

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



EDWIN H. SNIFFEN
DIRECTOR
KA LUNA HO'OKELE

Deputy Directors
Nā Hope Luna Ho'okele
DREANALEE K. KALILI
TAMMY L. LEE
CURT T. OTAGURO
ROBIN K. SHISHIDO

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

March 18, 2025
3:00 P.M.
State Capitol, Room 224

H.B. 1159, H.D. 2
RELATING TO COMMERCIAL HARBORS

Senate Committee on Transportation and Culture and the Arts

The Department of Transportation (DOT) **supports** this measure that clarifies the requirement of vessels to evacuate a commercial harbor upon order by the harbor master during an emergency and to set penalties for noncompliance. This bill was included in the Governor's Package at DOT's request.

In times of emergency, it is essential that commercial harbor users evacuate the commercial harbors when ordered by the harbor master. There have been instances when the United States Coast Guard has closed a commercial harbor as part of an emergency response, and persons responsible for a vessel have not followed the harbor master's order to evacuate. In 2020, during Hurricane Douglas, 11 vessels failed to follow orders to evacuate and neither requested nor received permission to remain in port. In separate heavy weather events, vessels have broken loose from berths, sunk, and impeded delivery of cargo.

With the clarification of both the requirement and the associated penalty for non-compliance, this bill aims to encourage vessel owners, agents, and crew to plan ahead for port closures and develop plans for evacuation.

Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STEPHEN F. LOGAN
MAJOR GENERAL
ADJUTANT GENERAL
KA 'AKUKANA KENELALA

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT
KAHU HO'OMALU PŪLIA

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
HAWAI'I EMERGENCY MANAGEMENT AGENCY
4204 DIAMOND HEAD ROAD
HONOLULU, HAWAI'I 96816-4420

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 1159 HD2,
RELATING TO COMMERCIAL HARBORS

BEFORE THE SENATE COMMITTEE ON
TRANSPORTATION AND CULTURE AND THE ARTS

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

MARCH 18, 2025

Aloha Chair Lee, Vice-Chair Inouye, and Members of the Committee:

Thank you for the opportunity to submit testimony to **SUPPORT** House Bill 1159 HD2.

The Hawai'i Emergency Management Agency strongly supports this measure, which seeks to amend Chapter 266 of the Hawai'i Revised Statutes by establishing clear authority for harbor masters to issue evacuation orders during emergencies, along with enforceable penalties for non-compliance. This bill is vital to improving the safety and security of Hawai'i's commercial harbors during natural disasters and other emergencies.

HIEMA recognizes that our state is susceptible to various hazards, including hurricanes, tsunamis, and volcanic eruptions. This bill ensures a coordinated, swift response to protect lives, safeguard property, and minimize damage in our harbors during times of crisis. Having an enforceable evacuation mechanism will greatly improve the state's ability to respond to emergencies and avoid chaos in commercial harbor zones.

The penalties outlined in this measure send a strong message about the importance of obeying evacuation orders. This level of accountability is necessary to ensure that all parties involved in harbor operations take evacuation orders seriously. HIEMA believes that this provision will improve compliance and contribute to more effective emergency responses, especially when time is of the essence.

HIEMA is committed to working alongside the Department of Transportation and other stakeholders to ensure the safety of our state's harbors. This legislative initiative aligns with our goal of strengthening emergency preparedness and response efforts across Hawai'i's islands.

Thank you for affording HIEMA the opportunity to provide testimony on House Bill 1159 HD2.

James Barros: james.barros@hawaii.gov; 808-733-4300

Testimony of Matson Navigation Company, Inc.
Comments on HB1159, HD2
Before the Committee on Transportation and Culture & Arts
March 18, 2025

Dear Chair Lee, Vice Chair Inouye, and Members of the Committee:

Matson Navigation Company, Inc., (Matson) respectfully offers amendments on HB1159, HD2, Relating to Commercial Harbors.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support safe, dependable, and efficient cargo transportation and logistics to timely service our residents and businesses who depend on these goods, vehicles, materials, and fuel on all major islands.

