

## ACT 195

S.B. NO. 2933

A Bill for an Act Relating to Ocean Safety.

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

SECTION 1. The legislature finds that increased recreational and commercial activities in Hawaii's nearshore waters have led to safety concerns and, in some cases, tragic results. According to the department of land and natural resources, there were at least four accidents involving swimmers and divers being struck by boats in 2011. In December 2011, a man died after being struck by a boat in waters off of Hanakao beach park on the island of Maui.

Many nearshore areas statewide are popular attractions for multiple ocean activities. The legislature finds that Kamaole beach and the waters of Kaanapali on the island of Maui are two such areas. The amount of growth on Maui has resulted in an overabundance of ocean and beach visitors, and the legislature finds that there is a compelling need to provide safe and suitable areas for residents and visitors to enjoy the water.

The legislature finds that adopting and enforcing stricter rules and regulations that protect ocean users and installing safety features such as swim zone buoys to clearly delineate areas reserved for differing uses will ensure greater ocean safety in highly populated areas of the State.

The legislature also finds that given the popularity of ocean activities in Kaanapali, the department of land and natural resources should establish a west Maui ocean recreation management area advisory committee to work on issues relating to the area, particularly the waters of Kaanapali.

The purpose of this Act is to improve ocean safety by:

- (1) Requiring the department of land and natural resources to adopt rules imposing stricter regulations for the safety of ocean users;
- (2) Appropriating funds for swim zone buoys at Kamaole beach; and
- (3) Establishing the temporary west Maui ocean recreation management area advisory committee comprised of users of the ocean to work with the department of land and natural resources on issues relating to the area, particularly the waters of Kaanapali.

SECTION 2. Chapter 200, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§200- Safety of ocean users; rules.** The department shall adopt rules to promote greater safety of ocean users in the State’s nearshore waters. The rules shall include but not be limited to the creation of safe zones for free divers and swimmers and stricter enforcement of boating regulations around swim zone buoys.

**§200- Alternate access to state boating facilities; rules.** The department shall adopt rules to allow vessels holding a valid ocean recreation management area commercial use permit to use a state small boat harbor or boat launching ramp when unsafe wind and sea conditions would prevent safe access to the shoreline through a designated ingress or egress zone. The vessel operator or master shall give the department prior notice of the presence or threat of such conditions and shall be subject to local direction and control as necessary to avoid conflict with other users of the facility. Use of a state boating facility in accordance with this section shall not affect the permittee’s right to use such boating facilities in the absence of such conditions in order to provision a vessel as permitted by law.”

SECTION 3. The legislature finds that eight swim zone buoys are needed at the following coordinates to increase the safety of ocean users:

- (1) Buoy 1: N 20° 42.623, W 156° 26.836;
- (2) Buoy 2: N 20° 42.736, W 156° 26.863;
- (3) Buoy 3: N 20° 42.836, W 156° 26.888;
- (4) Buoy 4: N 20° 42.984, W 156° 26.912;
- (5) Buoy 5: N 20° 43.120, W 156° 26.934;
- (6) Buoy 6: N 20° 43.237, W 156° 26.962;
- (7) Buoy 7: N 20° 43.410, W 156° 27.019; and
- (8) Buoy 8: N 20° 43.498, W 156° 27.043.

The department of land and natural resources shall install eight swim zone buoys at the coordinates indicated in this section.

SECTION 4. There is appropriated out of the ocean-based recreation fund the sum of \$20,000 or so much thereof as may be necessary for fiscal year 2012-2013 for the installation of eight swim zone buoys at Kamaole beach at the coordinates specified in section 3 of this Act for the purpose of increasing the safety of ocean users.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 5. The department of land and natural resources shall relocate the buoys in the waters off Kaanapali beach between Mala wharf and Black Rock on the island of Maui to waters beyond the lanes or areas used by canoe paddlers.

SECTION 6. The department of land and natural resources shall report to the legislature on the status of rulemaking required in the two new sections of the Hawaii Revised Statutes in section 2 of this Act and any other measures taken to promote the safety of ocean and beach users in the State's nearshore waters, no later than twenty days prior to the convening of the 2013 regular session.

SECTION 7. (a) No later than September 1, 2012, the department of land and natural resources shall establish a temporary west Maui ocean recreation management area advisory committee that shall advise the department of land and natural resources on issues related to the uses and maintenance of state waters within the west Maui ocean recreation management area, particularly within the waters adjacent to Kaaupali on the island of Maui.

(b) The temporary advisory committee shall consist of five members of the west Maui community appointed by the chairperson of the board of land and natural resources without regard to section 26-34, Hawaii Revised Statutes, as follows:

- (1) One swimming enthusiast;
- (2) One paddling enthusiast;
- (3) One surfing enthusiast;
- (4) One commercial boating enthusiast; and
- (5) One fishing enthusiast.

No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the temporary advisory committee. The temporary advisory committee created by this section shall be terminated on June 30, 2015.

SECTION 8. The department of land and natural resources shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2013, regarding the findings and recommendations, including any proposed legislation, of the temporary west Maui ocean recreation management area advisory committee.

SECTION 9. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 2012.

(Approved June 29, 2012.)

**Note**

1. Edited pursuant to HRS §23G-16.5.