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## A BILL FOR AN ACT

RELATING TO HARBORS.

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

1           SECTION 1. It is reported that as much as ninety-eight per  
2 cent of all foodstuffs and goods consumed in the State are  
3 imported and transported intrastate through our commercial  
4 harbors. It is of vital state interest that our commercial  
5 harbors and any required expansion of our commercial harbor  
6 facilities are designated and protected to ensure present and  
7 future efficient, safe, and secure harbor transportation  
8 operations.

9           The department of transportation has the jurisdiction to  
10 control and manage all commercial harbors, commercial harbor and  
11 waterfront improvements, ports, docks, wharves, piers, quays,  
12 bulkheads, and landings belonging to or under the control of the  
13 State and the shipping using the same.

14           In May 1997, a planning committee, consisting of public  
15 officials and private individuals and headed by the department  
16 of transportation, issued the Oahu Commercial Harbors 2020 Plan,  
17 "a guide to develop, maintain, and enhance Oahu's commercial  
18 harbor system to ensure its efficient, safe, accessible and



1 economical operation." While acknowledging the economic  
2 benefits of the growing commercial fishing, potential ocean  
3 mining, passenger cruises, and ferries, the planning committee  
4 firmly stated that commercial harbor planning had to address  
5 first and foremost Hawaii's life-sustaining ocean cargo  
6 operations. The plan specifies certain piers and areas yet  
7 undeveloped for the development of additional ocean cargo  
8 facilities.

9       However, the legislature is concerned that there may be  
10 lands under the control and management of the department of  
11 transportation that are not dedicated strictly to maritime  
12 harbor uses or other lands, public and private, that may become  
13 important to the efficient management of the State's commercial  
14 harbors in the future.

15       The purpose of this Act is to:

16       (1) Establish a harbor land commission to identify and  
17       designate lands that are important for present and  
18       future harbor operations; and

19       (2) Restrict the use of those designated important harbor  
20       lands to maritime use.



1 SECTION 2. Chapter 266, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4 **"PART . HARBOR LAND COMMISSION**

5 **§266- Harbor land commission.** (a) There is established  
6 within the department of transportation a harbor land  
7 commission, hereafter the "commission", consisting of seven  
8 members that shall identify and designate important harbor  
9 lands.

10 (b) Six members shall be appointed by the governor subject  
11 to confirmation by the senate, in a manner prescribed in  
12 subsection (d). One member shall be appointed from each of the  
13 counties and two members shall be at large. Each member shall  
14 have substantial experience in the area of harbor operations and  
15 use; provided that at least two members shall represent a  
16 lessee, licensee, or permittee of the department of  
17 transportation in a commercial harbor. The director of  
18 transportation or a designee of the director of transportation  
19 shall be the chairperson of the commission.

20 (c) The members of the commission shall serve without  
21 compensation but shall be reimbursed for expenses, including  
22 travel expenses, necessary for the performance of their duties.



1 (d) In appointing a member to the commission, the governor  
2 shall select from a list submitted by a nominating committee.  
3 The nominating committee shall be composed of four individuals  
4 chosen as follows: two persons appointed by the governor; one  
5 person appointed by the president of the senate; and one person  
6 appointed by the speaker of the house. The committee shall  
7 solicit applications and send to the governor the names of at  
8 least three individuals for each open position.

9 (e) Except as otherwise provided in this chapter, the  
10 commission shall be subject to sections 26-34, 26-35, 26-35.5,  
11 and 26-36.

12 **§266- Important harbor lands; maps; permitted uses. (a)**

13 Important harbors lands shall include, but not be limited to,  
14 the following:

15 (1) All commercial harbors and roadsteads, fast or  
16 submerged, and all commercial harbor and waterfront  
17 improvements belonging to or controlled by the State;  
18 and

19 (2) Any lands, fast or submerged, public or private, that  
20 are contiguous to any commercial harbor that may be  
21 required for future harbor use to ensure efficient and  
22 secure harbor operations in the future.



1 (b) The commission shall prepare, maintain, from time to  
2 time amend, and make available for public review maps setting  
3 forth designated important harbor lands.

4 (c) Chapter 205 and any county land use or zoning  
5 ordinance or rule notwithstanding, the permitted use of any land  
6 or improvement that is designated important harbor land by the  
7 commission shall be solely as a commercial harbor, except for  
8 any commercial harbor or waterfront lands or improvements that  
9 are presently subject to a non-maritime commercial or  
10 recreational lease, license, permit, or right-of-entry.

11 **§266- Administration; rules.** (a) The administration of  
12 the commission shall be pursuant to section 26-35 and its  
13 operations shall be funded with moneys in the harbor special  
14 fund.

15 (b) The commission, pursuant to chapter 91, shall adopt  
16 any rules required for the implementation of this part."

17 SECTION 3. Section 266-1, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§266-1 Department of transportation; harbors;**  
20 **jurisdiction.** All commercial harbors and roadsteads, and all  
21 commercial harbor and waterfront improvements belonging to or  
22 controlled by the State, and all vessels and shipping within the



1 commercial harbors and roadsteads shall be under the care and  
2 control of the department of transportation.

3 For the purpose of this chapter, "commercial harbor" means  
4 a harbor or off-shore mooring facility [~~which~~] that is primarily  
5 for the movement of commercial cargo, passenger, including  
6 cruise ships, and fishing vessels entering, leaving, or  
7 travelling within the State, and facilities and supporting  
8 services for loading, off-loading, and handling of cargo,  
9 passengers, and vessels."

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

12 SECTION 5. This Act shall take effect upon its approval.  
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**Report Title:**

Department of Transportation; Harbors

**Description:**

Establishes Harbor Land Commission to identify and designate important harbor lands; permits only harbor uses on important harbor lands.

