
A BILL FOR AN ACT

RELATING TO HARBORS.

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

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

3 "**§266-3 Rules.** (a) The director of transportation may
4 adopt rules as necessary to:

5 (1) Regulate the manner in which all vessels may enter and
6 moor, anchor, or dock in the commercial harbors,
7 ports, and roadsteads of the State, or move from one
8 dock, wharf, pier, quay, bulkhead, landing, anchorage,
9 or mooring to another within the commercial harbors,
10 ports, or roadsteads;

11 (2) [~~The examination, guidance, and control of~~] Examine,
12 guide, and control harbor masters and their assistants
13 and their conduct while on duty;

14 (3) [~~The embarking or disembarking~~] Control the
15 embarkation or disembarkation of passengers;

16 (4) [~~The~~] Regulate the expeditious and careful handling of
17 freight, goods, wares, and merchandise of every kind



1 ~~[which]~~ that may be delivered for shipment or
2 discharged on the commercial docks, wharves, piers,
3 quays, bulkheads, or landings belonging to or
4 controlled by the State; and

5 (5) ~~[Defining]~~ Define the duties and powers of carriers,
6 shippers, and consignees respecting passengers,
7 freight, goods, wares, and merchandise in and upon the
8 docks, wharves, piers, quays, bulkheads, or landings
9 within the commercial harbors, ports, and roadsteads
10 of the State. The director may also make further
11 rules for the safety of the docks, wharves, piers,
12 quays, bulkheads, and landings on, in, near, or
13 affecting a commercial harbor and waterfront
14 improvements belonging to or controlled by the State.

15 (b) The director may also adopt, amend, and repeal such
16 rules as are necessary:

17 (1) For the proper regulation and control of all shipping
18 in the commercial harbors belonging to or controlled
19 by the State, and of the entry, departure, mooring,
20 and berthing of vessels therein, and for the



1 regulation and control of all other matters and things
2 connected with such shipping;

3 (2) To prevent the discharge or throwing into commercial
4 harbors of rubbish, refuse, garbage, or other
5 substances likely to affect water quality or that
6 contribute to making [~~such~~] commercial harbors
7 unsightly, unhealthful, or unclean, or that are liable
8 to fill up shoal or shallow waters in, near, or
9 affecting the commercial harbors; and

10 (3) To prevent the escape of fuel or other oils or
11 substances into the waters in, near, or affecting
12 commercial harbors from any source point, including [~~7~~
13 ~~but not limited to,~~] any vessel or pipes or storage
14 tanks upon the land.

15 (c) The director may also adopt, amend, and repeal rules
16 necessary to require any person who uses or occupies State
17 harbor property to defend, indemnify, and hold harmless the
18 State and any of its agencies, officers, and employees from and
19 against all liability, loss, damage, cost and expense, including
20 all attorneys' fees, and all claims, suits, and demands
21 therefore, arising out of or resulting from such use or



1 occupation, and to condition the use or occupation of State
2 harbor property on the waiver of any statutory or other immunity
3 from liability that may be asserted in any way to limit such
4 person's obligation to so defend, indemnify, and hold harmless
5 the State, and any of its agencies, officers, and employees.
6 Nothing herein shall be construed to prevent the State from
7 being held liable for any damages, costs, and expenses to the
8 extent caused by the State's negligence or other fault, breach
9 of contract, or failure to comply with statutory or other legal
10 duty relating to State harbor property and paying for such
11 damages, costs, and expenses provided there is an appropriation
12 therefor.

13 (d) For the purposes of this section, "State harbor
14 property" means the commercial harbors, ports, roadsteads,
15 harbor buildings, and other harbor facilities of the State,
16 including docks, wharves, piers, quays, bulkheads, or landings
17 therein.

18 [~~e~~] (e) The rules shall be adopted in the manner
19 prescribed in chapter 91 and shall have the force and effect of
20 law."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2046.



Report Title:

Commercial Harbors; Indemnification

Description:

Authorizes the Director of Transportation to require any person who uses or occupies state commercial harbors for business or commercial purposes, to defend, indemnify, and hold harmless the State against claims that may arise from such use or occupation.
(HB1163 HD2)