The Maritime Heavy Weather and Hurricane Plan by the United States Coast Guard ("USCG") Captain of the Port is comprehensive and protects all harbor users. Annex C of the USCG Captain of the Port Sector Honolulu "Maritime Heavy Weather & Hurricane Plan," the Captain of the Port Honolulu provides that oceangoing vessels of 300 gross tons or more will be required to leave the port. Vessels of 200 to 300 gross tons will be required to leave the port unless they have received the Captain of the Port's permission to remain. Vessels under 200 gross tons planning to stay in port during a heavy weather event are required to submit a mooring plan for approval by the Captain of the Port and the Hawaii Department of Transportation. For your convenience, this is attached to our testimony. As drafted, this measure appears to create ambiguity as to whose orders vessels must follow by mandating that all vessels regardless of size follow the Hawaii Department of Transportation Harbors Division's harbor master assigned to the respective harbor. During an emergency, it is critical for vessels to know which order to follow.

Accordingly, we respectfully request the following amendment to the definition of "vessel":

"Vessel" includes all description of watercraft under two hundred gross tons that are used or are capable of being used as a means of transportation on or in the water." (amendment highlighted).

Thank you for considering our suggested amendments.

Annex C – Maritime Heavy Weather & Hurricane Plan

Purpose

This plan provides guidance to the Hawaiian Islands and maritime community within the CG Captain of the Port (COTP) Honolulu Zone on steps that should be taken and critical risk factors to consider: before, during, and after heavy weather. It should be used by all marine interests to prepare plans for terminals, facilities, vessels and/or marine operations.

This plan is developed to ensure that ports within the COTP Honolulu zone have taken all practical precautions for severe weather, including the worst case scenario—a direct hit by a major hurricane. For hurricanes, most of the preventive provisions and requirements of this Annex are intended to be enacted prior to the onset of *sustained* Gale Force Winds, *when hurricane conditions* (winds and surge) *are predicted to follow*. When Gale Forces Winds are expected, but hurricane conditions are not predicted to follow, the COTP may elect not to implement all of the requirements outlined in this plan. In any case, due to the unpredictable nature of tropical storms and hurricanes, marine interests should plan for the worst case.

Key Terms & Definitions

1. Storm Terminology - The National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (NWS) provides advance warning of tropical storms and hurricanes on a national basis. The Central Pacific Hurricane Center (CPHC) identifies and tracks storms between Longitudes 140° West to 180° and gives warnings of those storms affecting the Hawaiian Islands and North of the equator. Information from these two agencies can be obtained on line at: <http://www.weather.gov/Hawaii> and <http://www.weather.gov/cphc>, respectively. Please note that a storm need not be considered a hurricane for the provisions of this plan to be enacted by COTP Honolulu.
2. The following terminology is used throughout this plan:

Terminology	Sustained Wind Speed
Gale Force Winds	39-54 MPH (34-47 KTS)
Tropical Storm Force Winds	Cyclonic winds 39-73 MPH (34-63 KTS)
Hurricane Force Winds	74 MPH (64 KTS) or greater

3. Storm Alert Status: The NWS and CPHC will issue warnings as storms intensify and move closer to our area. The following is a summary of the alert conditions;

NWS Alert	When Issued
Tropical Storm Watch	Tropical Storm Force Winds predicted to impact the watch area within 48 hours.

Tropical Storm Warning	Tropical Storm Force Winds predicted to impact the area within 36 hours.
Hurricane Watch	Hurricane or hurricane conditions are predicted to impact the watch area within 48 hours.
Hurricane Warning	Hurricane Force Winds or a combination of dangerously high water and very rough seas, predicted to impact the warning area within 36 hours or less.

