

To the chair and members of the board of land and natural resources, my name is Larry Akiyama. I've been an active Waikiki beach Boy since 1962. I'm also on the Waikiki Advisory Committee along with Harry (Didi) Robello, Ted Bush, Virgil Saisiam, and Clyde Aikau. I am against The total repeal of the ORMA permit (blue card) . Our first priority to me and everybody going for testing is safety first ! The guy who taught me this and also told me to "make that your number 1 priority when testing" was Ed Underwood ! If you take away the blue card, lots of people will get hurt !

I say keep the permit process going. Even with the flaws in it, it had been working for years until the enforcement started to LAG ! Then re wright and up date the rules before you repeal them ALL.

I am sure that the State of Hawaii will be sued if the rules get repealed all the way and if unqualified people are getting into a business that they Think is easy! I think the rules defiantly need to be up dated.

Its going to be the Wild Wild West West in the ocean at Waikiki. Whats right is right and whats wrong is wrong . We need the advisory committee and the rules to keep everything safe for the tourist.

" I AM AGAINST " taking away the blue card by this administration and the DLNR !

Mahalo and Thank you. Larry Akiyama.

808-429-5646.

From: Ted Bush
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Blue Card Repeal
Date: Thursday, May 7, 2020 9:35:04 AM

Aloha,

The following are my recommendations for continuing the blue card (Waikiki Shoreline Operator's) permitting:

Instead of referring to the certification as a permit or "blue card", why not limit these permits to only a 2nd and 1st captain certification. This certification will also qualify you as a surfing instructor for the Waikiki Shoreline Area. Then, eliminate the blue card status or designation and replace it with a "Waikiki Beachboy" designation and title?

For years, or seems forever, we have struggled with defining who and what is a Waikiki Beachboy. This certification would give it legitimacy. If you pass the test and stay current then you are a Waikiki Beachboy who is qualified to teach surfing and conduct canoe rides in the Waikiki Shoreline Area, Zone A.

This helps to weed out all the pretenders and wildcatters and encourages those who aspire to be a legitimate Waikiki Beachboy to get and maintain all the necessary certifications and follow all the requirements listed below to have a degree of pride and stewardship in their career on the beach.

When they achieve this status, they will be issued an embroidered patch from the state similar to those assigned to our lifeguards that must be sewn on their shorts to confirm their status. It would incorporate an ID number that identifies the permittee. Having it displayed in plain sight will make it easier for oversight.

On Oct 17, 2019, at 10:13 PM, Ted Bush
<tedb@waikikibeachservices.com> wrote:

The following is a list of requirements I would like to be part of the standardized exam for the blue card:

General

- 1) No criminal record (require a criminal abstract)
- 2) No drug convictions
- 3) No violation of the commercial operator's rules, ie. teaching for

money in zone A and B without a permit.

- 4) Pass Beachboy physical
- 5) Must be sponsored by surf/beach state Commercial Permittee
- 6) CPR and Lifesaving Certified
- 7) May be multi-lingual, but English is minimum requirement
- 8) Pass state written exam and submit 2 passport size photos
- 9) Never defaulted or had a blue card rescinded or lapsed

Surfing Instructor's Test (to be conducted in conjunction with the 2nd Captain's Test)

- 1) Minimum 1 year proof of employment with any of the surf/beach companies with current Waikiki Beach Operator's Permit
- 2) Land test. Include 15 minute (standard/state approved) oral exam from committee; land demo;
- 3) Water test. Escort two students to beginner's surf spot under the watch of committee member. 20 minutes long.
- 4) 18 years or older

2nd Captain Test

- 1) Minimum 1.5 years proof of employment with a licensed commercial state certified Waikiki outrigger company.
- 2) 18 years or older
- 3) Land demo prior to launch.
- 4) Water demo: steer canoe to three destinations; re-erect flipped canoe; demo lifting pax back in canoe; demo liaison to paddlers;
- 5) 15 minute oral exam from committee

1st Captain Test

- 1) 21 years or older
- 2) Minimum 2 years as 2nd captain in good standing.
- 3) Steer and catch 5 waves in high surf conditions (6' plus height). Only allowed one miss attempt; no beachboys as part of payload; only one run (Ewa or Diamond Head) allowed; swamp fails.
- 4) Demo tie a complete canoe with one assistant.
- 5) 15 minute oral exam from committee

All permittees must be covered with a minimum limits of liability of \$5 mil indemnifying the state of Hawaii and the advisory committee and its individual examiners

This is my contribution for only first time applicants. Renewals would be different with more lenient standards. I know the other

members will have more to add. Ted

From: Hawaii Surfing Academy
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Aloha Assistant Administrator Meghan Statts and Staff at BLNR
Date: Wednesday, April 29, 2020 9:50:08 PM

Aloha,

To Assistant Administrator Meghan Statts and all who are concerned regarding the repeal of the Hawaii Administrative Rules Chapter 13-251, Subchapters 1, 2, 3, and 7, regarding operator permits, also known as “blue cards.”

My name is Jimmy owner operator of Hawaii Surfing Academy.

My Sincere apology for not being aware of this repeal and for also being sensitive during this very difficult time of a unseen enemy!

All I can say is Covid 19 not only stopped my career economically but has been difficult as well. Sure I hate to say it but lockdown and Covid19 is not part of a healthy lifestyle to me !

Improvements are important and change for the better is a must! My only question is this a good a time as any due to the Pandemic meaning, and will this repeal make our recovery from Covid19 the same as if there were no repeal? And also what will be the new requirement if any replacing this repeal?

If possible could I listen to the virtual meeting regarding the repeal of the "Blue Card" System depending on the time due to my part time temporary job I have taken at the Blood Bank of Hawaii to supplement my no income? Will there be a link? And actually since I was not aware that for some time now, this repeal has been in the works, I want to support what is PONO for everyone!

Mahalo Ka Kou

James A. Antunez (jimmy)

Hawaii Surfing Academy

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To the DLNR land board.

I would like to state for the record that I am absolutely opposed to the state of Hawaii and its current administration of taking the most irresponsible, and deliberately indifferent, path of abandoning the longstanding regulatory process that governs the Beach Boy permitting and certification for Waikiki Beach, commonly known as ORMA, "Blue Card" or the commercial operators permits. This reckless, and dangerous action "Will," "not," "May" negatively affect the public safety as well as end the legend, and the iconic profession of The Waikiki Beach Boy !

The Division of Boating and Ocean Recreation chairman, William Aila in 2014 promised to meet with the advisory committee, concessionaire owners etc... to re-visit and re-examine this exact same action in 2014. The repeal of the exact same rules. HAR 13-251 (1) (2) (3) and (7). This hasn't happened YET! -(The only person that is now "NOT" in the current administration is Mr. Aila.) Not because we don't want to go over this but because the same current administrators that were under Mr. Aila have canceled meetings and promised to reschedule and haven't done so. The only thing that was passed by the board was that we, the concessionaire owners would have to pay for a commercial use permit. In other words we now have to pay for using the Waikiki Shore Waters to teach surfing and take people out for outrigger canoe rides. We still have to insure DLNR and pay the recently raised fees and don't forget taxes.

These activities in Waikiki are the number 1 reason the entire State of Hawaii became the number 1 tourist destination for most of the world since the steam ships could bring tourist to the islands. The Waikiki Beach Boy should not be extorted, or punished for their contribution to the founding of the State of Hawaii's NUMBER 1 ECONOMY , "TOURISM !!!

The Waikiki Beach Boy Legacy and Heritage, cannot be lost because of DOBAR/ The Division of Boating and "OCEAN RECREATION", is negligent in hiring personal with subject matter experience or enforcement personnel shortages. Hawaii has the uniqueness that no other place in the world has and that's the Waikiki Beach Boy ! This is a direct threat to that legacy.

