one transfer every two years shall be authorized with respect to any given permit[.], except transfers between family members for the purpose of business reorganization.”

2. By amending subsections (m) and (n) to read:

“(m) Each commercial use and operator permit issued by the department for commercial thrill craft, and parasailing activities shall be valid for five years from the date of issuance and shall be renewed by the department for additional five-year periods, not to exceed a maximum of [ten] twenty years; provided that the permit holder shall have met the following conditions:

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

- (2) The permit holder shall have timely filed and paid all applicable state taxes during the year; and
- (3) The permit holder shall have a good safety record regarding the operation of a commercial thrill craft, or parasailing activity.

(n) Upon expiration of the [ten-year] twenty-year period, the permit may be offered for public auction as provided in this chapter; provided that the previous permit holder shall be offered the right of first refusal in accordance with departmental rules; and provided further that the permit holder shall agree to match the highest bid offered at the public auction.”

SECTION 2. Section 200-39, Hawaii Revised Statutes, is amended to read as follows:

“§200-39 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, glassbottom boat tours, or any other similar commercial ocean recreation activity for hire.

(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 that regulate or restrict these activities.

(c) Permits issued by the department for the commercial operation of ocean use activities in Kaneohe Bay shall be limited to the number and locations, 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[;] and amended by section 200D-3; 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 after June 21, 1998; 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.

(e) All rules adopted by the department with regard to Kaneohe Bay shall be drafted in consultation with the Kaneohe Bay regional council and shall be in accordance with, and implement the recommendations in, the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990[.], and amended by section 200D-3.

[f] The Kaneohe Bay regional council shall review and revise the master plan by December 1999, with the assistance of the office of planning of the department of business, economic development and tourism and the department.]”

SECTION 3. Section 200D-1, Hawaii Revised Statutes, is amended by amending the definition of “master plan” to read as follows:

““Master plan” means the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990[.], and amended by section 200D-3.”

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

“[§200D-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) Review and periodically amend the master plan as it relates to ocean use activities;
- [(2)] (3) 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)] (4) 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)] (5) 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)] (6) 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)] (7) Develop short- and long-term goals based on the master plan, resources, and programs for Kaneohe Bay;
- [(7)] (8) Educate the public and users of Kaneohe Bay on the problems and needs of the bay through public education programs;
- [(8)] (9) Serve as the public advocate for Kaneohe Bay;
- [(9)] (10) Initiate and maintain contact with public, private, county, and state organizations, agencies, and individuals engaging in activities in Kaneohe Bay;
- [(10)] (11) 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)] (12) 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.”

SECTION 5. The Kaneohe Bay regional council, with the assistance of the department of business, economic development, and tourism and the department of land and natural resources, shall submit an amended Kaneohe Bay master plan to the legislature by December 1999.

SECTION 6. Notwithstanding any law to the contrary, the department of land and natural resources shall not implement any provision relating to the locations of the commercial operation of ocean use activities in Kaneohe Bay recommended in the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990, and amended by section 200D-3, Hawaii Revised Statutes, until the department adopts rules relating to these activities pursuant to chapter 91, Hawaii Revised Statutes, and in accordance with section 200-39(e), Hawaii Revised Statutes.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 8. This Act shall take effect on July 1, 1998.

(Approved June 22, 1998.)

Note

1. Comma should be underscored.