



GOV. MSG. NO. 682

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 29, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2263 SD1, without my approval, and with the statement of objections relating to the measure.

HB2263 SD1

A BILL FOR AN ACT RELATING TO HARBORS.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

April 29, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2263

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2263, entitled "A Bill for an Act Relating to Harbors."

The purpose of this bill is to amend section 266-3, Hawaii Revised Statutes, to grant the Director of Transportation the specific power to adopt administrative rules limiting the noise emanating from State commercial harbors. The bill also amends section 291-36, Hawaii revised Statutes, to exempt from scaling any vehicles used in transshipping neighbor island bound cargo directly between piers located in Honolulu Harbor and any activities limited to crossing a public road, street, or highway within the State at locations approved by the director of transportation, in the case of State highways, or the county engineer, in the case of county roads and streets.

This bill is objectionable because part I relating to harbor noise imposes an unduly burdensome responsibility on the Department of Transportation, Harbors Division, to adopt administrative rules for the regulation and enforcement of noise emanating from State commercial harbors. The Harbors Division is currently implementing the Harbors Modernization Plan, which will understandably add to the activities of our harbors. Persons who moved into the area near commercial harbors knew, or should have known, that there would be noise emanating from the

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 2263
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harbor due to cargo operations. To reduce noise, cargo operations may have to be restricted or costly noise abatement programs may have to be implemented, which could have harmful effects on the transport of goods into and out of the State and through the commercial harbor system.

Part II of the bill relating to the scaling of vehicles is also objectionable because it is in the interest of public safety that the Department of Transportation be able to ascertain the weight of all cargo-transporting vehicles that use the State's highways and bridges. All bridges have weight limitations and the weight of all cargo-transporting vehicles should be verified for compliance. In addition, over-weight vehicles increase the deterioration of highways and bridges at a faster rate and accelerate the need for repair and maintenance. Scaling ensures that vehicles remain within acceptable and safe weight limits and that violators pay their fair share of repair and maintenance costs.

For the foregoing reasons, I am returning House Bill No. 2263 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

VETO

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

H.B. NO. 2263
S.D. 1

A BILL FOR AN ACT

RELATING TO HARBORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

1
2 SECTION 1. Section 266-3, Hawaii Revised Statutes, is
3 amended by amending subsection (a) to read as follows:

4 "(a) The director of transportation may adopt rules as
5 necessary to:

6 (1) Regulate the manner in which all vessels may enter and
7 moor, anchor or dock in the commercial harbors, ports,
8 and roadsteads of the State, or move from one dock,
9 wharf, pier, quay, bulkhead, landing, anchorage, or
10 mooring to another within the commercial harbors,
11 ports, or roadsteads;

12 (2) The examination, guidance, and control of harbor
13 masters and their assistants and their conduct while
14 on duty;

15 (3) The embarking or disembarking of passengers;

16 (4) Limit, where possible, the allowable noise that may
17 emanate from vessels while using the commercial



1 harbors, ports, roadsteads, docks, wharves, piers,
2 quays, bulkheads, and landings of the State;

3 [~~4~~] (5) The expeditious and careful handling of freight,
4 goods, wares, and merchandise of every kind which may
5 be delivered for shipment or discharged on the
6 commercial docks, wharves, piers, quays, bulkheads, or
7 landings belonging to or controlled by the State; and

8 [~~5~~] (6) Defining the duties and powers of carriers,
9 shippers, and consignees respecting passengers,
10 freight, goods, wares, and merchandise in and upon the
11 docks, wharves, piers, quays, bulkheads, or landings
12 within the commercial harbors, ports, and roadsteads
13 of the State. The director may also make further
14 rules for the safety of the docks, wharves, piers,
15 quays, bulkheads, and landings on, in, near, or
16 affecting a commercial harbor and waterfront
17 improvements belonging to or controlled by the State."

18 **PART II**

19 SECTION 2. Section 291-36, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§291-36 Exceptions.** (a) The director of transportation,
22 in the case of state highways, or the county engineer, in the



1 case of county roads and streets, may, upon application in
2 writing, issue a written permit authorizing the applicant to
3 operate or move a vehicle or combination of vehicles, self-
4 propelled construction or farm equipment, or special mobile
5 equipment of dimensions or weights, including loads or both,
6 which exceed the limits set in sections 291-34 and 291-35.

7 (b) The director of transportation, in the case of state
8 highways, or the county engineer, in the case of county roads
9 and streets, may issue a permit authorizing the applicant to
10 operate vehicles or combinations of vehicles which exceed the
11 limits set forth in section 291-35 when carrying products from
12 the place where they are harvested or stored to the place where
13 they are processed or used.