Deregulation is basically what this is, in a profession that needs it. Early on before Statehood, Waikiki Beach was like the Wild West. The old-timers called it Wildcatting. Every man for themselves. This led to regular fighting on the beach and in the water in front of the visitors and the public along with vandalism of equipment and private property. Regardless of concession stands, the Wildcatters had no respect because there were no rules for conducting business on Waikiki Beach. Pre Statehood around 1957 "The Waikiki Beach & Water Sports Safety Committee was formed in an attempt to ensure that the Beach Boys were duly qualified to be allowed to operate commercially for any of the licensed concessionaires ON THE BEACH in the waters off of the Waikiki Beach area. This was handled by Mr Howard Donnelly presumably the equivalent to the DLNR at that time. The Chairman of the Qualification Board for the Waikiki Beach & Water Sports Committee was no other than Duke Kahanamoku . This is where the history and the legacy of the Waikiki Beach Boy was meant to stand the times! The past administrators, Mr. Harrington, Mr. Bill Parsons, Mr. Ian Bernie, Mr. Peter Dolan Sr. Mr. Steven Thompson's their first concerns, where for the safety of our visitors. Not 1 ever expressed the dismantling or the deregulating of the committee or the rules. At the end of Mr. Thompson's leadership however roomers started to surface about going over the rules and reg's but that never happened. DLNR attempted under Mr. Aila's admin. to hire and retain people to re-write the rules but could not hold on to those personnel. Until Mr Aila's administration, they wanted the advisory board to be certain that the Beach Boys being qualified where ready to perform the duties of The Beach Boy.

If the DEREGULATION by this ADMINISTRATION is successful, what is to stop or insure that uncertified, uneducated, uninsured, uninsurable, uncaring, homeless, foreign bookings, or just about any individual or ENTREPRENEUR from attempting to teach surfing or attempting to control an OUTRIGGER or any another ocean or surfing activities. What kind of enforcement abilities will our short handed DLNR enforcement officers have. Imagine a total abandonment of the rules! Would you empower any of these type of individuals or entrepreneur's to take out your CHILDREN, loved ones, friends or even the acquaintance that you send to Waikiki for a great experience?! Didn't think so.

Under the heading "Recreational Advisory Committee" (13-251-1 purpose and scope (a) The purpose of these rules is to reduce conflict among ocean water users, especially in areas of high activities.) The recent devastating fire at the city's public surf board storage racks, is, in my opinion a direct result of non enforcement on the city's behalf. Ever since the city's Enterprise Services awarded both of their beach stands to one entrepreneur, that side of Waikiki has been under the Wild West State. The Wild Cats have taken over that end of Waikiki Beach and the city hasn't taken any steps what so ever to curb the situation it is currently experiencing. By allowing both stands to be operated by an entrepreneur who had never operated a Waikiki Beach Boy activities stand might have been an error on Enterprise Services part, not the entrepreneur. If awarded 1 stand, that might have been all the difference in curbing the wild cats and the new entrepreneur getting to learn and experience the Waikiki Beach Boys.

Submitted by The Administrator of the Division of Boating and Ocean Recreation Ed R. Underwood, and approved for submittal from The Chairperson of the Board of Land and Natural Resources Suzanne D. Case, is a request for the approval to repeal (HAR) 13-251 subchapters (1) (2) (3) and (7). The most often used excuses by the admin, was we have no resources or subject matter expertise, and not enough enforcement personnel to continue issuing the Blue cards. Because they stopped the way the advisory committee did their testing. Their excuse was, there were too many applicants applying for instructors. The list had about 100 people wanting to take the test. So they decided to eliminate the committee's sand demo part of the surf instructors test. Then decided that if the applicant can surf 3 waves to their approval that would be sufficient enough to pass the testing. That in turn made the test easier for the applicants to test for becoming a surf instructor. Well of course now because it was so easy the list got years longer and everyone and their mother wanted one. This is a DLNR self inflicted injury! everyone heard the saying "DO'NT FIX IT IF IT IS'NT BROKEN"

On the request for repeal, under Relevant Authority. Hawaii Revised Statutes, (HRS) section 91-3

(g) Whenever an agency seeks only to repeal one or more sections, chapters, or subchapters of the agency rules because the rules are either null and void, or unnecessary, and adopt, amend, or compile any other rules. I guess that means they can, under those circumstances repeal something. This does not apply to this situation, rules and certifications. There is no mention of lack of subject matter expertise, or lack of enforcement personnel or under staffing. What should apply is a complete restructuring and updating of the current rules and regulations for the future.

