

STAND. COM. REP. NO. 1112

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 824  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred S.B. No. 824, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO MOTOR CARRIERS,"

begs leave to report as follows:

The purpose of this bill is to assist motor carriers by:

- (1) Prohibiting persons who contract for transportation services with a regulated motor carrier from requiring the motor carrier to indemnify the person and the person's agents, employees, servants, or independent contractors from claims and liabilities for their negligence, intentional acts, or intentional omissions; and
- (2) Requiring insurance companies that provide insurance coverage to motor carriers covering the indemnification of the other party to refund any portion of a motor carrier's premiums applicable to the indemnification for any transportation services contract affected by this measure, thereby providing assurance that motor carriers are not paying for unnecessary insurance coverage.

The Hawaii Transportation Association (HTA) testified in support of this bill. The Hawaii Insurers Council provided comments.

SB824 HD1 HSCR TRN HMS 2011-3226



According to HTA, there currently exists a situation in the commercial transportation industry where motor carriers are often required to sign contracts or agreements indemnifying the motor carriers' customers, which are generally facilities where cargo is loaded or unloaded or passengers are picked-up or dropped-off, from claims or liability regardless of fault. In essence, the motor carrier becomes an insurer for the customer because liability has been shifted from the customer to the motor carrier through a contract. This situation appears to be inequitable and this measure attempts to correct this matter.

However, your Committee notes the concerns raised by the Hawaii Insurers Council that the provision of rebates for motor carriers for unused insurance premiums is problematic, confusing, and raises the question of fairness. Accordingly, your Committee has amended this bill by deleting the provision requiring insurance companies that provide insurance coverage to motor carriers covering the indemnification of the other party to refund any portion of a motor carrier's premiums applicable to the indemnification for any transportation services contract affected by this measure.


Your Committee has also amended this measure by:

- (1) Changing its effective date from July 1, 2050, to July 1, 2011; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, 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. 824, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 824, S.D. 2, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.



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



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JOSEPH M. SOUKI, Chair



HSCR 1112

State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

Record of Votes of the Committee on Transportation

Bill/Resolution No.: SB 824, SD2	Committee Referral: TRN, CPC/JUD	Date: 3/21/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
TRN Members	Ayes	Ayes (WR)	Nays	Excused
1. SOUKI, Joseph M. (C)	/			
2. ICHIYAMA, Linda (VC)	/			
3. AQUINO, Henry J.C.				/
4. CULLEN, Ty	/			
5. LEE, Marilyn B.	/			
6. LUKE, Sylvia	/			
7. SAIKI, Scott K.				/
8. TAKUMI, Roy M.	/			
9. YAMASHITA, Kyle T.	/			
10. FONTAINE, George R.	/			
11. JOHANSON, Aaron Ling	/			
TOTAL (11)	9			2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <i>Linda Ichiyama</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				