



# SB2632

Measure Title:	RELATING TO CARGO INSPECTIONS.
Report Title:	Department of Public Safety; Sheriff Division; Department of Transportation; Shipping Container Inspection Program; Illegal Fireworks; Explosives; Fees; Penalties; Appropriation (\$)
Description:	<p>Increases fines for violations of the fireworks control law. Authorizes the department of public safety, sheriff division, to inspect shipping containers for explosives and illegal fireworks. Requires DPS, in collaboration with DOD, DOT, and other federal and state agencies, to establish a shipping container inspection program to randomly inspect shipping containers for illegal fireworks and explosives using explosive-sniffing dogs. Requires DOT to assess a fee of \$1 on all shipping containers for FY 2016-2017 and a fee of \$2 thereafter to fund the program. Establishes the shipping container inspection program special fund. Makes an appropriation.</p>
Companion:	<a href="#">HB2485</a>
Package:	None
Current Referral:	PSM/TRE, WAM
Introducer(s):	ESPERO, GALUTERIA, HARIMOTO, NISHIHARA, SHIMABUKURO, L. Thielen

STATE OF HAWAII  
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 2632  
A BILL RELATING CARGO INSPECTIONS

PRESENTATION TO  
THE SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL,  
AND MILITARY AFFAIRS; AND TRANSPORTATION AND ENERGY

BY  
MAJOR GENERAL ARTHUR J. LOGAN  
ADJUTANT GENERAL  
AND DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY  
February 11, 2016

Chairs Nishihara and Inouye, Vice Chairs Espero and Gabbard, and Members of the Senate Committees on Public Safety, Intergovernmental, and Military Affairs; and Transportation and Energy.

I am Major General Arthur J. Logan, State Adjutant General and the Director of the Hawaii Emergency Management Agency. I am testifying in support of the intent of Senate Bill 2632.

This measure will

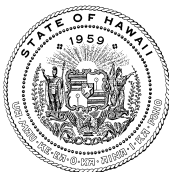
Allow the Department of Public Safety to collaborate with the Department of Defense and Transportation to develop and implement a cargo inspection program.

Adds a provision that the Hawaii National Guard may be utilized to assist in the random inspection of shipping containers.

The Department of Defense would require additional funding to place National Guard members of state active duty to support these taskings.

Thank you for allowing me to testify in support of the intent of Senate Bill 2632.

DAVID Y. IGE  
GOVERNOR



WRITTEN ONLY

WESLEY K. MACHIDA  
DIRECTOR

RODERICK K. BECKER  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEES ON TRANSPORTATION AND ENERGY AND  
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS  
ON  
SENATE BILL NO. 2632**

February 11, 2016  
3:00 p.m.

**RELATING TO CARGO INSPECTIONS**

Senate Bill (S.B.) No. 2632 establishes a Shipping Container Inspection Program using explosive-sniffing dogs to inspect cargo shipments after arrival at the harbors and identifies the Department of Public Safety (PSD) as the lead State agency to coordinate the shipping container inspections. The bill states that PSD may request funding from the federal government for homeland security and port security measures and work with the military to secure other funding sources for the purposes of this program.

S.B. No. 2632 also establishes in the State treasury the Shipping Container Inspection Program Special Fund into which shall be deposited appropriations by the Legislature to the special fund; gifts, donations, and grants from public agencies and private persons; and all proceeds collected by the Department of Transportation (DOT) from shipping container import fees under Section 266-B(c). The funds will be used for support and administration of the Shipping Container Inspection Program established under Section 266-B.

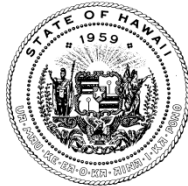
Regarding fees and fines, S.B. No. 2632 states that beginning July 1, 2016, DOT shall assess a fee of \$1 for each shipping container arriving in the State and beginning July 1, 2017, DOT shall assess a fee of \$2 for each shipping container arriving in the State. All fees received by DOT pursuant to this subsection shall be deposited into the Shipping Container Inspection Program Special Fund. Furthermore, the bill amends Section 132D-14, HRS, to increase the ceiling for fines from \$2,000 to \$5,000 for each violation.

