

## SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. \_\_\_\_\_

**7**

Date \_\_\_\_\_

MAR 06 2007

TO: Senate Bill No. 1276, S.D. 2

SECTION 1. Senate Bill No. 1276, S.D. 2, is amended by amending Section 1 to read as follows:

"SECTION 1. The legislature finds that the request for new commercial activity transporting passengers and their vehicles to utilize already crowded harbors has caused concern about the impact of such activity on other harbor users and the surrounding community. Increased traffic congestion, spread of invasive species, and threats to migrating humpback whales are indicative of concerns raised. The legislature further finds that there is confusion and ambiguity regarding the requirements for an environmental impact statement under chapter 343, Hawaii Revised Statutes. The legislature also finds that all major state commercial harbor improvements should comply with the environmental review process. The legislature further finds that the department of transportation may have abused its discretion in determining that the expenditure of substantial public funds for improvements to commercial harbors throughout the State to accommodate the operation of vessels that carry passengers and their vehicles between Hawaii's islands did not require an environmental review pursuant to chapter 343, Hawaii Revised Statutes.

The legislature is concerned that any mitigating measures that may be contained in an environmental impact statement may not be implemented in the operation of vessels that carry passengers and their vehicles between Hawaii's islands that require commercial harbor improvements.

The purpose of this Act is to:

- (1) Confirm the intent of the requirements imposed under chapter 343, Hawaii Revised Statutes, regarding when the need for an environmental impact statement is to be triggered with respect to major commercial harbor improvements undertaken to accommodate the operation of vessels that carry passengers and their vehicles between Hawaii's islands;
- (2) Require the preparation of an environmental impact statement pursuant to chapter 343, Hawaii Revised Statutes, for major improvements being made to commercial harbors in the State that require the expenditure of public funds to accommodate the



- operation of vessels that carry passengers and their vehicles between Hawaii's islands; and
- (3) Require that the department of transportation implement any mitigating measures that may be recommended in the environmental impact statement and, to the extent necessary, amend its agreement with any business or entity operating or proposing to operate vessels that carry passengers and their vehicles between Hawaii's islands and for which the operation thereof requires major commercial harbor improvements to require that the business or entity implement any recommended mitigative measure in its operations."

SECTION 2. Senate Bill No. 1276, S.D. 2, is amended by deleting Sections 4 and 5.

SECTION 3. Senate Bill No. 1276, S.D. 2, is amended by adding a new section to read as follows:

"SECTION 4. The department of transportation shall pay for an environmental impact statement under section 2 of this Act out of its existing funds."

SECTION 4. Senate Bill No. 1276, S.D. 2, is amended by renumbering Section 6 as Section 5 and amending it to read as follows:

"SECTION 5. This Act shall take effect on July 1, 2007."

Offered by: David Y. Lee (X) Carried

( ) Failed to Carry

( ) Withdrawn

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# A BILL FOR AN ACT

RELATING TO THE ENVIRONMENT.

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

1       SECTION 1. The legislature finds that the request for new  
2 commercial activity transporting passengers and their vehicles  
3 to utilize already crowded harbors has caused concern about the  
4 impact of such activity on other harbor users and the  
5 surrounding community. Increased traffic congestion, spread of  
6 invasive species, and threats to migrating humpback whales are  
7 indicative of concerns raised. The legislature further finds  
8 that there is confusion and ambiguity regarding the requirements  
9 for an environmental impact statement under chapter 343, Hawaii  
10 Revised Statutes. The legislature also finds that all major  
11 state commercial harbor improvements should comply with the  
12 environmental review process. The legislature further finds  
13 that the department of transportation may have abused its  
14 discretion in determining that the expenditure of substantial  
15 public funds for improvements to commercial harbors throughout  
16 the State to accommodate the operation of vessels that carry  
17 passengers and their vehicles between Hawaii's islands did not



1 require an environmental review pursuant to chapter 343, Hawaii  
2 Revised Statutes.

3 The legislature is concerned that any mitigating measures  
4 that may be contained in an environmental impact statement may  
5 not be implemented in the operation of vessels that carry  
6 passengers and their vehicles between Hawaii's islands that  
7 require commercial harbor improvements.

8 The purpose of this Act is to:

9 (1) Confirm the intent of the requirements imposed under  
10 chapter 343, Hawaii Revised Statutes, regarding when  
11 the need for an environmental impact statement is to  
12 be triggered with respect to major commercial harbor  
13 improvements undertaken to accommodate the operation  
14 of vessels that carry passengers and their vehicles  
15 between Hawaii's islands;

16 (2) Require the preparation of an environmental impact  
17 statement pursuant to chapter 343, Hawaii Revised  
18 Statutes, for major improvements being made to  
19 commercial harbors in the State that require the  
20 expenditure of public funds to accommodate the  
21 operation of vessels that carry passengers and their  
22 vehicles between Hawaii's islands; and



1           (3)   Require that the department of transportation  
2               implement any mitigating measures that may be  
3               recommended in the environmental impact statement and,  
4               to the extent necessary, amend its agreement with any  
5               business or entity operating or proposing to operate  
6               vessels that carry passengers and their vehicles  
7               between Hawaii's islands and for which the operation  
8               thereof requires major commercial harbor improvements  
9               to require that the business or entity implement any  
10              recommended mitigative measure in its operations.

11           SECTION 2.   The department of transportation shall prepare  
12   an environmental impact statement for the improvements made to  
13   commercial harbors throughout the State that require the  
14   expenditure of public funds to accommodate any vessels that  
15   carry passengers and their vehicles between Hawaii's islands and  
16   for which the operation thereof requires major commercial harbor  
17   improvements and the secondary and tertiary environmental  
18   effects of those operations on the State's environment, all in  
19   compliance with chapter 343, Hawaii Revised Statutes, without  
20   regard to the:

21           (1)   Date of commencement of construction of improvements  
22               by the department of transportation;



1 (2) Date or amount of expenditure of public moneys for the  
2 capital improvement projects; and

3 (3) Date of implementation of the proposed action by the  
4 business or entity operating or proposing to operate  
5 vessels that carry passengers and their vehicles

6 between Hawaii's islands and for which the operation  
7 thereof requires major commercial harbor improvements,  
8 as a condition precedent to the implementation of the proposed  
9 action as provided under section 343-5, Hawaii Revised Statutes.

10 For the purposes of this Act, "major commercial harbor  
11 improvements" means any commercial harbor capital improvement  
12 project that requires the expenditure of over \$1,000,000 per  
13 commercial harbor of public funds.

14 SECTION 3. The departments of transportation and health  
15 may consider expediting the environmental impact statement  
16 process required under this Act.

17 SECTION 4. The department of transportation shall pay for  
18 an environmental impact statement under section 2 of this Act  
19 out of its existing funds.

20 SECTION 5. This Act shall take effect on July 1, 2007.



**REPORT Title:**

Department of Transportation; Environmental Impact Statement

**Description:**

Requires the preparation of an environmental impact statement for major harbor improvements for any vessel that carries passengers and vehicles between Hawaii's islands that require such improvements. Requires the department of transportation to implement all mitigative measures contained in the environmental impact statement, including amending any operating agreements. Requires the department of transportation to pay for an environmental impact statement out of existing funds. Effective 7/1/07. (SD3)

