

SB 2246

RELATING TO SHIPPING CONTAINER INSPECTIONS

Description:

Authorizes the department of public safety, sheriff division, to randomly inspect shipping containers for dangerous materials, including explosives but excluding fireworks. Effective 7/1/2013.

NEIL ABERCROMBIE
GOVERNOR



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IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

January 31, 2012

**SB 2246
RELATING TO SHIPPING CONTAINER INSPECTIONS**

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY
AFFAIRS**

The Department of Transportation (DOT) opposes SB 2246 which adds a new section to Chapter 266, HRS, to authorize the Department of Public Safety (PSD) to inspect any shipping container in the commercial harbors.

SB 2246 proposed authority to permit PSD to confiscate any material constituting a threat directly or indirectly to the security of life or property in Hawaii, excluding fireworks, is overly broad and may not meet the legal requirements for PSD to conduct the "inspection" or search and seizure without probable cause. In addition, there are a multitude of goods that are imported legally for domestic or commercial use; however it is the act of attaching a device to certain goods that could threaten life or property,

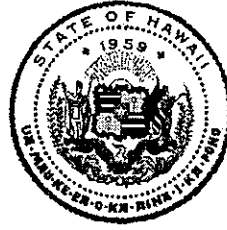
The DOT refers the Committee to the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011 which identifies issues (December 13 Meeting at page 12; Inspections at page 16) regarding container inspections for fireworks will also apply to "inspection" of shipping containers as proposed in the bill.

Although the bill proposes to exclude fireworks, goods or containers that are confiscated require space or special air conditioned warehouses to preserve evidence that the PSD does not possess. The PSD will also require unique personnel positions that the PSD may require to hold the goods in evidence for prosecution, the accounting of the evidence, and funds to support the eventual disposal of the evidence.

For the reasons stated above, the DOT recommends that SB 2246 be deferred.



NEIL ABERCROMBIE
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TESTIMONY ON SENATE BILL 2246
A BILL FOR AN ACT RELATING TO SHIPPING
CONTAINER INSPECTIONS

By
Jodie F. Maesaka-Hirata, Director
Department of Public Safety

Committee on Public Safety, Government Operations,
and Military Affairs
Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair

Tuesday, January 31, 2012, 3:15 PM
State Capitol, Room 224

Chair Espero, Vice Chair Kidani and Members of the Committee:

The Department of Public Safety (PSD) does not support Senate Bill 2246 that would authorize the Department's Sheriff Division (SD) to conduct random inspections of shipping containers for dangerous materials, including explosives, but excluding fireworks in all commercial harbors, waterfront belonging to or controlled by the Department of Transportation. Senate Bill 2246 proposes to expand the powers of the SD to authorize the Deputies to conduct random searches of both foreign and domestic containers without warrant or notification to the owner. Senate Bill 2246 would violate both Federal and State law relating to the search and seizure of property without probable cause and result in any evidence discovered being excluded and the criminal case dismissed by the

court. Presently, only Federal law enforcement is authorized to open with "probable cause" foreign containers suspected of transporting drugs or illegal explosives. In the case of Domestic containers, if a Federal, State or County law enforcement officer has probable cause to believe that it contains illegal explosives or drugs the officer may obtain a search warrant to open the container. PSD does not support Senate Bill 2246, as it would place our Department and Deputies in jeopardy of possible legal action by the owners of these private containers.

Thank you for the opportunity to testify on this matter.

The Twenty-Sixth Legislature
Regular Session of 2012

The Senate
Committee on Public Safety, Government Operations
and Military Affairs
Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair

Hawaii State Capitol Room 224
Tuesday, January 31, 2012; 3:15 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2246
RELATING TO SHIPPING CONTAINER INSPECTIONS**

The ILWU Local 142 opposes S.B. 2246, which authorizes the Department of Public Safety, Sheriff Division, to randomly inspect shipping containers for dangerous materials, including explosives but excluding firearms.

Unless there are serious problems with the current practice of using a private third-party entity to do the inspections, we believe there is insufficient justification to authorize the Department of Safety to perform random inspections of shipping containers. Inspections by public safety officers may require additional manpower and will require training to bring public workers up to speed on the requirements for inspections. At a time when the State is still rebounding from the recession and revenue projections are not clear, additional expenditures that are not absolutely necessary should be curtailed.

Furthermore, S.B. 2246 also says that the Public Safety inspections will “supersede any labor work rules or contracts that are contrary to the intent of this section.” This phrase is not explained and could interfere with any collective bargaining agreement in force. We have serious concerns about this, in view of the fact that the ILWU’s members working on the docks are generally involved in opening and closing shipping containers.

For these reasons, the ILWU urges that S.B. 2246 be shelved. Thank you for the opportunity to share our views and concerns.