A BILL FOR AN ACT

RELATING TO COMMERCIAL MARINE LICENSES.

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

SECTION 1. The legislature finds that fishing is an important pastime for many Hawaii residents, providing not only recreational and subsistence benefits, but also a source of additional income for many small-scale commercial fishers who often sell a portion of their catch to cover costs of fuel or fishing gear.

The legislature further finds that the current commercial marine license laws are unnecessarily burdensome on boat-based fishers due to the requirement that each individual on a fishing vessel must have a commercial marine license to participate in a commercial fishing trip where the resulting catch may be sold. This places logistical and financial burdens on vessel captains when part-time crew members are needed for a commercial fishing trip, or when unscheduled or infrequent visitors are invited aboard. It also leads to confusion regarding who is responsible for submitting commercial catch reports for fishing activities on board the vessel.
The legislature also recognizes that the department of land and natural resources lacks the statutory authority to establish different types of commercial marine licenses, which makes it difficult for the department to develop effective commercial fisheries regulations that accommodate the needs of different categories of commercial fishers. For example, the department has indicated the need to distinguish between full-time and part-time commercial marine licenses, so that full-time commercial fishers pay a higher license fee but are allowed larger catch limits than part-time commercial fishers.

The legislature concludes that authorizing the department to create different types of commercial marine licenses, such as commercial marine vessel licenses, fishery and gear-specific licenses, and full-time and part-time licenses will enable the department to better manage the State's diverse commercial fishing activities.

This Act authorizes the department to create a commercial marine vessel license, which is intended to cover everyone on board a fishing vessel under one license and eliminate the need for individual licenses. A commercial marine vessel license will be more convenient and cost effective for Hawaii boat-based...
fishers and will clarify who is responsible for submitting commercial catch reports for the vessel.

This Act also authorizes the department to establish other types of commercial marine licenses, including fishery and gear-specific licenses and full-time and part-time licenses. The department has the discretion through the public rule-making process contained in chapter 91, Hawaii Revised Statutes, to determine the specifications and qualifications of these other types of licenses.

The legislature also finds that although the current statutory language requires vessel-based fishing charters to obtain a commercial marine license, it is unclear as to whether shore-based charters or guides are also required to obtain the same license. This Act clarifies that the commercial marine license requirement applies to any person providing fishing charter or guide services. This will allow the department to better understand and manage marine charter fishing activities in the State.

Finally, the legislature finds that conditioning eligibility for a commercial marine license on an individual's student loan repayment status serves no valid public purpose and
forecloses individuals from potential jobs and income for reasons entirely unrelated to their fitness to perform the licensed activity.

The purpose of this Act is to amend the commercial marine license statute to:

(1) Exempt commercial marine licenses from the licensing sanctions for student loan defaults;

(2) Authorize the department of land and natural resources to establish different types of commercial marine licenses, including but not limited to commercial marine vessel licenses, fishery and gear-specific licenses, and full-time and part-time licenses; and

(3) Require any person providing fishing charter or guide services to obtain a commercial marine license.

SECTION 2. Chapter 436C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§436C- Exemption. This chapter shall not apply to commercial marine licenses issued pursuant to section 189-2."
SECTION 3. Section 189-2, Hawaii Revised Statutes, is amended to read as follows:

"§189-2 Commercial marine license. (a) The department shall issue commercial marine licenses for the taking of marine life for commercial purposes. The department may establish different types of commercial marine licenses, including but not limited to commercial marine vessel licenses, fishery and gear-specific commercial marine licenses, and full-time and part-time commercial marine licenses, and specify the requirements and qualifications for issuance of these licenses.

(b) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license as provided in this section; provided that a valid commercial marine vessel license may satisfy the licensure requirement for all persons taking marine life for commercial purposes aboard the validly-licensed vessel.

(c) Any person providing charter or guide services in the State for the taking of marine life in or outside of the State shall obtain a commercial marine license.
(d) The department may adopt rules pursuant to chapter 91 necessary for the purpose of this section and to set fees for commercial marine licensing.

(e) The fees for commercial marine licenses and duplicate commercial marine licenses shall be established by the department by rules adopted in accordance with chapter 91.

(f) The department shall suspend, shall refuse to renew, reinstate, or restore, or shall deny any license issued under this section if the department has received certification from the child support enforcement agency pursuant to section 576D-13 that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. The department shall issue, renew, reinstate, or restore such a license only upon receipt of authorization from the child support enforcement agency, the office of child support hearings, or the family court.

(f) The department shall not renew or reinstate, or shall deny or suspend any license or application, if the department has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant is in default or
breach of any obligation under any student loan, student loan repayment contract, or scholarship contract that financed the licensee's or applicant's education, or has failed to comply with a repayment plan.

The department in receipt of a certification pursuant to chapter 436C shall, as applicable, and without further review or hearing:

(1) Suspend the license;

(2) Deny the application or request for renewal of the license; or

(3) Deny the request for reinstatement of the license, and unless otherwise provided by law, shall renew, reinstate, or grant the license only upon receipt of an authorization from the administering entity."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:  

JAN 2 2 2019
Report Title:
Commercial Marine Licenses

Description:
Authorizes the DLNR to create different types of commercial marine licenses. Clarifies that commercial marine licenses are required of all charter and guide services regardless of whether they are tied to a vessel. Exempts commercial marine licenses from the licensing sanctions for student loan default.

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