14 (c) The application for any such permit shall specifically
15 describe the vehicle or combination of vehicles, the self-
16 propelled construction or farm equipment, the load to be
17 operated or moved, the particular highways over which the permit
18 to operate is requested, and whether such permit is requested
19 for a single trip or for continuous operation.

20 (d) The director of transportation or county engineer may
21 if the director of transportation or county engineer determines
22 that adequate precautions will be taken to protect persons and



1 property issue the permit and may in the permit limit the number
2 of trips, establish seasonal or other time limitations during
3 which the permit is valid, prescribe conditions as to route,
4 equipment, speed, escort vehicles, safety measures, or otherwise
5 limit or prescribe conditions of operation under such permit to
6 assure against injury to person and undue damage to the road
7 foundations, surfaces, or structures. The issuing authority may
8 also require such undertaking or other security as may be deemed
9 necessary to protect the highways and bridges from damage, or to
10 provide indemnity for any injury resulting from such operation.
11 The permit shall be valid for the period specified or unless
12 sooner revoked by the issuing authority.

13 (e) Every such permit shall be carried in the vehicle or
14 combination of vehicles or the self-propelled construction or
15 farm equipment to which it refers and shall be open to
16 inspection of any peace officer or traffic officer or employee
17 charged with the care or protection of the highways; provided
18 that in the case of annual permits, this requirement may be met
19 where a copy of the permit is carried in the vehicle, and the
20 original permit is readily available for inspection from the
21 operator's offices in the county of issuance.



1 (f) The owner of any vehicle or combination of vehicles or
2 self-propelled construction or farm equipment found operating in
3 violation of the terms or conditions of any permit or over
4 sections of the highway not covered by the permit shall be
5 subject to the penalties provided in section 291-37.

6 (g) The restrictions of sections 291-34 and 291-35 shall
7 not apply to the operation of motor vehicles on roads now under
8 the control of the counties where a private individual or
9 corporation actually maintains the county road or roads under an
10 agreement in writing filed with the respective county or city
11 council. The agreement shall also provide that the individual
12 or corporation shall repair all damages caused to such roads by
13 vehicles or other self-propelled equipment belonging to or under
14 the control of the individual or corporation and upon failure of
15 the individual or corporation to repair such road or roads as
16 provided in such agreement, the county may repair such damages
17 and charge the cost thereof to and collect the same from the
18 individual or corporation.

19 (h) Nothing in this chapter shall prevent motor vehicles
20 with a width of greater than nine feet, including load, from
21 crossing any public road, street, or highway within the State.



1 (i) No provision herein shall be so construed as to
2 prevent the passage of ordinances by any county which impose
3 restrictions more severe in nature.

4 (j) A fee shall be charged for each permit issued by the
5 director of transportation as follows:

6 (1) Single trip permit for loads less than 1.35 times
7 the allowable load or less than 14 feet in width .. \$ 5.

8 (2) Continuous trip permit for loads less than 1.35
9 times the allowable load or less than 14 feet in
10 width \$10.

11 (3) Overweight permit in excess of 1.35 times the
12 allowable load \$25.

13 (4) Oversize permit for width in excess of 14 feet \$25.

14 Such fee shall be deposited in the State's account for
15 special funds for highways.

16 (k) Notwithstanding any law to the contrary, no permit
17 shall be required for any vehicle or combination of vehicles
18 used in agricultural operations or activities which only crosses
19 any public road, street, or highway within the State at
20 locations approved by the director of transportation, in the
21 case of state highways, or the county engineer, in the case of
22 county roads and streets; provided that:



- 1 (1) The owners of vehicles transporting agricultural
2 products and equipment shall construct and maintain
3 structurally suitable pavement sections at each
4 crossing;
- 5 (2) These owners shall provide for the cleaning and
6 removal of all debris and mud generated by their
7 operation;
- 8 (3) The maximum length of vehicles transporting
9 agricultural products shall be limited to not more
10 than eighty feet; and
- 11 (4) The maximum length of vehicles, including load, used
12 in transporting agricultural equipment shall be
13 limited to not more than one hundred feet.
- 14 (1) Notwithstanding any law to the contrary, no scaling
15 shall be required for:
- 16 (1) Any vehicle or combination of vehicles used in
17 transshipping neighbor island bound cargo directly
18 between piers in Honolulu harbor; or
- 19 (2) Any activities limited to crossing a public road,
20 street, or highway within the State at locations
21 approved by the director of transportation, in the



1 case of state highways, or the county engineer, in the
2 case of county roads and streets."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

