

STAND. COM. REP. NO. 1432

Honolulu, Hawaii

March 23, 2007

RE: S.B. No. 1515
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred S.B. No. 1515, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF TRANSPORTATION,"

begs leave to report as follows:

The purpose of this bill is to protect state harbors by:

- (1) Increasing the ceiling on fines from \$10,000 to \$27,500 for violations of:
 - (A) Rules adopted by the Department of Transportation (DOT);
 - (B) The provisions of Chapter 266, Hawaii Revised Statutes; and
 - (C) Lawful commands of any harbor master, harbor agent, or harbor district manager;

and



- (2) Clarifying that any vessel, agent, owner, or crew that violates rules of DOT or the lawful commands of any harbor master, harbor agent, or harbor district manager, pertaining to federal, state, or county rules, shall be fined not more than \$27,500 for each violation.

DOT testified in support of this bill with amendments.

Your Committee finds that current fines imposed for violations of state harbor laws and rules are far below the amount the federal and state agencies may impose on landowners for violations of environmental regulations, thus failing to serve as a deterrent. In fact, federal regulations provide for administrative and civil fines of up to \$27,500 per day per violation.

However, your Committee has been informed by DOT that, as currently written, this bill fails to accomplish its main goal of environmental protection at Hawaii's harbors. As drafted, this bill does not penalize violations of federal, state, or county environmental laws and only applies to rules made, adopted, and published by DOT. Accordingly, your Committee has amended this bill by deleting its contents and replacing it with language that:


- (1) Makes any commercial harbor tenant or user, including shippers and shipping agents, who violates any federal, state, or county environmental law or rule, to be liable to DOT for the amount of a fine, up to the maximum amount specified by the appropriate law or rule, if the violation results in an environmental fine being levied against DOT; and
- (2) Allows DOT to take legal action against a harbor tenant or user to collect the fines and any costs or expenses incurred.

Technical, nonsubstantive amendments were also made for clarity and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1515, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1515, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Transportation,



JOSEPH M. SOUKI, Chair