Additionally, S.B. No. 2632 appropriates out of the general revenues the sum of \$250,000 for FY 17 to be deposited into the Shipping Container Inspection Program Special Fund established by this Act. The bill also appropriates out of the Shipping Container Inspection Program Special Fund the sum of \$250,000 for FY 17 for costs to establish and administer the container inspection program, including the purchase, care, and handling of at least two explosive-sniffing dogs.

While the Department of Budget and Finance does not take any position on the policy of the shipping container inspection program, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. 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) provides an appropriate means of financing for the program or activity; and
- 4) demonstrates the capacity to be financially self-sustaining.

In regards to this bill, it is difficult to determine whether the special fund meets the criteria to establish a special fund.



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

**Testimony by:**  
**FORD N. FUCHIGAMI**  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

February 11, 2016  
2:45 p.m.  
State Capitol, Room 229

**S.B. 2632**  
**RELATING TO CARGO INSPECTIONS**

Senate Committee(s) on Public Safety and Military Affairs  
& Transportation and Energy

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The Department of Transportation (DOT) **supports the intent** of this measure, but offers the follow comments for consideration.

This measure seeks to implement recommendations from the Report of the Illegal Fireworks Task Force and establish a shipping container inspection program using explosive sniffing dogs to inspect cargo shipments after arrival at the harbors.

The Port Hawaii Harbor System currently consists of ten commercial harbors on six islands: two on Kauai (Port Allen and Nawiliwili), two on Oahu (Kalaeloa and Honolulu), one on Lanai (Kaumalapau), one on Molokai (Kaunakakai), two on Maui (Kahului and Hana), and two on Hawaii Island (Hilo and Kawaihae).

80% of all goods consumed in Hawaii are imported, of which 99% of all goods move through the Port Hawaii system. These goods move primarily through the "just in time" hub-and-spoke distribution system originating in Honolulu Harbor. Any untimely delays could have tremendous impacts on the continuity of cargo being shipped to the neighbor islands.

**BREAK DOWN OF DOMESTIC AND FOREIGN CARGO**

In Fiscal Year 2015, there were 590,000 total container movements through the Port Hawaii Harbor System, as follows:

- 284,000 movements were inter-island shipments;
- 262,000 movements were from domestic ports on the U.S. mainland; and
- 44,000 movements were from foreign destinations.

## PORT SECURITY MEASURES

### **Maritime Security (MARSEC)**

All Port Hawaii harbors are secured by fences and gates, and the management of and public access to the facilities are inspected and approved by the U.S. Coast Guard under the MARSEC system

MARSEC is the three-tiered U.S. Coast Guard Maritime Security system (alert state) designed to easily communicate to the U.S. Coast Guard and the maritime industry pre-planned scalable responses for credible threats.

The U.S. Coast Guard originally created MARSEC to be compatible with, and respond in unison to the Department of Homeland Security (DHS) Homeland Security Advisory System (HSAS). With the introduction of the National Terrorism Advisory System (NTAS) to replace HSAS, the Commandant of the Coast Guard will adjust the MARSEC Level, if appropriate, based on any NTAS Alert issued by DHS.

The current MARSEC Levels are as follows:

**Level 1** - Minimum appropriate security measures shall be maintained at all times.

**Level 2** - Appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a transportation security incident.

**Level 3** - Further specific protective security measures shall be maintained for a limited period of time when a transportation security incident is probable, imminent, or has occurred, although it may not be possible to identify the specific target.

### **Transportation Worker Identification Credential (TWIC)**

All workers on DOT Harbors properties MUST obtain a TWIC card for access onto the piers. The Maritime Transportation Security Act requires a TWIC for workers who need access to secure areas of the nation's maritime facilities and vessels. TSA conducts a security threat assessment (background check) to determine a person's eligibility and issues the credential. U.S. citizens and immigrants in certain immigration categories may apply for the credential. Most mariners licensed by the U.S. Coast Guard also require a credential.

### **Facility Security Plan**

Each of our Harbor Facilities, open for commerce, must also have a Facility Security Plan approved by the U.S. Coast Guard. The U.S. Coast Guard implemented maritime security regulations in Title 33 CFR Subchapter H. A prime element of these requirements is security assessments and plans, as well as communication procedures, for MTSA-regulated vessels, facilities, and Outer Continental Shelf (OCS) facilities. These security assessments, security plans and Declarations of Security (DoS) involve collections of information that are vital to securing the safety of maritime areas. These requirements are critical in determining appropriate security measures to reduce the risk of a Transportation Security Incident (TSI).

