

STAND. COM. REP. NO.

286

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1613
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Transportation, International and Intergovernmental Affairs, to which was referred S.B. No. 1613 entitled:

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

begs leave to report as follows:

The purpose of this measure is to allow the Department of Transportation to impose upon private parties using state harbors and airports the duty to defend, hold harmless, and indemnify.

Your Committee received testimony in support of this measure from the Department of Transportation. Comments were received from the Hawaii Harbors Users Group. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that this measure is in response to a Hawaii Supreme Court case (*Haole v. State of Hawaii*), in which the court held that the Department of Transportation lacked statutory authority to adopt a rule to impose a duty upon users to defend and indemnify the State.

Your Committee has amended this measure on the recommendation of the Department of Transportation to insert clarifying language into the indemnity provision covering commercial harbors.

As affirmed by the record of votes of the members of your Committee on Transportation, International and Intergovernmental

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Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1613, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

Respectfully submitted on
behalf of the members of the
Committee on Transportation,
International and
Intergovernmental Affairs,




J. KALANI ENGLISH Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Transportation, International and Intergovernmental Affairs
TIA

Bill / Resolution No.:* SB 1613	Committee Referral: TIA, J60	Date: 2-18-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ENGLISH, J. Kalani (C)	✓			
GABBARD, Mike (VC)	✓			
ESPERO, Will	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	5	—	—	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes