

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 5, 2025
1:01 P.M.
State Capitol, Room 224

S.B. 634
RELATING TO MARINE PASSENGER FEES

Senate Committees on Transportation and Culture and the Arts &
Agriculture and Environment

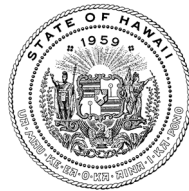
The Department of Transportation (DOT) **supports the intent** of this measure that seeks to generate revenue for port improvements through the establishment of an additional cruise ship passenger fee and the new Cruise Ship Passenger Fee Special Fund.

DOT currently assesses a cruise ship passenger fee of \$15 (Honolulu Harbor) or \$8 (all other harbors) and collected a total of \$10.1 million in these fees in FY 2024. This revenue is deposited into the harbor special fund and the funds support all operations, maintenance, and capital improvements across the commercial ports. Existing statutes authorize DOT to set and adjust all harbor user fees, including passenger fees, and the provisions in Section 2 of the measure are not necessary. The establishment of a new special fund is also problematic as it constrains eligible projects. Infrastructure projects that exclusively benefit cruise ships are fundamentally not climate change mitigation or adaptation projects.

DOT is in the process of planning for significant port redevelopment projects that will begin in the next two years and will continue for the next two decades. Projects are planned for ports at Hilo, Kawaihae, Kahului, Kalaheo, and Honolulu. The work will include demolition of existing structures, adjacent highway widening, interior roadway realignment and gating redesign, yard repaving, pier/wharf reconstruction and hardening, storm drain reconstruction, flood and erosion mitigation improvements, installation of wave energy attenuation solutions, pier substructure reconstruction, and utility relocation. Collectively, these projects aim to both support efficient movement of cargo across and through our maritime transportation facilities and ensure the resilience of these facilities far into the future. Current cost estimates for these projects are approaching \$2 billion, and strategies to finance these critical improvements include federal grants and loans coupled with increases to harbor user fees at a later date when capital requirements are better known.

In addition, DOT is concerned that the language is not clear on whether the fee shall be assessed per passenger per port or per itinerary, and the resulting variances will be significant. Further, the proposed payment process conflicts with existing processes and procedures, and the use of the general fund appropriation is not clear.

Thank you for the opportunity to testify on this measure.



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
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ADMINISTRATIVE AND RESEARCH OFFICE
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FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON TRANSPORTATION AND CULTURE AND THE
ARTS AND AGRICULTURE AND ENVIRONMENT
ON
SENATE BILL NO. 634

**February 5, 2025
1:01 p.m.
Room 224 and Videoconference**

RELATING TO MARINE PASSENGER FEES

The Department of Budget and Finance (B&F) offers comments on this bill.

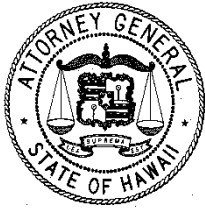
Senate Bill (S.B.) No. 634 adds Section 266-A, HRS, and Section 266-B, HRS, to: 1) establish a cruise ship passenger fee of \$10 per passenger to be collected beginning January 1, 2026, by the Department of Transportation (DOT) to be used for infrastructure projects benefiting cruise ships with an emphasis on climate change mitigation and adaptation; 2) establishes the Cruise Ship Passenger Fee Special Fund (CSPFSF); and 3) appropriates an unspecified amount of general funds for FY 26 and FY 27 for deposit into the CSPFSF for DOT to expend for port infrastructure projects that benefit cruise ships with an emphasis on climate change mitigation and adaptation projects.

As a matter of general policy, B&F does not support the creation of any special fund, which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general

fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 634, it is difficult to determine whether the proposed special fund would be self-sustaining.

Further, this bill does not provide a special fund appropriation to support the program as envisioned in the bill.

Thank you for your consideration of our comments.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 634, RELATING TO MARINE PASSENGER FEES.

BEFORE THE:

SENATE COMMITTEES ON TRANSPORTATION AND CULTURE AND THE ARTS
AND ON AGRICULTURE AND ENVIRONMENT

DATE: Wednesday, February 5, 2025 **TIME:** 1:01 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Yvonne R. Shinmura, Deputy Attorney General

Chairs Lee and Gabbard and Members of the Committees:

The Department of Attorney General provides the following comments.