Each facility owner or operator must develop an effective security plan that incorporates detailed preparation, prevention, and response activities for each MARSEC Level, and detail the organizations or personnel responsible for carrying out those activities. These requirements are consistent with the International Ship and Port Facility Security Code (ISPS). Facility owner or operator responsibilities include:

- Designating a Facility Security Officer;
- Ensuring a Facility Security Assessment is conducted;
- Developing and submitting for approval a Facility Security Plan;
- Operating the facility in accordance with the approved Facility Security Plan;
- Implementing additional security measures required by changes in MARSEC Level;
- Reporting all breaches of security;
- Coordinating shore leave for vessel personnel or crew change-out, as well as access through the facility of visitors to the vessel, including representatives of seafarers' welfare and labor organizations, in advance of a vessel's arrival;
- Ensuring security for unattended vessels moored at the facility; and
- Ensuring consistency between security and safety requirements.

#### INSPECTION OF CONTAINERS

While DOT supports the reduction of the number of illegal fireworks on Oahu, we note that the shipment of fireworks to certain neighbor island destinations for public consumption is legal. Requiring the notification of shippers to the respective Fire Chiefs of whether the shipment of fireworks will be from pier to pier, from pier to warehouse, or from pier to redistribution may not resolve the problem.

The Hawaii Harbors User Group (HHUG), a business association consisting of a majority of operators and workers of the State's commercial harbors, confirms that each shipping company already reports all containers designated to transport fireworks to the appropriate agencies as required.

Cargo moves into, out of, and through our state's ports very efficiently: container ships are loaded and unloaded at a rate of 900 containers per day and there are upwards of 2,000 truck movements per day. All this activity occurs in a limited cargo yard space. There is simply no time or area for containers to be broken, sorted, and re-arranged as has been suggested. The primary cargo transporters in Hawaii, Matson, Pasha, and Young Brothers, are currently at or over capacity. DOT seeks appropriations this year for the construction of the 84-acre Kapalama Container Terminal and the Designated Fuel Pier at Kalaeloa to alleviate this congestion and address the capacity issues.

Rather than requiring this new notification by shippers as proposed by this bill, DOT supports the adoption of recommendations proposed in the "Report of the

Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011 in Accordance with Act 170, Session Laws of Hawaii 2010” prepared by the Legislative Reference Bureau. DOT highlights the following excerpt found on Page 21 that proposes an action for more efficient and effective inspection requirements:

*"Shipping container inspection programs can also be made more manageable if established businesses and military shipments are excluded from inspection, focusing instead on suspect containers and shippers, as well as mixed, consolidated cargo that is shipped by many different individuals, such as cargo handled by freight forwarders.*

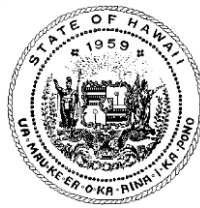
*Inspections could be conducted after recipients pick up their shipments from the harbor to avoid congestion at the ports. Random inspections at freight forwarder and common carrier locations after they pick up, open, and unload containers would help avert congestion and inefficiencies at the ports..."*

In closing, DOT supports the Task Force recommendations to better focus inspections to minimize the State's liability, chain of custody, and overall inspection costs.

Additionally, placing certain inspection powers of the Department of Public Safety within HRS Chapter 266, which specifies the duties and responsibilities of the DOT Harbors Division may not be the correct Chapter to place an inspection program.

Thank you for the opportunity to provide these comments.





STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Cathy Ross**  
Deputy Director  
Administration

**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Shawn H. Tsuha**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 2632  
RELATING TO CARGO INSPECTIONS

By  
Nolan P. Espinda, Director

Senate Committee on Public Safety, Intergovernmental Affairs, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Will Espero, Vice Chair

Committee on Transportation and Energy  
Senator Lorraine R. Inouye, Chair  
Senator Mike Gabbard, Vice Chair

Thursday, February 11, 2016; 3:00 p.m.  
State Capitol, Conference Room 229

Chairs Inouye and Nishihara, Vice Chairs Gabbard and Espero, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** Senate Bill (SB) 2632 which seeks to create new Administrative Rules and a Container Inspection program to detect illegal explosives and fireworks. Although PSD agrees with the intent of this measure, there are several issues that need to be addressed before any program of this nature and complexity can be developed.

