

STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawai'i

August 23, 2019

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, HI

Land Board Members:

SUBJECT: REQUEST APPROVAL TO INITIATE RULE-MAKING PROCEEDINGS, INCLUDING PUBLIC HEARING, TO AMEND TITLE 13, HAWAI'I ADMINISTRATIVE RULES (HAR), SECTION 13-234-26, PASSENGER FEES TO REVISE FEE AND CHARGE REQUIREMENTS AND INCREASE PASSENGER CRUISE-RELATED FEES.

The proposed rules can be reviewed in person at a Division of Boating and Ocean Recreation (DOBOR) district office from 8:00 am to 3:30 pm, Monday through Friday, except state Holidays as follows: Hawai'i District: Honokōhau Small Boat Harbor 74-380 Kealakehe Parkway Kailua-Kona, HI 96740; Kaua'i District: Nawiliwili Small Boat Harbor 2494 Niumalu Road Lihu'e, HI 96766; Maui District: Ma'alaea Small Boat Harbor 101 Ma'alaea Boat Harbor Road Wailuku, HI 96793; O'ahu District: Ke'ehi Small Boat Harbor 4 Sand Island Access Road Honolulu, HI 96819.

The proposed rules can be reviewed online at: <http://ltgov.hawaii.gov/the-office/administrative-rules/>. The proposed rules can also be viewed online at: <http://dlnr.hawaii.gov/dobor/draft-rules/>. Location and contact information for DOBOR offices is available online at: <http://dlnr.hawaii.gov/dobor/contact/>.

PURPOSE:

The purpose of these amendments is to revise fee requirements and increase fees in HAR § 13-234-26 Passenger fees. At the regularly scheduled June 14, 2019 meeting of the Board of Land and Natural Resources (Board), DOBOR requested approval and adoption of a rule package for HAR Chapters 13-234 and 13-253, with the recommendation that the Board remove proposed amendments to HAR § 13-234-26 to allow DOBOR to work with stakeholders, make revisions to proposed amendments, and return to the Board at a later date for approval to hold public hearings. After engaging in discussions with stakeholders, DOBOR is returning for the Board's approval to move forward in the rulemaking process.

REMARKS:

REMARKS:

The Department of the Attorney General, Land and Transportation Division has reviewed the attached draft rules and approved them to proceed to public hearing pending approval from the Board of Land and Natural Resources (Board), the Small Business Regulatory Review Board, and the Governor pursuant to Hawai‘i Revised Statutes, Chapter 91.

The proposed amendments will increase passenger fees for cruise vessels using DOBOR facilities. The proposed amendments also make clarifications to the reporting requirements of the section.

RECOMMENDATION:

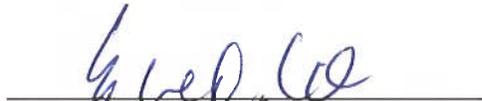
That the Board grant DOBOR approval to initiate rule-making proceedings, including public hearings, for the administrative rule amendment referenced and described herein.

Respectfully submitted,



EDWARD R. UNDERWOOD, Administrator
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

- A. Proposed amendments to HAR § 13-234-26 Passenger fees

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to section 13-234-26
Hawaii Administrative Rules

[Date of adoption by agency]

1. Section 13-234-26, Hawaii Administrative Rules, is amended to read as follows:

§13-234-26 Passenger fees. (a) Any passenger or cruise vessel ~~[which is]~~ used for private gain ~~[and]~~ that does not have a valid mooring permit or commercial permit and ~~[which]~~ uses state small boat harbors, property, or facilities ~~[shall pay the following fees in addition to any other fees required by this chapter:~~

- ~~(1) Per passenger (includes in transit) --
embarking to or from shore to
ship.....\$2~~
- ~~(2) Passengers in transit on a vessel on a
continuous trip whose point of origin and
termination is a state small boat harbor, a
total of disembarking and embarking at each
port per passenger.....\$1.50~~
- ~~(3) Passengers] for embarking and disembarking
passengers ~~[on occasional and infrequent
use] on a special charter [when] approved in
[advance of voyage as provided in]
accordance with section 13-231-
57(c) (3) [.....\$1.50]~~
shall pay \$2.00 per passenger.~~

(b) ~~[Any passenger vessel using a dock, pier or wharf in a state small boat harbor for disembarking and embarking passengers by means of any boat or lighter while moored offshore, shall pay a fee per passenger for disembarking and embarking at each small boat harbor as follows:~~

- ~~(1) Passenger vessels engaging only in
interisland commerce:.....\$.30~~
- ~~(2) Passenger vessels engaging in international
or inter-state commerce:.....\$1.00~~

~~Vessels operated by a federal or state agency are exempt from the provisions of this subsection.]~~ Any passenger or cruise vessel which uses a dock, pier, or wharf in a state small boat harbor for private gain by means of any boat or tender while moored offshore shall pay a fee per passenger as follows:

(1) For Lahaina small boat harbor..\$3.00 per day

(2) For all other small boat harbors or facilities.....\$2.00 per day

(c) Passenger counts shall be determined by a vessel's passenger list. A passenger or cruise vessel required by this section to pay passenger fees shall file [A] a report [shall be filed] with the department on a form acceptable to the department within thirty [days after the date of embarking or disembarking of passengers over state facilities] calendar days after the vessel departs a state small boat harbor or state boating facility, and [the] any charges due shall be remitted along with the report.

(d) Fees required by this section shall be in addition to any other fees required by this chapter.

(e) Vessels operated by a federal, state, or county agency in an official capacity shall be exempt from the provisions of this section. [Eff 2/24/94; am

] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

3. The amendments to section 13-234-26, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ by the Board of Land and Natural Resources, and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chairperson
Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General