

STAND. COM. REP. NO.

1709

Honolulu, Hawaii

April 6, 2017

RE: S.B. No. 1163
S.D. 1
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1163, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO AERONAUTICS,"

begs leave to report as follows:

The purpose of this measure is to replace criminal penalties for the violation of statutes and administrative rules relating to certain aviation safety measures, practices, or requirements and the licensing and regulation of commercial activities at public airports with civil penalties.

The General Aviation Council of Hawaii, Novictor Helicopters, Larry Jefts Farms, LLC, and many individuals testified in support of the measure. The Judiciary, Department of Transportation, and one individual provided comments.

Your Committee has amended this measure by:

- (1) Specifying that the amended penalty shall be a fine, rather than a civil penalty; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.



Your Committee notes its intent that offenses punishable as a misdemeanor or a violation related to section 261-21(a), Hawaii Revised Statutes (HRS), shall continue to be adjudicated by the Judiciary, rather than by the Department of Transportation in an administrative hearing.

Therefore, successful implementation of this measure requires that the Department of Transportation's Airports Division amend its administrative rules that are enabled by section 261-21(a), HRS, to segregate the offenses into categories that are related to safety, licensing or regulation of commercial activities, or security, and specify the penalty for each offense as a misdemeanor or a violation. The Airports Division's failure to amend the rules may render the statute and rules unenforceable because an individual will not be able to reasonably distinguish between the offenses that are punishable as a misdemeanor from those punishable as a violation, which may constitute a violation of the individual's due process rights for inadequate notice.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1163, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1163, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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



SCOTT Y. NISHIMOTO, Chair