First, the law would take effect on July 1, 2016 with the stipulation that the program start no later than October 1, 2016. It would not be possible to meet this deadline, because administrative rules must be adopted in accordance with Chapter 91, and the process is likely to take a year or longer. In addition, changes to the rules contained in Chapter 91 may impact the Department of Transportation, as well as, the Department of Public Safety, in consideration of jurisdictional and shipping rules/regulations.

Second, the selection of deputies, and purchase/training of the canines, will take at least a year, or more, due to grant funding requirements and the availability of canines and training slots.

Third, although PSD currently has assigned explosive detection canines, we do not have personnel who are qualified to determine the difference between legal-commercial and illegal fireworks.

Finally, the legal/jurisdictional requirements to inspect all legally shipped fireworks containers for illegal fireworks, as well as, a random sampling of non – explosive containers at freight forwarding, or other facilities, need to be determined prior to the establishment of the program.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHIO  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.labor.hawaii.gov](http://www.labor.hawaii.gov)  
Phone: (808) 586-8844 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

February 5, 2016

The Honorable Lorraine Inouye, Chair  
Committee on Transportation and Energy  
The State Senate  
State Capitol, Room 203  
Honolulu, Hawaii 96813

The Honorable Clarence Nishihara, Chair  
Committee on Public Safety, Intergovernmental,  
and Military Affairs  
The State Senate  
State Capitol, Room 204  
Honolulu, Hawaii 96813

Dear Chairs Inouye and Nishihara:

Subject: Senate Bill (SB) 2632 Relating to Cargo Inspections

I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support SB 2632, which proposes to curb transportation of illegal fireworks into the State of Hawaii (State) by establishing a shipping container inspection program. SB 2632 proposes an appropriation into a special fund for costs to establish and administer the container inspection program.

In recent years, an increase in illegal aerial fireworks on Oahu has been apparent. It is also widely known that a large volume of illegal fireworks are being brought into the State through incoming shipping containers. The SFC and the HFD support any means to reduce the importation of illegal fireworks into the State.

The Honorable Lorraine Inouye, Chair  
The Honorable Clarence Nishihara, Chair  
Page 2  
February 5, 2016

In 2011, Act 170 established a task force to investigate and make recommendations in an effort to reduce illegal fireworks use and the importation of illegal fireworks in the State. The report recommended increased fees and fines and random inspections.

Life, safety, and property protection are priorities of the SFC and the HFD. The SFC and the HFD urge your committees' support on the passage of SB 2632.

Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

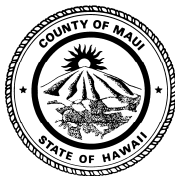
Sincerely,



MANUEL P. NEVES  
Chair

MPN/LR:clc

ALAN M ARAKAWA  
MAYOR



JEFFREY MURRAY  
FIRE CHIEF

ROBERT SHIMADA  
DEPUTY FIRE CHIEF

**COUNTY OF MAUI**  
**DEPARTMENT OF FIRE & PUBLIC SAFETY**

200 DAIRY ROAD  
KAHULUI, HI 96732  
(808) 270-7561  
Fax (808) 270-7919

February 5, 2016

The Honorable Lorraine Inouye, Chair  
Committee on Transportation and Energy  
The State Senate  
State Capitol, Room 203  
Honolulu, Hawaii 96813

The Honorable Clarence Nishihara, Chair  
Committee on Public Safety Intergovernmental  
and Military Affairs  
The State Senate  
State Capitol, Room 204  
Honolulu, Hawaii 96813

Dear Chairs Inouye and Nishihara:

Subject: Senate Bill (SB) 2632 Relating to Cargo Inspections

I am Jeffrey A. Murray, Member of the Hawaii State Fire Council (SFC) and Fire Chief of the Maui Fire Department (MFD). The SFC and the MFD support SB 2632, which proposes to curb transportation of illegal fireworks into the State of Hawaii (State) by establishing a shipping container inspection program. SB 2632 proposes an appropriation into a special fund for costs to establish and administer the container inspection program.

