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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. Estimates indicate that as much as ninety-eight  
2 per 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 the continuity  
7 of efficient, safe, and secure harbor transportation operations.

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

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



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

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

14 The purpose of this Act is to:

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

18 (2) Restrict the use of public lands designated important  
19 harbor lands to maritime use.

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



1                   **"PART . HARBOR LAND COMMISSION**

2           **§266- Harbor land commission.** (a) There is established  
3 within the department of transportation a harbor land  
4 commission, hereafter the "commission", consisting of seven  
5 members who shall identify and designate important harbor lands.

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

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

19           (d) In appointing a member to the commission, the governor  
20 shall select from a list submitted by a nominating committee.  
21 The nominating committee shall be comprised of four individuals  
22 chosen as follows:



- 1 (1) Two persons appointed by the governor;
- 2 (2) One person appointed by the president of the senate;
- 3 and
- 4 (3) One person appointed by the speaker of the house of
- 5 representatives.

6 The committee shall solicit applications and send to the  
7 governor the names of at least three individuals for each open  
8 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 harbor lands shall include but not be limited to:

- 14 (1) All commercial harbors and roadsteads, fast or
- 15 submerged, and all commercial harbor and waterfront
- 16 improvements belonging to or controlled by the State;
- 17 and
- 18 (2) Any lands, fast or submerged, public or private, that
- 19 are contiguous to any commercial harbor that may be
- 20 required for future harbor use to ensure efficient and
- 21 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 (1) Any commercial harbor or waterfront lands or  
9 improvements that are presently subject to a non-  
10 maritime commercial or recreational lease, license,  
11 permit, or right-of-entry; or

12 (2) Any privately-owned lands that are contiguous to any  
13 commercial harbor that may be required for future  
14 harbor use.

15 **§266- Administration; rules.** (a) The administration of  
16 the commission shall be pursuant to section 26-35, and its  
17 operations shall be funded with moneys in the harbor special  
18 fund.

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

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



1           "**§266-1 Department of transportation; harbors;**  
2 **jurisdiction.** All commercial harbors and roadsteads, and all  
3 commercial harbor and waterfront improvements belonging to or  
4 controlled by the State, and all vessels and shipping within the  
5 commercial harbors and roadsteads shall be under the care and  
6 control of the department of transportation.

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

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

16           SECTION 5. This Act shall take effect on July 1, 2050.

H.B.NO. 2130

**Report Title:**

Department of Transportation; Harbors

**Description:**

Establishes a Harbor Land Commission to identify and designate important harbor lands. Permits only harbor uses on important harbor lands. (HB2130 HD2)

HB2130 HD2 HMS 2006-2527