4. Hurricane Categories - The strength of a hurricane is measured by its maximum sustained wind speeds. Hurricanes are categorized as follows:

Hurricane Category	Sustained Wind Speed
Category 1	74-95 MPH (64-82 KTS)
Category 2	96-110 MPH (83-95 KTS)
Category 3	111-129 MPH (96-112 KTS)
Category 4	130-156 MPH (113-136 KTS)
Category 5	> 157 MPH (>137 KTS)

Note: Category Three, Four, and Five are MAJOR STORMS.

5. Port Heavy Weather Conditions – Port Heavy Weather Conditions are set by the Coast Guard for the maritime community ports and are used to describe, generally, restrictions needed to protect life, vessels, facilities, ports, and the environment for severe weather. **Port Heavy Weather Conditions** will be changed for **each specific commercial port** as the threat of severe weather increases, or as storms approach our area.

Port Heavy WX Condition	When Set
Hurricane Season Preparedness	The Hurricane Season Preparedness is set each year during Hurricane Season 01 June to 30 November .
Condition <i>Whiskey</i>	The ALERT condition in which winds above 34 knots (39 MPH) are expected within 72 hours .
Condition <i>X-Ray</i>	The READINESS condition in which winds above 34 knots (39 MPH) are expected within 48 hours .
Condition <i>Yankee</i>	The WARNING condition in which winds above 34 knots (39 MPH) are expected within 24 hours .
Condition <i>Zulu</i>	The DANGER condition in which winds above 34 knots (39 MPH) are expected within 12 hours and until the storm has passed and is no longer a threat.

Responsibilities

General

The primary responsibility for natural disaster preparation and response rests with affected individuals, private industry, state and local government. This plan provides the general recommended actions to be taken by each member of the maritime community with the ultimate goal of having everyone completely prepared for an approaching storm. This plan cannot foresee all situations or conditions and therefore does not reduce or replace the responsibility of any person or organization to exercise prudent judgement in the preparation for and response to heavy weather conditions.

The Captain of the Port Honolulu will close ports and waterways whenever conditions pose an unacceptably high risk to vessel and facility safety. Post heavy weather recovery emphasis is put on immediate surveys of channel blockage and prioritization of steps necessary to resume essential, then normal vessel traffic.

Preparations for the arrival of a storm are critical to the safety and security of the port. Timely preventative actions and corrections of hazardous conditions may significantly eliminate or reduce the loss of life and property during heavy weather. It is the responsibility of every agency, organization, and individual in the maritime community to take every precaution to minimize potential damage.

Captain of the Port (COTP) Responsibilities

The Coast Guard is one of several Federal agencies that respond to actual or threatened natural disasters or emergencies. The COTP Honolulu is responsible for the safety and security of the ports within a zone that includes the islands and atolls of the Hawaiian island chain and American Samoa. The COTP will oversee actions that are intended to safeguard the port against damage that may be caused by heavy weather.

Upon initial notification of a storm that has the potential for affecting the COTP zone, the COTP will begin tracking the storm. The COTP will issue Broadcast Notice to Mariners (BNTMs) on VHF-FM Channels 16 and 22A, when a storm's trajectory, speed, or strength poses a threat to the Hawaiian Islands. The basis for whether or not a BNTM will be issued is based on information obtained from the National Weather Service and other forecasting resources available to the COTP. The intent of issuing BNTMs is to ensure that reasonable and timely preparations can be made by the maritime community to minimize damage from heavy weather. In American Samoa, Industry will receive these same notifications via phone calls from the local Coast Guard representative to the COTP.

It is important to note that changes in storm speed, direction and conditions can change in an accelerated rate and may influence the settings of **Port Heavy Weather Conditions**.

Separate conditions may be set at different times for different ports, so pay close attention to notifications set by the COTP to see the condition set for your area.

Sector Honolulu will attempt to pass updates on forecasted closure times three times a day with a morning, midday, and evening update.