In recent years, it is widely apparent of the increase in illegal aerial fireworks on Oahu. It is also widely known that a large volume of illegal fireworks are being brought into the State through incoming shipping containers. The SFC supports any means to reduce the importation of illegal fireworks being brought into the State.

In 2011, Act 170, established a task force to investigate and to make recommendations in an effort to reduce illegal fireworks use and the importation of illegal fireworks in the State. The report recommended increased fees and fines and random inspections.

Honorable Lorraine Inouye, Chair

Page 2

February 5, 2016

Life, safety, and property protection are priorities of the SFC and MFD. The SFC and the MFD urge your committee's support on the passage of SB 2632.

Should you have questions please contact me at (808) 270-7561 or [fire.dept@mauicounty.gov](mailto:fire.dept@mauicounty.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Murray", with a stylized flourish at the end.

JEFFREY A. MURRAY, Chief  
Maui Fire Department

**Bernard P. Carvalho, Jr.**  
Mayor



**Robert F. Westerman**  
Fire Chief

**Nadine K. Nakamura**  
Managing Director

**KAUA'I FIRE DEPARTMENT**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite 315, Līhu'e, Hawai'i 96766  
TEL (808) 241-4980 FAX (808) 241-6508

February 5, 2016

The Honorable Lorraine Inouye, Chair  
Committee on Transportation and Energy  
The State Senate,  
State Capitol, Room 203  
Honolulu, Hawaii 96813

The Honorable Clarence Nishihara, Chair  
Committee on Public Safety Intergovernmental  
and Military Affairs  
The State Senate  
State Capitol, Room 204  
Honolulu, Hawaii 96813

Dear Chairs Inouye and Nishihara:

Subject: Senate Bill (SB) 2632 Relating to Cargo Inspections

I am Robert F. Westerman, Vice Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD support SB 2632, which proposes to curb transportation of illegal fireworks into the State by establishing a shipping container inspection program. It proposes an appropriation into a special fund for costs to establish and administer the container inspection program.

In recent years it is widely apparent of the increase in illegal aerial fireworks in Hawaii. It is also widely known that a large volume of illegal fireworks are being brought into the State through the ports. The SFC and KFD supports any means to reduce the importation of illegal fireworks being brought into the State.

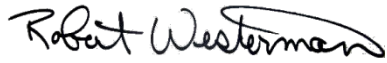
The Honorable Lorraine Inouye, Chair  
The Honorable Clarence Nishihara, Chair  
Page 2  
February 5, 2016

In 2011, Act 170 established a task force to investigate and address illegal fireworks problem in the State of Hawaii. The report recommended increased fees and fines and random inspections.

Life, safety, and property protection are priorities of the SFC and KFD. We, therefore, urge your support on the passage of SB 2632.

Please call me at (808) 241-4975 should you have any questions regarding this matter.

Sincerely,

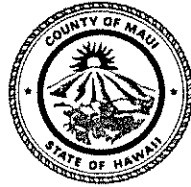
A handwritten signature in black ink that reads "Robert Westerman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert Westerman  
Fire Chief, County of Kaua'i

RFW/eld



ALAN M. ARAKAWA  
Mayor



JOHN D. KIM  
Prosecuting Attorney  
ROBERT D. RIVERA  
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY  
ON  
SB 2632 - RELATING TO CARGO INSPECTIONS

February 11, 2016

The Honorable Lorraine R. Inouye  
Chair  
The Honorable Mike Gabbard  
Vice Chair  
and Members  
Senate Committee on Transportation and Energy

The Honorable Clarence K. Nishihara  
Chair  
The Honorable Will Espero  
Vice Chair  
and Members  
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Chairs Inouye and Nishihara, Vice Chairs Gabbard and Espero, and Members of the Committees:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY OPPOSES**  
SB 2632 - Relating to Cargo Inspections.

Thank you very much for the opportunity to provide testimony on this bill.

