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In reply, please refer to:
File:

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

SB 3082 SD 1, RELATING TO CRUISE SHIPS

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 11, 2008
9:00 a.m.

1 **Department's Position:** The Department of Health (Department) supports this administration bill and
2 requests amendments.

3 **Fiscal Implications:** None

4 **Purpose and Justification:** This bill amends and transfers the cruise ship air emission provisions from
5 Hawaii Revised Statutes (HRS), chapter 342D, Water Pollution, to HRS, chapter 342B, Air Pollution
6 Control.

7 In addition, we propose four substantive amendments that require the continuous opacity
8 monitoring and recording of the ship's plume; allow Coast Guard requested incinerator tests while in
9 port; establish a time limit for reporting an equipment malfunction; and delete as unnecessary the
10 requirement to establish fines by rule for noncompliance. The Department and the cruise ship
11 representatives have worked together and are in agreement with these amendments.

12 Currently, the cruise ship statutes contained in HRS, chapter 342D, Water Pollution, are all
13 inclusive addressing subject matters on both water pollution and air pollution. Since it is difficult and
14 cumbersome for the Department to enforce the air pollution requirements while located in the water

1 pollution statutes, this bill deletes the air provisions from HRS, chapter 342D, Water Pollution, and
2 incorporates them and any supporting provisions into HRS, chapter 342B, Air Pollution Control.

3 Also, four substantive amendments are being proposed. The first amendment specifies the
4 methodology for the monitoring of the ship's plume thereby providing guidance on how to comply with
5 the visible emissions requirement while in port. Without a standard method for the monitoring of the
6 opacity on a continuous basis, it would cause inconsistency among the cruise industry making it difficult
7 for the Department to enforce this provision. We propose adding a new sentence at the end of
8 subsection 342B-C (a): "While operating in the marine waters of the State, all commercial passenger
9 vessels' stack exhaust plumes shall be monitored by a transmissometer, or by an alternative
10 methodology as approved by the director."

11 A transmissometer is an opacity meter that continuously monitors visible emissions from a ship's
12 stack. If the statute remains silent on the monitoring protocol, then a ship could read the stack plume
13 once a day or use a video camera which is unacceptable and unenforceable. By adopting the language
14 on transmissometers, we may delete subsections 342B-C (b) and (c) which allow the Department to hire
15 an independent contractor to monitor for opacity and require the owner or operator to pay for the
16 contractor services.

17 The second amendment allows for a vessel's incinerator to be operated while in port if requested
18 by the U.S. Coast Guard or the Department for testing purposes. Subsection 342B-B (a) would be
19 amended to read: "No person shall operate an incinerator of a large commercial passenger vessel in any
20 Hawaiian port for the combustion of any waste materials, except for testing purposes as requested by the
21 United States Coast Guard, the Department, or their duly authorized representatives." It is anticipated
22 that such testing would be infrequent and of short duration. Presently while the ship is in port, the
23 statute does not allow for the operation of the incinerator under any circumstances.

1 The third amendment requires the vessel to notify the Department within 72 hours of an
2 equipment failure that may cause an opacity exceedence. Section 342B-B (b) (3) is amended to read:
3 “In the event of an equipment failure; provided that the ~~crui~~se-line owner or operator of a commercial
4 passenger vessel provides notice to the Department within seventy-two hours of the equipment failure
5 and shall, upon request, provide information to the Department that describes the subject equipment,
6 malfunction, corrective actions taken, and the start and end times of the malfunctioning period.”

7 The final amendment is to delete section 342B-I from the bill, the unnecessary requirement that a
8 fine schedule be established by rule for noncompliance of this air pollution part, and to also delete the
9 comparable water provision, HRS, section 342D-110. Both the air and water pollution statutes, HRS,
10 chapter 342B and chapter 342D, respectively, already have established penalty provisions which are
11 being utilized by the programs for noncompliance.

12 As described, this bill is not only a housekeeping measure but also clarifies certain provisions
13 minimizing any misinterpretation and confusion.

14 Thank you for this opportunity to testify on this bill.
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