Port Heavy Weather Conditions Preparations

Hurricane Season Preparedness 01 Jun to 30 Nov:

Making preparedness part of annual planning can alleviate the rush to do these things when a storm is actually approaching. These efforts include:

- Updating internal contact lists & phone numbers.
- Reviewing your company's contingency plans to minimize disruptions and ensure your business or organization is back up-and-running as early as possible.
- Attending port briefs by the Coast Guard can help in understanding the actions that the Coast Guard will be taking before, during and after the storm.
- Determining what preparedness actions your staff & workforce will need to take.
- Ensuring that your business has the proper tools and equipment that is needed for safe guarding your vessel and/or facility.

Port Condition *Whiskey* – 34 knot winds are expected within 72 hours:

Preparations for the arrival of a storm are critical to the safety and security of the port.

Specific actions and expectations should include the following:

- The Coast Guard will issue a Broadcast Notice to Mariners (BNTM) and fax out Marine Safety Information Bulletin (MSIB).
- The Captain of the Port (COTP) may restrict the operations of, or deny entry into the port to, vessels transporting oil or certain hazardous materials.
- The COTP will be minimizing the overall number of vessels in port. Oceangoing vessels 300 gross tons or more will be required to leave port. Vessels of 200 to 300 gross tons will be required to leave port unless they have received the Captain of the Port's permission to remain. This can only be obtained by submitting a "Request to Remain in Port – Commercial Vessel Survey" (see page Annex C-9) to the Coast Guard at 808-842-2624 (unless noted differently in a Marine Safety Information Bulletin). "Dead" ships or vessels or barges unable to put to sea, need to request this permission.
- Facilities must obtain permission from the COTP regarding vessels that will remain moored to the facility during heavy weather, after their plan and mooring arrangement has been inspected and approved.
- Oceangoing vessels with permission to remain in port should be moored to piers designed to moor vessels of their respective size during heavy weather.
- Open areas of piers should be cleared of possible debris hazards. Timely correction of hazardous conditions may significantly eliminate or reduce the loss of life and property during heavy weather.
- Vessel transits may be permitted so long as it is safe under forecasted weather conditions.
- Qualified vessels that desire to anchor within Pearl Harbor in accordance with the MOA must submit their information and intent to COTP for clearance by Joint Base Pearl Harbor Hickam.

Port Condition X-Ray – 34 knot winds are expected within 48 hours:

- The Coast Guard will issue a Broadcast Notice to Mariners (BNTM) and fax out Marine Safety Information Bulletin (MSIB).
- All vessels should prepare to complete cargo operations and depart port within 36 hours.
- Close coordination with Harbor Pilots is required during port evacuations.

Port Condition Yankee – 34 knot winds are expected within 24 hours:

- The Coast Guard will issue a Broadcast Notice to Mariners (BNTM) and fax out Marine Safety Information Bulletin (MSIB).
- **Port is closed** to **incoming** traffic without specific written approval of COTP.
- All cargo operations must stop, within the next 12 hours.
- All lightering and bunkering are to cease.
- All vessels must evacuate the port within the next 12 hours, unless in receipt of specific written approval of the COTP to remain in port. Masters should not expect to transit the port after that time period, and should plan accordingly.
- In cases where vessels or facilities refuse to follow the safety recommendations and fail to make adequate preparations, the COTP will issue orders to require the appropriate precautions.

Port Condition Zulu – 34 knot winds are expected within 12 hours:

- The Coast Guard will issue a Broadcast Notice to Mariners (BNTM) and fax out Marine Safety Information Bulletin (MSIB).
- **Port is closed.**
- A safety zone will be established for all affected harbor(s) within the COTP zone when winds are 12 hours away, and will remain in effect until terminated by the COTP.
- No terminal, facility or vessel operations are permitted and any vessel entering or transiting within the port without specific permission will receive a fine for violating safety zone set by COTP Honolulu.

Response (During & Immediately After the Storm):

- During the time when the storm is affecting the Captain of the Port (COTP) Honolulu zone, the COTP will monitor activities.
- Just before landfall, Coast Guard services may be impacted or degraded due to precautionary measures to preserve Coast Guard personnel and equipment for post-storm operations.
- Immediately after the storm passes, the Coast Guard will be focused on reestablishing the port operations. Coast Guard mission emphasis will be on: (1) conducting urgent search and rescue (SAR), (2) channel port survey, (3) spill response, and (4) port opening. Port operations will be focused on opening the port for commercial use.

