

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND RECREATION

Amendment to Chapter 13-244
Hawaii Administrative Rules

July 27, 2012

SUMMARY

1. A new section 13-244-15.5, Hawaii Administrative Rules, is added.

§13-244-15.5 Operation of power driven vessels.

(a) Any person operating a power driven vessel on the waters of the State shall be required to possess a certificate of completion from a National Association of State Boating Law Administrators (NASBLA) approved course on the safe use and operation of a power driven vessel that contains a component on Hawaii waters approved by the department. Exempt from this requirement are persons who:

- (1) Possess a valid merchant mariner credential to operate a vessel issued by the United States Coast Guard pursuant to 46 CFR Part 10;
- (2) Operate a thrill craft in a commercial thrill craft zone as authorized by the State;
- (3) Operate a motor vessel that is ten horsepower or less, or
- (4) Are on a voyage originating outside of the State and remain in the State less than sixty calendar days.

(b) A person under sixteen (16) years of age shall not operate a power driven vessel on the waters of the State unless the person possesses a certificate of completion and is also accompanied on-board and directly supervised by a person twenty-one (21) years of age or older who holds the required certificate of completion.

(c) A person or the person's responsible managing employee or agent engaged in the business of renting or leasing power driven vessels shall not rent or lease a power driven vessel to any person for operation on the waters of the State unless the person:

- (1) Meets all the requirements of this section by receiving a safety briefing provided by the rental or leasing business that is approved by the department; and
- (2) Is identified on the rental or lease agreement for a power driven vessel by name and age. A person or the person's agent or employee renting or leasing power driven

vessels who fails to request and inspect certificates or evidence of exemption is in violation of this section.

(d) A person who is operating a power driven vessel on any waters of the State and who is stopped by a law enforcement officer shall present to the officer, upon request, a certificate of completion required by this section or acceptable evidence of exemption from the required certificate. Failure to present a certificate of completion or acceptable evidence of exemption shall constitute a violation of this section, unless the person presents the required certificate or evidence of exemption to a court of law and satisfies the court that this person held a proper certificate or was exempt at the time the person was asked to produce the certificate.

(e) A person who alters, forges, counterfeits, or falsifies a certificate or other document used as evidence, or who possesses a certificate or other document that has been altered, forged, counterfeited, or falsified, or who loans or permits that person's certificate or other document to be used by another person, shall be in violation of this section.

(f) The department shall maintain a list of NASBLA approved courses that provide a department approved component on Hawaii waters, which shall include but not be limited to:

- (1) Local ocean safety principles and practices; and
- (2) Any rules or laws pertaining to protected species and power driven vessel operation in the State.

(g) This section shall be enforced beginning on the second anniversary date of the section's effective date.

(h) Pursuant to section 200-25, Hawaii Revised Statutes, any person violating this section shall be fined not less than \$50 and not more than \$1000 or sentenced to a term of imprisonment of not more than thirty days, or both, for each violation; provided that in addition to, or as a condition to the suspension of, the fines and penalties, the court may

§13-244-15.5

deprive the offender of the privilege of operating any vessel in the waters of the State for a period of not more than thirty days. [Eff **NOV 10 2012**] (Auth: HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24, 200-25) (Imp: HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24, 200-25)

The amendment to Chapter 13-244, Hawaii Administrative Rules, on the Summary Page dated July 27, 2012, was adopted on July 27, 2012, following public hearings held in Lihue, Kauai; Aiea, Oahu; Kahului, Maui; and Hilo and Kona, Hawaii Island on May 30, 2012 and May 31, 2012. Public notices were given in the Garden Isle, Honolulu Star-Advertiser, Maui News, Hawaii Tribune Herald, and West Hawaii Today between April 19, 2012 and April 22, 2012.

The amendment shall take effect ten days after filing with the Office of the Lieutenant Governor.

Paul J. Aila, Jr.

WILLIAM J. AILA, JR.
Chairperson
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APPROVED AS TO FORM:

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Date: *10.30.12*

Filed

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