

SB 2876

RELATING TO THE COMMERCIAL HARBORS.

Amends chapter 266, Hawaii Revised Statutes, to clarify that persons cited for non-criminal violations are subject to administrative appeal and the not District Court; clarifies that enforcement agents such as the harbor master, harbor agents, facility security officer, or district manager can issue citations for non-criminal violations; provides that penalties and fines are deposited into the Harbor Special Fund; allows Department of Transportation to seek reimbursement from tenants or harbor users that violate security rules in harbor secured areas thereby causes a fine or penalty from the U.S. Coast Guard upon the Department of Transportation.

NEIL ABERCROMBIE
GOVERNOR



GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

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

IN REPLY REFER TO:

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**SB 2876
RELATING TO THE COMMERCIAL HARBORS**

**SENATE COMMITTEE(S) ON WATER, LAND & HOUSING and
TRANSPORTATION & INTERNATIONAL AFFAIRS**

The Department of Transportation (DOT) supports Administration Senate Bill 2876 which clarifies that persons cited for non-criminal violations may appeal the citation and penalties pursuant to administrative procedures and not directly to District Court. SB 2876 is an administration bill. Current procedures to enforce and collect penalties for traffic violations or criminal matters remain unchanged and appearances remain at the District Court.

In developing the administrative rules to implement Act 16, SLH 2009, for the Director to regulate "safety and security requirements" and "other related activities", the DOT believes that §266-24.1, HRS, should be amended to clarify that a purported violator may contest a safety and security violation at an administrative hearing and not answer the charge before the District Court.

Currently, the DOT is authorized to arrest or issue a citation to a person for the trespass violation pursuant to §708-813 through §708-815 for entering a secured facility without proper security credentials (Transportation Worker Identification Credential – "TWIC"). The Airports Division pursuant to §261-91, HRS, is authorized to issue penalties for the trespass to an aircraft within the state airports. The Harbors Division has no statutory provision regarding penalties for the trespass to vessels in restricted areas.

The DOT proposes that a person entering a secured facility without proper security credentials (Transportation Worker Identification Credential – “TWIC”) would be issued a citation for the violation in security and issued a penalty pursuant to §266-25, HRS, Violation of rules, penalty and not issued a citation to a person for the trespass violation pursuant to §708-813 through §708-815. SB 2876 also proposes that the DOT be reimbursed for a US Coast Guard fine issued pursuant to the maritime transportation act that caused the DOT to be fined for the violation by a harbor agent, shipping agent, or shipper. All fines and penalties issued pursuant to Chapter 266 shall be deposited into the DOT special funds.

Thank you for the opportunity to provide testimony.

