

STAND. COM. REP. NO.

2804

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2876
S.D. 2

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2876, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE COMMERCIAL HARBORS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the law enforcement powers of certain employees under the jurisdiction of the Department of Transportation Harbors Division.

Specifically, the measure:

- (1) Clarifies that persons issued a notice of violation by the Department of Transportation for violating certain Department of Transportation rules may request an administrative hearing to contest the charge;
- (2) Clarifies the arrest and citation procedures for Department of Transportation law enforcement officers regarding the officer's discretion to either issue a citation or immediately take the alleged violator before a district judge;
- (3) Broadens the authority to issue citations and make arrests to any employee, officer, or representative of the Department of Transportation conferred by the Director of Transportation with police powers;



- (4) Adds administrative hearing officers to the list of authorized persons and the court who may deprive an offender from obtaining an operating or mooring permit;
- (5) Lessens the time period that an offender may be deprived of an operating or mooring permit from two years to one year;
- (6) Broadens the scope of the penalty imposed under paragraph (4) to include a prohibition against entering a secured area of a port;
- (7) Stipulates that upon expiration of the time penalty under paragraph (5), the offender would have to assume the last position on any waiting list to reacquire an operating or mooring permit; and
- (8) Provides that the fines for environmental and maritime transportation security violations may be deposited into the harbor special fund.

Your Committee finds that increasing the number of Department of Transportation employees authorized to issue citations will increase the enforcement and safety of state harbors and that authorizing alleged violators to request an administrative hearing will allow for a fair and expedient resolution of violations. Your Committee also finds that authorizing the Department of Transportation to deposit fines and reimbursements into the harbor special fund will assist in offsetting expenses for managing the harbors.

Your Committee has amended this measure by:

- (1) Deleting language in section 3 requiring a law enforcement officer to take an arrested or cited person immediately before a district court judge due to inconsistency with the other language in the section;
- (2) Designating subsections for section 266-24.1, Hawaii Revised Statutes, to facilitate reference and future amendments; and
- (3) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2876, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2876, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,




DAVID Y. IGE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:
SB 2876, SDI	WLH/TIA, WAM	2-28-12
<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	
IGE, David Y. (C)	✓	
KIDANI, Michelle N. (VC)	✓	
CHUN OAKLAND, Suzanne	✓	
DELA CRUZ, Donovan M.	✓	
ENGLISH, J. Kalani	✓	
ESPERO, Will	✓	
FUKUNAGA, Carol	✓	
KIM, Donna Mercado	✓	
KAHELE, Gilbert	✓	
KOUCHI, Ronald D.		✓
RYAN, Pohai	✓	
TOKUDA, Jill N.	✓	
WAKAI, Glenn	✓	
SLOM, Sam		✓
TOTAL	12	0
0	0	2
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
Goldenrod Committee File Copy		

*Only one measure per Record of Votes