The purpose of this bill is to establish a cruise ship passenger fee to impose upon cruise ships a marine passenger fee and to establish a special fund into which those fees would be deposited. The fund would be used for state infrastructure projects benefiting cruise ships with an emphasis on climate change mitigation and adaptation projects.

The bill establishes a Cruise Ship Passenger Fee Special Fund ("special fund") and appropriates out of the general revenues of the State into the special fund unspecified sums for fiscal years 2025-2026 and 2026-2027. The bill, however, does not provide for expenditure of funds by the Department of Transportation from the special fund.

To effectuate the purpose of this bill, we recommend the following. The provision for expenditure by the Department of Transportation in section 3, at page 8, lines 9-10, should be deleted. Then, a new section 4 should be inserted into the bill, as follows:

SECTION 4. There is appropriated out of the cruise ship
passenger fee special fund the sum of \$_____ or so much thereof as
may be necessary for fiscal year 2025-2026 and the same sum or so

much thereof as may be necessary for fiscal year 2026-2027 for the purposes of the cruise ship passenger fee special fund.

The sums appropriated shall be expended by the department of transportation for the purposes of this Act.

In addition, section 2 of the bill, page 5, line 1, requires the owner or agent of a ship to maintain and keep records prescribed by the "manager by regulation," a phrase used in 10 CBJ Code, chapter 69.20 Marine Passenger Fee, after which this bill appears to be patterned and which is the subject of *Cruise Lines Int'l Ass'n Alaska v. City & Borough of Juneau*, 356 F. Supp. 3d 831 (D. Alaska 2018), cited in the bill at page 2. The term "manager" is undefined in the bill and is inconsistent with "the department of transportation" in the sentence that follows. This inconsistency may be remedied by replacing "manager by regulation" with "department of transportation by administrative rule."

Furthermore, to protect against potential retroactive application of the bill, the following savings clause is recommended to be added as section 5 of the bill:

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

The existing sections 4, 5, and 6 should be accordingly redesignated as sections 6, 7, and 8.

We respectfully ask the Committee to make the recommended amendments.

Thank you for the opportunity to provide comments on this bill.

Testimony for SB634, Relating to Marine Passenger Fees

Senate Committee on Transportation and Culture and the Arts
Senate Committee on Agriculture and Environment

February 5, 2025

Aloha Chairs Lee and Gabbard, Vice Chairs Inouye and Richards and members of the committee,

Norwegian Cruise Line Holding Ltd is respectfully **opposed** to SB 634, relating to marine passenger fees.

Norwegian Cruise Line offers a year-round itinerary in Hawaii with its U.S. Flagged cruise ship, the Pride of America. This home-ported year-round ship, sailing since the early 2000s, brings many positive benefits to both the visitor and the maritime industry. These benefits extend through multiple channels including airports, local provisions, stevedoring, security personnel, tugboat operators, ground-handlers, and tour operators, while also generating tax revenue for the state.

This bill introduces a \$10 Marine Passenger Fee for each cruise ship passenger visiting Hawaii's ports. The revenue will be deposited into a dedicated fund managed by the Department of Transportation for use towards infrastructure projects that benefit cruise ships, with an emphasis on climate mitigation and adaptation. The proposed fee will be incorporated into Section 2, Chapter 266 of the Hawaii Revised Statutes.

Currently, various passenger and port-related charges are imposed on cruise ship visits as they visit various ports in their itineraries. A "Passenger Fee" of \$15 per passenger in Honolulu and \$8 in all other commercial ports is imposed, along with fees for dockage, port entry, and wharfage, are all paid by the cruise lines for their use of the state's commercial harbors. These fees, established under the Department of Transportations' Administrative Rules, are deposited into an Enterprise Fund of the State of Hawaii, which finances harbor-related capital projects and operating expenses. The Harbors Division, within the Department of Transportation, operates as a self-funded entity, authorized to impose, and collect fees to support the Harbor Systems' operations, maintenance, and repairs as well as to service debt from bonds and other outstanding obligations. The department's Capital Improvement Program funds projects aimed at enhancing efficiencies, expanding capacity, and improving resiliency. If revenue collections are insufficient for critical projects, such as infrastructure improvements or climate change mitigation efforts, the department will adjust fees accordingly across all maritime users.