**SENATE COMMITTEE ON TRANSPORTATION AND ENERGY**

**THE HONORABLE LORRAINE R. INOUE, CHAIR**

**THE HONORABLE MIKE GABBARD, VICE CHAIR**

**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR**

**THE HONORABLE WILL ESPERO, VICE CHAIR**

**SENATE BILL NO. 2632**

**February 11, 2016, 3:00 p.m., Conference Room 229**

**Written Testimony Only, Joining in Testimony of the Hawai'i Department of Transportation**

**By**

**Roy Catalani, Vice President of Strategic Initiatives and External Affairs**

**Sandra Y.B. Hoshida, Manager of Government Affairs**

**Young Brothers, Limited**

Chair Inouye, Vice Chair Gabbard, Chair Nishihara, Vice Chair Espero, and Members of the Senate Committees on Transportation and Energy and on Public Safety, Intergovernmental, and Military Affairs:

**Young Brothers, Limited (*Young Brothers*) joins the Hawai'i Department of Transportation (*DOT*) in its testimony, offering comments on Senate Bill 2632 (*SB2632*).**

SB2483 proposes, among other measures, random inspections of common carriers by the Department of Public Safety, Sheriff Division, aimed at detecting shipments of illegal aerial fireworks. The DOT recognizes, and Young Brothers joins in recognizing, the substantial volume of cargo that crosses Hawai'i's ports, the limited harbor space available to handle such volume, and the regime already in place for government management and control of port security. Any additional activity, such as the proposed random inspections by the Department of Public Safety, Sheriff Division, would affect the efficiency of cargo throughput.

Thank you for this opportunity to testify.

THE SENATE

Committee on Public Safety, Intergovernmental, and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator Will Espero, Vice Chair

Committee on Transportation and Energy

Senator Lorraine R. Inouye, Chair

Senator Mike Gabbard, Vice Chair

Hawaii State Capitol, Room 229

Thursday, February 11, 2016; 3:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2632  
RELATING TO CARGO INSPECTIONS**

The ILWU Local 142 **opposes** S.B. 2632, which authorizes the Department of Public Safety Sheriff Division to inspect shipping containers for explosives and illegal fireworks and establishes (in collaboration with Department of Defense, Department of Transportation and other federal and state agencies) a shipping container inspection program to randomly inspect shipping containers for illegal fireworks and explosives using explosive-sniffing dogs.

We understand the concern that explosives and illegal fireworks may be brought in to Hawaii in shipping containers, thus jeopardizing the public's health and safety. However, we have several objections to the proposal in S.B. 2632.

First, the bill authorizes the Sheriff's Division to inspect shipping containers randomly – superseding “any work rules or contracts that are contrary to the intent of this section.” The ILWU represents workers on the docks whose job and responsibility is to load and unload cargo and, in that process, to handle containers. Opening a container as part of a bona fide inspection is part of the job. Our members are covered by Union contracts, which include work rules that have been duly negotiated by the Union and the members with the employers as a group. The quoted section of the bill proposes to nullify work rules and the Union contract if someone (presumably the Sheriff's Division) deems the rules or contract is “contrary to the intent of this section.” The workers and the collective bargaining agreements are already fully integrated into the operations and security of the working waterfront. There is absolutely no reason why a third party should be allowed to nullify the collective bargaining agreement and work rules for arbitrary reasons. In addition, collective bargaining is governed by the National Labor Relations Act and it is doubtful that the State can empower itself to arbitrarily and broadly nullify selected sections of a private sector collective bargaining agreement nor is it appropriate public policy when the Constitution of the State of Hawaii strongly supports private sector collective bargaining.

Second, the bill allows random inspections of the dock by Sheriff's Division personnel and explosive sniffing dogs. Currently, under Homeland Security, it is the Transportation Safety Agency that has jurisdiction over the security of the waterfront. The State of Hawaii should not and cannot layer its version of container inspection onto the existing TSA program. Even access by Sheriff's Division personnel to the waterfront would require a TWIC card. Such an inspection program as proposed in this bill may actually interfere with existing security measures now being taken.

Third, random inspections themselves would seem to pose a safety hazard on the docks, which are already heavily used and often crowded with traffic. The proposal to build the container terminal at Kapalama may take years to build. In the meantime, Matson and Horizon are sharing the docks. Having another entity, the Sheriff's Division, with their dogs, included in the mix is likely to pose more problems.

The ILWU urges that S.B. 2632 be HELD. Thank you for the opportunity to share our views and concerns.

