

Honolulu, Hawaii

Feb 2, 2012

RE: H.B. No. 2459

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred H.B. No. 2459 entitled:

"A BILL FOR AN ACT RELATING TO TORT LIABILITY,"

begs leave to report as follows:

The purpose of this measure is to define what constitutes "similar circumstances" of a prior occurrence that are required to show that an affected joint tortfeasor had reasonable prior notice to allow recovery of noneconomic damages for tort actions arising out of motor vehicle accidents that relate to the maintenance and design of highways, and to prohibit recovery where there was no reasonable notice.

The Department of the Attorney General testified in support of this measure. The Hawaii Association for Justice testified in opposition to the measure.

Your Committee finds that there has long been confusion regarding what "similar circumstances" of a prior occurrence means for establishing joint and several liability for government tortfeasors in actions arising from motor vehicle accidents relating to maintenance and design of highways.

This uncertainty has often led to inequitable decisions rendered against the State. Therefore, your Committee finds it appropriate to clarify that the notice requirement of a "prior occurrence of similar circumstances" is met only when the prior occurrence is at the same location and involves the same highway-

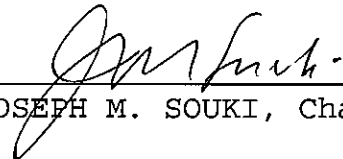


related device or condition and when the condition at the roadway is substantially similar to that at the time of the relevant accident.

Your Committee notes the concerns raised by the Hawaii Association for Justice, however, these questions are legal in nature. Your Committee respectfully requests that your Committee on Judiciary consider these issues when the measure is before it.

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 H.B. No. 2459 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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



JOSEPH M. SOUKI, Chair



HSCR55-12

Record of Votes of the Committee on Transportation

Bill/Resolution No.: HB 2459	Committee Referral: TRN, JUD, FIN	Date: 1/30/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input 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. OKAMURA, Tom	/			
8. SAIKI, Scott K.	/			
9. TAKUMI, Roy M.	/			
10. YAMASHITA, Kyle T.	/			
11. FONTAINE, George R.	/			
12. JOHANSON, Aaron Ling	/			
TOTAL (12)	12			
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ committee acronym(s) did not support recommendation.				
Vice Chair's or designee's signature: <u>Linda Ichiyama</u>				
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