Recovery (After the Storm):

During recovery, the Coast Guard, United States Army Corps of Engineers, and State will jointly conduct surveys of channel blockage, and prioritize steps to resume essential—then normal—vessel traffic. Plans for re-opening the port will be closely coordinated with MTSRU. Minimize risk of damage to vessels and assess the conditions of channels, aids to navigation, waterfront facilities, piers and other infrastructure. The COTP, in conjunction with the State DOT-Harbors in Hawaii and Territorial Management Coordination Office/Department of Port Administration in America Samoa, will begin sending Port Assessment Teams (PAT) to accessible areas of the zone. PATs will document all activities using logs, photographs and any other appropriate means. The Coast Guard will issue a Broadcast Notice to Mariners (BNTM) and fax out Marine Safety Information Bulletin (MSIB) to notify the reopening of the port and any special conditions.

Evacuation vs. Lay-up

General

The determination to leave a vessel in port or send it out to sea during a hurricane should be made long before the start of hurricane season. This requires foresight and planning on the part of vessel owners/operators to determine what is the safest action for the vessel and its crew and what resources are necessary to execute those plans. If a vessel owner/operator plans on leaving the vessel in port, then they need to consider whether or not the facilities the vessel will be laid up at will be sufficient and have the proper resources needed to hold the vessel in hurricane winds. Then they need to make the proper arrangements with the facility owner/operator to ensure that those resources will be available when a hurricane approaches the area. Finally, facility and vessel owners/operators need to receive authorization from the Coast Guard Captain of the Port (COTP) to allow them to implement those plans. Otherwise, vessel owners/operators need to have plans for safe evacuation from the port prior to the hurricane. This means properly planning cargo/transfer operations so as to have them completed to allow for the safe evacuation. It is important to note that the COTP generally will not order a terminal operator to layberth a vessel during severe weather. COTP approval of a request to remain in port will be based, in part, on providing a suitable layberth.

The following sections provide guidance to the vessel owner or agent on what they need to consider when making their decision on what actions they will take. Read through them carefully and know that they are not all encompassing and that there may still be other factors to consider depending on the individual needs of each vessel.

Vessel Evacuations

There are few safe havens within the COTP Zone in Honolulu and America Samoa. As a result, the risk of damage to our ports is minimized when the inventory of commercial vessels in port during heavy weather events is at a minimum. Accordingly, commercial ocean-going vessels and ocean-going tug/barge combinations over 200 GT will generally be required to depart the port when hurricanes approach.

The following factors should be considered when planning vessel evacuations:

1. Harbor Tugs – Masters and agents of deep draft vessels and tug/barges that require assistance during docking and transit should keep in mind that there is very limited availability of harbor tugs. For this reason, vessel owners/operators should make arrangements in advance with the harbor tug owners/operators for departing the port prior to **Port Heavy Weather Condition Yankee** (24 hours prior to storm making landfall). Failure to do so may result in difficulty in scheduling harbor tugs and/or delays that may make it difficult to evade the storm at sea. *Plan to depart the port early, and anticipate some scheduling conflicts caused by the simultaneous departure of many deep draft vessels.*
2. Pilots – Pilots generally stop working when conditions at the sea buoy prevent safe

transfer from ship to pilot boat, or at the on-set of sustained Gale Force Winds. For this reason, vessel owners/operators should make arrangements in advance with the Pilots for departing the port prior to **Port Heavy Weather Condition Yankee** (24 hours prior to storm making landfall). Failure to do so may result in difficulty in scheduling harbor tugs and/or delays that may make it difficult to evade the storm at sea.

