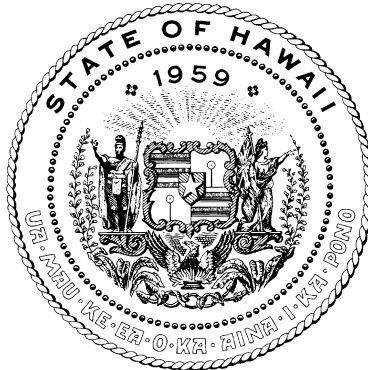


**REPORT TO THE THIRTY-SECOND LEGISLATURE
STATE OF HAWAI'I
REGULAR SESSION OF 2023**

**REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES'
DIVISION OF BOATING AND OCEAN RECREATION, IN CONSULTATION WITH
THE KANEOHE BAY REGIONAL COUNCIL, TO CONDUCT A STUDY OF
COMMERCIAL ACTIVITY ON KANEOHE BAY AND DEVELOP A PLAN TO
REDUCE THE AMOUNT OF NON-PERMITTED COMMERCIAL ACTIVITY THAT IS
OPERATING IN VIOLATION OF THE KANEOHE BAY MASTER PLAN.**



Prepared by
STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION

In response to
Senate Concurrent Resolution 205, Senate Draft 1, House Draft 1
Regular Session of 2022

October 2022

**REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES'
DIVISION OF BOATING AND OCEAN RECREATION, IN CONSULTATION WITH
THE KĀNEŌHE BAY REGIONAL COUNCIL, TO CONDUCT A STUDY OF
COMMERCIAL ACTIVITY ON KĀNEŌHE BAY AND DEVELOP A PLAN TO
REDUCE THE AMOUNT OF NON-PERMITTED COMMERCIAL ACTIVITY THAT IS
OPERATING IN VIOLATION OF THE KĀNEŌHE BAY MASTER PLAN.**

Senate Concurrent Resolution (SCR) 205, Senate Draft 1, House Draft 1, adopted during the Regular Session of 2022, requests the Department of Land and Natural Resources (Department), Division of Boating and Ocean Recreation (DOBOR) to conduct a study of commercial activity on Kāneʻohe Bay and develop a plan to reduce the amount of non-permitted commercial activity that is operating in violation of the Kāneʻohe Bay Master Plan, and to investigate challenges to enforcement against illegal commercial activity at Kāneʻohe Bay and offer recommendations to improve compliance with the Kāneʻohe Bay Master Plan. SCR205 SD1 HD1 also requested that DOBOR submit the plan and a report of its findings and recommendations, including any proposed legislation.

The study requested by this measure would require additional funding so that DOBOR could contract out such a study because DOBOR does not have enough staff to conduct a such a comprehensive study.

Unpermitted commercial activity is a pervasive problem statewide and is not only restricted to Kāneʻohe Bay. The most common enforcement difficulty is proving that an operator was compensated for their services. DOBOR has mirrored its definition of "commercial activity" after the definition implemented by the City and County of Honolulu, which DOBOR believes is the strongest definition for effective enforcement. However, both DOBOR and the Division of Conservation and Resources Enforcement (DOCARE) encounter difficulties when customers of illegal commercial operators refuse to admit that they paid for the operator's services. The illegal commercial operators can then claim that the individuals are friends and/or family who did not pay for any services. Without being able to prove that the illegal commercial operator received compensation, an enforcement action would have a low likelihood of being successful.

To effectively monitor for illegal commercial activity statewide, DOBOR would need more staffing or the ability to re-allocate existing staff to ocean recreation activity monitoring. Due to staffing shortages and heavy workloads, DOBOR Harbor Agents are mostly stuck in the office handling clerical tasks, such as reviewing paperwork, accepting payments, and preparing letters. If DOBOR is able to execute its 2019 Strategic Plan, these Harbor Agents would be able to allocate more of their time to monitoring ocean recreation activities, responding more quickly to reports of illegal activity, and educating the public regarding ocean regulations. The DOCARE Marine Enforcement Unit that was established in the 2022 State Budget will also help with enforcement by ensuring that DOCARE can have a more consistent presence on beaches and ocean waters.