Given this framework, we would encourage the committees to allow the Department of Transportation to continue overseeing fees across maritime users without imposing additional charges outside of this established structure. While concerns about climate change and infrastructure needs are valid, this bill risks disrupting a well-functioning system in a way we believe is unnecessary.

For the reasons outlined above we respectfully ask that you do not advance this bill.

Hawaii State Senate
Committee on Transportation and Culture & the Arts
Committee on Agriculture & the Environment

Wednesday, February 5, 2025, 1:01 pm

SB634, RELATING TO MARINE PASSENGER FEES
Testimony In Opposition

To: Sen. Chris Lee, Chair of Committee on Transportation and Culture & the Arts
Sen. Mike Gabbard, Chair of Committee on Agriculture & the Environment

From: Cruise Lines International Association

Re: In Opposition – SB634, RELATING TO MARINE PASSENGER FEES

Aloha Chairs Lee and Gabbard, and Members of the Committees:

My name is Michael McGarry, Senior Vice President, Government Affairs for Cruise Lines International Association (CLIA). CLIA is a nonprofit trade association representing the major cruise lines in Hawaii and across the world. Member lines include Carnival Cruise Line, Celebrity Cruises, Crystal Cruises, Disney Cruise Line, Holland America Line, Norwegian Cruise Line, Oceania Cruises, PONANT, Princess Cruises, Regent Seven Seas Cruises, Royal Caribbean International, Seabourn, Silversea Cruises and Windstar Cruises. In Hawaii, member lines work to promote the islands and provide economic opportunities across the state in Honolulu, Hilo, Kailua-Kona, Kahului, Lahaina and Nawiliwili.

CLIA appreciates the opportunity to provide testimony in opposition to SB634, Relating to Marine Passenger Fees.

SB634 seeks to establish a new “cruise ship passenger fee” to be collected and administered by the Department of Transportation (DOT). As the measure’s purpose clause states, courts have held that such fees “must benefit the cruise ship” to avoid running afoul of the Tonnage Clause of the United States Constitution or the River and Harbors Appropriation Act of 1899.

Cruise ships in Hawaii share infrastructure, services and resources with many other harbor users. As you may be aware, CLIA member lines already pay “passenger fees” similar to the one proposed, in addition to other numerous existing DOT-Harbors administered tariffs and fees.

These fees are levied by DOT to support the shared infrastructure, staffing and resource needs across many harbor users. Doing so enables a more strategic and comprehensive approach for the department to make improvements that benefit all users rather than just one industry. A single dedicated fee for the cruise industry as proposed in SB634 would be difficult to administer given the need to “benefit the cruise ship”. We also question whether charging fees without a clear, executable plan and timeline for the expenditure of those funds to benefit cruise ships is permissible or prudent given the Tonnage Clause and federal law.

While we appreciate the intent of the measure, we strongly urge the committees to thoughtfully consider the current tariffs and fees administered by DOT Harbors and to understand its purpose and uses before establishing a new fee that risks causing unintended consequences for the cruise ship industry and the communities across the islands that it benefits.

For these reasons, we respectfully request the committees to defer this measure.



LATE

Testimony on SB 634, Marine Passenger Fees

Senate Committee on Transportation and Culture and The Arts and
Committee Agriculture and the Environment
February 5, 2025

Aloha Chair Lee, Chair Gabbard, and members of the committees:

The Hawaii Harbors Users Group (HHUG) is writing to **respectfully oppose SB 634**, relating to marine passenger fees. This bill would establish a cruise ship passenger fee.

Cruise ships in Hawai'i utilize shared harbor infrastructure, services, and resources alongside numerous other maritime users. The cruise industry already contributes to the maintenance and operation of these facilities through existing passenger-related fees, as well as a range of other charges administered by the Department of Transportation-Harbors Division. These established fees are designed to ensure that harbor improvements, staffing, and resources are managed holistically to benefit all users rather than singling out a specific sector. Implementing an additional fee exclusively targeting cruise ship passengers would disrupt this balanced approach, creating an inequitable financial burden on one industry while overlooking the broader, system-wide needs of Hawai'i's harbors.

We request that the legislature allow the Department of Transportation to continue overseeing fees across maritime users without imposing additional charges outside of this established structure.

Mahalo for the opportunity to testify in opposition to this bill.