Under the caption, RECOMMENDATION :

DOBAR states: DOBAR has been working with Waikiki operators to develop regulations for the various commercial activities taking place in Waikiki Ocean Waters. It also states DOBAR believes that repealing the above mentioned subchapters would provide the best solution while replacement regulations are developed to address the issues surrounding Waikiki

Operators Permits. Again this couldn't be further from the truth! No one has contacted us at Aloha Beach Services since October and some of the other concessionaires that we work along side with have heard nothing. In October I was contacted while on vacation and asked to turn in what I thought was relevant to a question I was asked about by a representative of DOBAR. To date I have not heard anything other than this attempt again to repeal.

It is great to hear that DOBAR also thinks it would be better to repeal the above mentioned subchapter while replacement of regulations are developed to address the issues surrounding Waikiki Operators Permits. You kidding right ? Who works backwards? Your admitting that there has to be some sort of rules. Don't eliminate them and think your going to convince us that your going to make rules later . We know what is meant by that. Its a different way of saying it isn't going to happen in this life time. You don't eliminate the speed limit until a new one is replaced or developed. DOBAR has also been ADVISED by the Attorney General that issuance of the Waikiki Operators Permits "COULD" not shall, or will or must, just "COULD " impose liability on the State if customers are injured while on tour with or receiving instruction from a permit holder because Waikiki Operators Permits are issued by State agency. Some form of rules, and regulations although not perfect have been in effect for over 70 years and enforced although not regularly but the threat of enforcement was always there. Wouldn't the state be liable because they ABANDONED/ REPEALED rules instead of developing, correcting, and creating new rules and regulations to improve upon the existing. Is that a definition of DELIBERATE INDIFFERENCE?

My Name is Harry D. Robello (Didi) I am 58yrs old. I am a 2nd generation Beach Boy and a 3rd generation Kahanamoku. I own Aloha Beach Services. I received my 2nd Captain and Surf Instructors Blue Card at age 21 and it was under Ian Bernie's administration when I got my Blue Card . I have been on the Waikiki Beach Advisory Committee for over 30 years. Aloha Beach Services was founded by my father Harry S Robello around 1959. He was the last of the original Beach Boys and I hold a copy of his qualification letter from Duke Kahanamoku. We are the only Waikiki Beach concession that has been on the beach in the same area continuously since its founding.

Aloha Didi.

Aloha , I am against the repeal of the (ORMA) or Blue card.

It would be Reckless to do so. Eliminating those rules in its entirety would be dangerous to our visitors, their children and the general public. To un regulate the beach boy requirements will be a disaster ! They don't need to be repealed they need to be updated. The safety of our visitors and local ocean recreational users is of the utmost priority for the Waikiki area. Fix the rules before you eliminate the existing ones.

Aloha thank you for your time.

Ryan Robello

To the honorable Chair and esteemed members of the Board of Land & Natural Resources,
Aloha Kakou, My name is John Silberstein.

I am respectfully writing to state my fervent opposition with regard to the proposed repeal of DOBOR rules HAR 13-251 (1) (2) (3) (7). Instead of an across-the-board repeal of what I term the "Blue Card" ORMA permit rules that serve to regulate traditional Beachboy activities, I suggest these rules be suitably revised to address the current trends and needs in serving to improve the safety and quality of experience for both residents and visitors utilizing Waikiki Beach nearshore waters, specifically those laws that govern surfing lessons and outrigger canoe rides.

I am writing this testimony as a concerned citizen of Hawaii, lifelong ocean user, and as an aging surfer who still has a love affair with Waikiki Beach even in the midst of sprawling skyscrapers, sunburnt Malihini and water that smells like coconut oil infused sunscreen. My views stated here do not reflect my professional assessments or professional capacity in any way. These are my personal opinions. However, I must disclose that I am currently employed as a State DOCARE officer sworn to uphold these laws and WILL respect any decision made regarding the future status of these laws.

As a youth Waikiki Beach was my favored playground. As someone who officially reached the age of a senior this month, I find myself more frequently returning to the somewhat forgiving waves of Waikiki as my ocean playground once again. I learned to surf, dive and paddle canoe here. During my career over the past 35 years, as a young adult I worked for two of the oldest beach services on Waikiki. I worked for almost a decade as an ocean lifeguard on Waikiki. I also served as an ocean lifeguard administrator that oversaw Waikiki operations. I've also worked in the marine enforcement field with the USCG and The State of Hawaii patrolling Waikiki's beach and nearshore waters.