Lay-Up Vessels

No vessel will be permitted to enter or remain in lay-up status during the hurricane season, except as provided below. Laid-up vessels unable to depart, before June 1 in the Hawaiian Islands and November 1 in America Samoa, each year must obtain written permission from the COTP to remain in port. This is done by completing the “Request to Remain in Port” form, attached to this appendix. Requests that are not fully or properly completed will not be considered, and the vessel will not receive the written permission. Requests, at a minimum, shall include a lay-up plan containing specific provisions for all categories of hurricanes.

If a vessel of over 200 gross tons experiences an unplanned situation where it is unable to evacuate, the vessel owner/operator is required to complete the “Request to Remain in Port” form, attached to this appendix. This request must be made no later than when **Port Heavy Weather Condition Whiskey** (72 hours prior to storm making landfall). Requests submitted after that will not be considered. This is vital due to the time it will take for the Coast Guard to evaluate each vessel’s request.

For purposes of this policy, a vessel is considered in lay-up status if it is not operational or undergoing repairs or contracted to commence repairs within seven (7) days. A vessel is considered operational only if it is manned, has valid certificates from the flag administration, and is prepared to conduct cargo operations or sail within 14 days of entering port.

Vessels that are under the 200 gross ton and plan on mooring up during a heavy weather event are also required to submit a mooring plan for approval from the COTP. Even though these vessels will most likely be allowed to stay in port, they still need to have a plan how they will moor their vessel and have it reviewed and approved by the COTP. These plans should be made to the COTP prior to the start of the **Hurricane Season Preparedness** (June 1 in Hawaii; November 1 in America Samoa). The “Request to Remain in Port” form may be used in submitting these plans, but more information maybe required by the COTP.

This will make it possible for the COTP to ensure that all appropriate actions are being taken through out the port and that all safety concerns are being addresses ahead of time and not at the last minute. This will also make it possible to ensure that the port or harbor that a vessel operator or owner plans to use is sufficient for safe mooring during heavy weather. It is important to note that some harbors may not be safe due to their location, exposure to open waters and/or the direction that a storm might approach. If you have questions on this please contact Sector Honolulu Prevention Department at 522-8264 ex. 260.

Request to Remain in Port--Commercial Vessel Survey

This vessel information is required by the Captain of the Port for commercial oceangoing vessels and oceangoing barges, greater than 200 gross tons, remaining or requesting to remain in port during the storm. This form should be completely filled out and faxed to 808-842-2624.

Vessel Name: _____ Call Sign: _____
Official Number: _____ Flag: _____
Vessel Master: _____ Phone: _____
Location/Facility: _____
Facility POC Name: _____ Phone: _____
Agent Name: _____ Phone: _____
Address: _____
Charter/Operator Name: _____ Phone: _____
Address: _____
Owner Name: _____ Phone: _____
Address: _____

Vessel Particulars

Length: _____ Gross Tonnage: _____ Hull Type: _____

On board Vessel

Bunkers: _____ Lube Oil: _____ Diesel Oil: _____

Ballast Capacity: _____

Estimated draft when ballasted: _____

Availability of vessel main propulsion: _____

Current condition/why requesting to remain: _____

Number of crew to remain aboard and qualifications: _____

Operational status of machinery aboard: _____

Firefighting capability of vessel: _____

Any unusual conditions affecting vessel seaworthiness:

(cont.) Request to Remain in Port--Commercial Vessel Survey

Facility Particulars

Storm berth name and location: _____
Facility POC name: _____ Phone: _____
Description of moorings: _____
DOT Harbors Approval if at State piers: _____ Approved by: _____

NOTE: A diagram showing mooring arrangements with size and number of mooring lines or wires is required as part of the checklist.

