
A BILL FOR AN ACT

RELATING TO BOATING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the ocean has
2 historically been an important resource for Hawai'i. In
3 historical times, the ocean provided sustenance, economic
4 opportunity, and represented a source of recreational activities
5 as well.

6 The legislature further finds that these opportunities and
7 competing interests continue to this very day. Some citizens
8 use the ocean for sustenance and survival. Others use the
9 resources of the ocean as a means of economic opportunity, such
10 as fishermen. And others use the ocean for recreational
11 activities, such as sailing, jet skiing, swimming, and diving.

12 However, the legislature also finds that unlike historical
13 times, the competing interests for ocean usage are more intense,
14 and sometimes the competition ends in tragedy, as was the case
15 with Keahi Lum on October 4th, 2009. Keahi Lum and his friends
16 were diving off of Portlock Point at an area known locally as
17 "China Walls". Entering the water from a right-of-way makai of
18 "China Walls", each of the divers began their dives with "diver



1 down" flags attached to floats towed behind the divers, but for
2 some reason, after they surfaced, Keahi was struck by a passing
3 motor boat and later died at Queen's Medical Center.

4 The legislature also finds that unlike the case with motor
5 vehicles, persons can operate boats without much training or
6 instruction, and that proper instruction and licensure can help
7 to stem the tragedies that arise from the intense competition
8 for ocean use. Accordingly, the purpose of this Act is to
9 mandate licensure and training similar to that of motor vehicles
10 for the operation of a vessel in the waters of the State.

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

14 **"CHAPTER**

15 **BOAT OPERATION AND LICENSING**

16 § -1 **Definitions.** As used in this chapter:

17 "Department" means the department of land and natural
18 resources.

19 "Director" means the chairperson of the department of land
20 and natural resources.

21 "Houseboat" shall have the same meaning as in Hawaii
22 Revised Statutes, section 200-6.



1 "Vessel" shall have the same meaning as in Hawaii Revised
2 Statutes, section 200-23.

3 § -2 **Designation of examiner of vessels.** The director
4 shall designate one or more persons, residing in each county,
5 each of whom shall be a competent operator of vessels, to be
6 known as the examiner of vessels, and whose duty it shall be to
7 examine into the qualifications and fitness of any person
8 desiring to secure or to renew a license to operate a motor
9 vehicle as provided in this chapter.

10 § -3 **Licensing.** (a) No person, except one who
11 holds a license under this chapter, shall operate a vessel or
12 houseboat without first being appropriately examined and duly
13 licensed as a qualified operator of a vessel or houseboat.

14 (b) In addition to other qualifications and conditions by
15 or pursuant to this chapter, the right of an individual to hold
16 a license to operate a vessel or houseboat is subject to the
17 requirements of section 576D-13. Upon receipt of certification
18 from the child support enforcement agency pursuant to section
19 576D-13 that an obligor or individual who owns or operates a
20 vessel or houseboat is not in compliance with an order of
21 support as defined in section 576D-1 or has failed to comply
22 with a subpoena or warrant relating to a paternity or child



1 support proceeding, the examiner of vessels shall suspend the
2 license and right to operate vessels or houseboats and
3 confiscate the license of the obligor. The examiner of vessels
4 shall not reinstate an obligor's or individual's license until
5 the child support enforcement agency, the office of child
6 support hearings, or the family court issues an authorization
7 that states the obligor or individual is in compliance with an
8 order of support or has complied with a subpoena or warrant
9 relating to a paternity or child support hearing.

10 The licensing authority may adopt rules pursuant to chapter
11 91 to implement and enforce the requirements of this section.

12 § -4 Examination of applicants. (a) Except as
13 provided in section -5, the examiner of vessels shall examine
14 every applicant for a license, except as otherwise provided in
15 this chapter. The examination shall include a test of:

16 (1) The applicant's eyesight and any further physical
17 examination that the examiner of vessels finds
18 necessary to determine the applicant's fitness to
19 operate a vessel or houseboat safely upon the waters
20 of the State;

21 (2) The applicant's ability to understand rights-of-way
22 and other ocean safety laws and protocols;



1 (3) The applicant's knowledge of ocean safety rules based
2 on the laws of the State and the county where the
3 applicant resides or intends to operate a vessel or
4 houseboat; and

5 (4) The actual demonstration of ability to exercise
6 ordinary and reasonable control in the operation of a
7 vessel or houseboat.

8 The examinations shall be appropriate to the operation of the
9 category of vessel or houseboat for which the applicant seeks to
10 be licensed and shall be conducted as required by the director.

11 At the time of examination, an application for voter
12 registration by mail shall be made available to every applicant
13 for a license.

14 For the purposes of this section, the term "applicant" does
15 not include any person reactivating a license under section -
16 5.