My agenda here is very clear. I am quite passionate about the storied history and future legacy of the Waikiki Beachboys as a profession and want to make sure that they will continue to perpetuate as an iconic representation of what makes Waikiki Beach and Hawaii so unique and so very special.

I STRONGLY feel if these rules are repealed in the sweeping manner proposed, the beach will simply go feral and user conflicts will increase with staggering numbers. Enforcement will be called to incidents as they occur, but, their hands will be tied without specific rules to enforce. DOCARE and HPD will end up investigating water related injuries and deaths instead of enforcing safety rules which is reactive as opposed to a proactive preventative approach. Profit and greed will rule over tradition, best practices and expertise. Unscrupulous beach service concession owners (paying excessive lease rents through competitive bidding wars) and a proliferation of unregulated freelance Beachboys cannot be entrusted to maintain the mandated safety standards that have evolved over decades even with current rules in place.

This profit over safety is happening as we speak with a newcomer to this business who outbid the competition for a city beach concession. His commercial escapades and apathy toward risk management have been widely publicized in the mainstream media as well as social media. He hired questionable staff, has forgone long established traditional practices, exploited loop holes in the laws and in my opinion has put our visitors and our local ocean users at increased risk, as well as put an undue strain on our Waikiki assigned Ocean Safety staff. In my opinion, I fear abandoning the few ORMA regulatory standards that help to keep a concessionaire like this at least somewhat in check, will be disastrous.

From the water safety perspective, DLNR and DOBOR also have Kuleana to manage ocean recreation by establishing and maintaining rules and regulations that increase safety, not abandon it. Adequate enforcement in Waikiki Beach waters is already an issue due to staffing shortages, I'll be the first to admit that. I fear increased lawlessness and user conflicts will upsurge and it will be the beginning of the end to the iconic and skilled Waikiki Beachboys as we know it.

Waikiki is not only the heart of Hawaii, it is the crown jewel and the Beachboys of the bygone golden era were the unofficial royalty. Historically and culturally it is unparalleled. The Waikiki Beachboys not only revived the ancient sport of surfing and introduced it to the world, they invented the concept of tourism and put Waikiki and Hawaii on the map. For these reasons alone we should be doing everything we can to perpetuate the Beachboy profession and legacy at the highest standards. While its common knowledge that Waikiki was the surfing playground for early Hawaiian royalty, few people realize that commercial Waikiki Beachboys started as early as 1897 by local businessman William Diamond when he formed Hui Pakaka Nalu and offered surfing lessons and outrigger canoe rides for a fee. I'm no historian but where else was ocean recreation and or tourism occurring anywhere back then? In 1907, a handful of Waikiki Beachboys were hired as the first professional paid ocean lifeguards. According to DBET stats, Waikiki alone contributes nearly 12 billion to our local economy. In my opinion Waikiki Beach deserves better.

I've been told that the main reason these essential laws are proposed for repeal is because the state AG's opinion suggests abandoning the continued liability and that DOBOR doesn't have the resources or expertise to continue to certify Beachboys in the blue card permit process. I'm no attorney but doesn't the state already have liability as the designated regulatory agency for all ocean activities oversight? Not addressing best practices for ocean safety seem libelous in and of itself. Especially in light of the fact that these specific commercial activities have been regulated for nearly 70 years. Is it proper to just let mishaps occur and let the civil process between a victim and the beach concessionaire hash it out? This seems a bit intentionally apathetic in my opinion. Like abandoning all traffic laws on our roads and when a vehicle crash happens, just turn away and let the insurance companies hash it out. That is if the drivers even have insurance.

The administrator for DOBOR is a pretty solid water guy with a great deal of ocean and boating knowledge. I do not know what his official position is on this issue. I believe within DOBOR (or even DLNR wide) has first-rate staffers with more than adequate ocean expertise that can assist in continuing to maintaining the certification and evaluation process for Beachboys. If no one internally can serve as a subject matter expert then I suggest farming it out to recognized experts but do not abandon regulations that have been in place since the 1950's, this is a big mistake. Revise the rules instead of repealing them.

Please continue to utilize the Waikiki ORMA advisory board with a cross section of seasoned Beachboys and ocean safety experts. Or, come up with a new system to both regulate and perpetuate this important and treasured tradition in Hawaii.

MAHALO