Fendering configuration and condition (attach plan if needed):

Shoreside firefighting capability: _____

Tugboat assistance available: _____

Distance to nearest obstruction (crane, drydock, building, tank, etc.) that may cause damage to vessel: _____

Distance to nearest oil storage facility, oil pipelines, hazmat facility, oil or hazmat storage tanks at facility where vessel is to be moored: _____

Open areas of docks, wharves and piers cleared of missile hazards: _____

Has the facility had an engineering study done to determine the maximum size of vessel with maximum winds which could safely moor at facility: _____

Study done by: _____

Condition of bollards, dolphins and deadmen: _____

Is facility capable of holding vessel: _____

Vessel person in charge

State DOT persons in charge

Facility person in charge

POST-STORM SURVEY

Survey team comments: _____

Survey team: _____ Team leader: _____

Survey date: _____ Survey time: _____

Request to Anchorage of Commercial Vessels in Pearl Harbor for Pre-Hurricane Situations

(This Section To Be Developed)

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Request to Activate Alternate Port in Pearl Harbor for Post-Hurricane Cargo Off-load Operations

(This Section To Be Developed)

Consider adding info (maybe in a separate Annex) on potential Alternate Port in Pearl Harbor including need to request it by State, notice from COTP to JBPHH and CG Alternate Port Working Group describing this.

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March 16, 2025

Testimony in Opposition of HB1159(HD1)

Aloha Chair Lee, Vice Chair Inouye, and Members of the Committee,

The Hawaii Longline Association (HLA) opposes HB1159(HD1) because we believe the safest place to be during a heavy weather event such as hurricane is in a safe harbor. This is consistent with existing US Coast Guard policy and guidance. In event of an approaching hurricane, the US Coast Guard issues port conditions (Whiskey, X-Ray, Yankee, Zulu) for vessels. Under port condition Whiskey, when gale force winds are expected within 72 hrs, ocean going cargo ships and barges (200 gross tons or more) must notify the USCG if they are going to remain in port or submit and follow an approved mooring plan.

Prior to 2018, vessels smaller than 200 gross tons including fishing vessels were not subject to Harbor evacuation orders issued by the State Harbors Division. To our understanding, there is no publicly available risk assessment that supports the shift in 2018 to require evacuation of small vessels from the State's commercial harbors. It is the long-standing position of HLA that because Hawaii longline vessels are not large (less than 200 gross tons), forcing our vessels into the potential path of a dangerous hurricane puts lives at risk. DOT Harbors should develop a vessel evacuation plan in consultation with the US Coast Guard and harbor users to identify alternative mooring areas in the event of a DOT commercial harbor.

HB1159(HD1) would provide Harbors Division the ability to fine a vessel that does not evacuate a commercial harbor an amount of \$10,000 per day and 1-year suspension from operating within one of its commercial harbors. Such fines and penalties are so severe as to likely put that vessel out of business. Forcing vessel owners to choose between potentially losing their business or risk the lives of their crew and their own life in hurricane conditions at sea needs to be considered.

We respectfully request the following amendments (highlighted):

“(a) During an emergency, any master or person in charge of a vessel using the commercial waterways and facilities under the jurisdiction of the department of transportation shall comply with and carry into effect any evacuation order from a commercial harbor issued by the harbor master assigned to that commercial harbor; provided that this subsection shall not apply to a vessel with a mooring plan approved by the United States Coast Guard.”

(b) Notwithstanding any law to the contrary, any person, including but not limited to a vessel master, agent, owner, or 13 crew, who violates this section shall may be fined \$10,000 for each day of violation per vessel to be deposited into the harbor special fund pursuant to section 266-19; provided that in addition to the fines, a court, the department of transportation, or a hearing officer may deprive the offender the privilege of entering the secured area of a commercial harbor or obtaining an operating or mooring permit for any vessel in a commercial harbor for a period of one year.

(d) Prior to imposing any fines and penalties under subsection (b), the department of transportation harbors division shall consult with the United States Coast Guard and harbor users to develop a

hurricane evacuation plan(s) that identifies areas of safe mooring for vessels required to evacuate DOT Commercial Harbors.

Thank you for the opportunity to testify on this bill.

Mahalo

A handwritten signature in blue ink, appearing to read "E.K.K." with a stylized flourish extending to the right.

Eric K. Kingma, Ph.D.
Executive Director