17 (b) As part of the examination required by this section,
18 the applicant for a license shall produce and display a valid
19 liability insurance identification card for the vessel or
20 houseboat when the applicant demonstrates the ability to operate
21 a vessel or houseboat to the satisfaction of the examiner of
22 vessels. If no valid liability insurance identification card is



1 displayed, the examiner of vessels shall not issue a license to
2 the applicant.

3 **§ -5 Reactivation of expired license; fees. (a)**

4 Unless revoked or suspended, and except as provided in -6,
5 all expired licenses may be reactivated by the licensee in
6 accordance with the requirements and procedures set forth for
7 the renewal of licenses under this section. No person seeking
8 reactivation of an expired license under this section shall be
9 required to undergo reexamination of the person's vessel or
10 houseboat operation skills. The examiner of vessels shall
11 require the holder of an expired license to pay a reactivation
12 fee of \$5 for each thirty-day period, or fraction thereof, after
13 the expiration of the grace period in section -6.

14 (b) Any license not reactivated under subsection (a)
15 within one year of the indicated date of expiration shall be
16 invalid. The examiner of vessels shall examine all applicants
17 whose licenses have been declared invalid under this subsection
18 as if the applicant is applying for a new license.

19 **§ -6 License renewals; procedures and requirements. (a)**

20 The examiner of vessels may accept an application for a renewal
21 of a license made not more than six months prior to the date of
22 expiration.



1 If, however, the renewal is not applied for within ninety
2 days after the expiration of the license, the applicant for
3 renewal shall be treated as an applicant for a new license and
4 examined as provided in section -5.

5 (b) Except as otherwise provided in subsection (c), an
6 applicant for a renewal of a license under this section, or the
7 reactivation of an expired license under section -5, shall
8 appear in person before the examiner of vessels and the examiner
9 of vessels shall administer such physical examinations as the
10 director deems necessary to determine the applicant's fitness to
11 continue to operate vessel or houseboat.

12 (c) Any person who holds a license issued under this
13 chapter who is unable to appear in person before the examiner of
14 vessels to apply for a renewal of the license, may, if the
15 person is not disqualified from renewing the license under
16 subsection (a), apply for a renewal by mail. The applicant's
17 request to have the license renewed by mail must be received by
18 the examiner of vessels within ninety days after the expiration
19 of the license or it shall be treated as an application for
20 reactivation of an expired license under section -5. The
21 examiner of vessels shall, upon receipt of the request, furnish
22 the applicant with all necessary forms and instructions. An



1 application for renewal made pursuant to this subsection shall
2 be accompanied by a statement from a licensed physician or
3 physician assistant certifying that the applicant was examined
4 by the licensed physician or physician assistant not more than
5 six months prior to the expiration date of the applicant's
6 license and that the applicant was found by the examination to
7 have met the physical requirements established by the director
8 for the renewal of licenses. The application for renewal shall
9 also be accompanied by such other information as may be required
10 by the examiner of vessels that is reasonably necessary to
11 confirm the identity of the applicant and the applicant's
12 fitness to continue to operate a vessel or houseboat.

13 (d) An applicant for a renewal of the applicant's license,
14 whether applying pursuant to subsections (b) or (c), shall pay
15 the fee determined by the department. Payment of the fee shall
16 be by certified check or money order, tendered together with the
17 application.

18 (e) No license shall be renewed by the examiner of vessels
19 unless:

20 (1) The examiner of vessels is satisfied of the
21 applicant's fitness to continue to operate a vessel or
22 houseboat; and



1 (2) The fee required by subsection (d) is tendered
2 together with the application for renewal.

3 (f) A license renewed pursuant to subsection (c) may
4 validly be issued without incorporating a photograph
5 of the licensee.

6 (g) No license shall be renewable by mail for more than
7 two consecutive renewals, regardless of whether the license
8 expires, on the sixth, fourth, or second birthday after
9 issuance; provided that this subsection shall not apply to a
10 resident military person or that person's immediate family if
11 the resident military person resides outside the State on
12 official military orders.

13 (h) Notwithstanding subsection (a), any applicant for a
14 renewal of a license who is a member of any component of the
15 United States armed forces and who is on active federal service
16 outside of the State at the time the applicant's license should
17 be renewed, may file an application for a renewal of the
18 license, which shall be accompanied by verification of federal
19 active service outside the State as required by the examiner of
20 vessels, within ninety days of the applicant's return to the
21 State or discharge from hospitalization.



1 (i) The director shall adopt rules and regulations
 2 pursuant to chapter 91, necessary for the purposes of this
 3 section, including rules and regulations governing the effect to
 4 be given to convictions for violations of laws of a foreign
 5 jurisdiction, upon license renewal procedures."

6 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: 



Jyla B. Berg







JAN 27 2010



Report Title:

Boating; licensing

Description:

Creates a licensing program for boat ownership and operation within the department of land and natural resources.

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