

COUNCIL OF THE COUNTY OF MAUI

ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE

December 4, 2015

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Economic Development, Energy, Agriculture, and Recreation Committee, having met on November 3, 2015, and November 17, 2015, makes reference to County Communication 15-182, from the Mayor, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3143, RELATING TO CHAPTER 5.24, MAUI COUNTY CODE, RELATING TO OCEAN RECREATIONAL ACTIVITY BUSINESS PERMITS, AND CHAPTER 13.04, MAUI COUNTY CODE, RELATING TO RECREATIONAL AREA REGULATIONS.”

The purposes of the proposed bill are to repeal outdated transitional provisions in Section 7 of Ordinance 3143 (2003) and to allow the Department of Parks and Recreation to issue new permits for commercial ocean recreational activity (“CORA”) without the requirement of an environmental assessment.

Your Committee notes ocean recreational activity includes snorkeling, scuba diving, kayaking, surfing, kiteboarding, and windsurfing. Commercial entities permitted by the County to use County beach parks and other County property for ocean recreational activities are permitted.

Your Committee notes Ordinance 3143 established a new permitting system in Article X, Chapter 13.04, Maui County Code, “to fairly and effectively regulate commercial ocean recreational activity to ensure that County beach parks and other County property are utilized for the community’s maximum recreational, environmental, and economic benefit.”

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Under the new permitting system, CORA permits are issued by the Department of Parks and Recreation. The prior CORA permitting system was administered by the Department of Finance pursuant to Chapter 5.24, Maui County Code, which was repealed by Ordinance 3143.

Your Committee notes Ordinance 3143 requires the preparation and acceptance of an environmental assessment prior to the issuance of any CORA permit under the new permitting system.

Your Committee further notes Ordinance 3265 (2005) modified the environmental assessment requirement in two respects: (1) requiring the County to prepare the environmental assessment; and (2) restricting the requirement for an environmental assessment to businesses that did not have a permit under the old permitting system. The Ordinance explains: "The Council finds that the primary objective of the environmental assessment is to estimate the impacts of new commercial ocean recreational activity arising from permits issued pursuant to Article X, Chapter 13.04, Maui County Code."

Your Committee observed no environmental assessment for commercial ocean recreational activity has been performed, resulting in a moratorium on the issuance of new permits.

In response to your Committee's inquiries and concerns raised in public testimony, a Deputy Corporation Counsel informed your Committee of the following:

1. Repealing the environmental assessment requirement is needed to allow those other than current permit holders to have the opportunity to obtain a permit under Article X, Chapter 13.04; and
2. Under State law, there is no requirement for an environmental assessment for commercial ocean recreational activity.

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The Director of Parks and Recreation informed your Committee no other Hawaii county requires an environmental assessment for CORA permits.

The Department of the Corporation Counsel transmitted a revised proposed bill, approved as to form and legality, incorporating technical revisions.

Your Committee voted to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Guzman and members Couch, Crivello, Victorino, and White voted "aye." Committee Vice-Chair Cochran and member Hokama were excused.

Your Economic Development, Energy, Agriculture, and Recreation Committee RECOMMENDS the following:

1. That Bill _____(2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3143, RELATING TO CHAPTER 5.24, MAUI COUNTY CODE, RELATING TO OCEAN RECREATIONAL ACTIVITY BUSINESS PERMITS, AND CHAPTER 13.04, MAUI COUNTY CODE, RELATING TO RECREATIONAL AREA REGULATIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-182 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.

DON S. GUZMAN, Chair

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