THE SENATE

Committee on Public Safety, Intergovernmental, and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator Will Espero, Vice Chair

Committee on Transportation and Energy

Senator Lorraine R. Inouye, Chair

Senator Mike Gabbard, Vice Chair

State Capitol, Conference Room 229

Thursday, February 11, 2016; 3:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2632  
RELATING TO CARGO INSPECTIONS**

The ILWU Local 142 **opposes** S.B. 2632, which authorizes the Department of Public Safety Sheriff Division to inspect shipping containers for explosives and illegal fireworks and establishes (in collaboration with Department of Defense, Department of Transportation and other federal and state agencies) a shipping container inspection program to randomly inspect shipping containers for illegal fireworks and explosives using explosive-sniffing dogs.

We understand the concern that explosives and illegal fireworks may be brought in to Hawaii in shipping containers, thus jeopardizing the public's health and safety. However, we have several objections to the proposals offered in S.B. 2632.

First, the bill authorizes the Sheriff's Division to inspect shipping containers randomly— superseding “any labor work rules or contracts that are contrary to the intent of this section.” The ILWU represents dockworkers whose jobs and responsibility are to load and unload cargo and, in that process, to handle containers. Opening a container as part of a bona fide inspection is part of the job. Our members are covered by Union contracts, which include work rules that have been duly negotiated by the Union and its members with the employers as a group. The quoted section of the bill proposes to nullify work rules and the Union contract if someone (presumably the Sheriff's Division) deems the rules or contract are “contrary to the intent of this section.” The workers and the collective bargaining agreements are already fully integrated into the operations and security of the working waterfront. There is absolutely no reason why a third party should be allowed to nullify the collective bargaining and work rules for arbitrary reasons. In addition, collective bargaining is governed by the National Labor Relations Act, and it is doubtful that the State can empower itself to arbitrarily and broadly nullify selected sections of a private sector collective bargaining nor is it appropriate public policy when the Constitution of the State of Hawaii strongly supports private sector collective bargaining.

Second, the bill allows random inspections on the docks by Sheriff's Division personnel and explosive-sniffing dogs. Currently, under Homeland Security, it is the Transportation Security Administration that has jurisdiction over the security of the waterfront. The State of Hawaii should not and cannot layer its version of container inspection onto the existing TSA program.

Even access by Sheriff's Division personnel to the waterfront would require a TWIC card. Such an inspection program as proposed in this bill may actually interfere with existing security measures now in place.

Third, random inspections themselves would seem to pose a safety hazard on the docks, which are already heavily used and often crowded with traffic. The proposal to build the container terminal at Kapalama may take years. In the meantime, Matson and Horizon are sharing the docks. Having another entity, the Sheriff's Division, with their dogs, included in the mix is likely to pose more problems.

The ILWU urges that S.B. 2632 be HELD. Thank you for the opportunity to share our views and concerns.

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**Subject:** \*Submitted testimony for SB2632 on Feb 11, 2016 15:00PM\*  
**Date:** Tuesday, February 09, 2016 10:59:50 AM

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**SB2632**

Submitted on: 2/9/2016

Testimony for PSM/TRE on Feb 11, 2016 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

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**From:** [Troy Abraham](#)  
**To:** [PSMTestimony](#)  
**Subject:** Support passing SB2198, SB2954, SB2956, SB2632  
**Date:** Tuesday, February 09, 2016 11:02:35 AM

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Would you be willing to consider passing and supporting better regulations for for firearms in hawaii? It'll benefit the safety of the people with it's passage. Thanks for your consideration aloha.



**From:** [Ken Obenski](#)  
**To:** [PSMTestimony](#)  
**Subject:** SB2632  
**Date:** Tuesday, February 09, 2016 11:30:45 AM

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February 9, 2016

The bill needs a better definition of "shipping container". It appears to refer to standard steel intermodal shipping containers, but could be inferred to cover everything from a 53 foot trailer, to a 12 oz soft drink bottle.

Ken Obenski

Kaohe South Kona

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Cc:** [darryllw@gmail.com](mailto:darryllw@gmail.com)  
**Subject:** Submitted testimony for SB2632 on Feb 11, 2016 15:00PM  
**Date:** Thursday, February 11, 2016 4:44:42 AM

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**SB2632**

Submitted on: 2/11/2016

Testimony for PSM/TRE on Feb 11, 2016 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Darryll Wong	Individual	Comments Only	No

Comments: I fully support the intent of this bill. Hawaii needs to be able to seal its borders not only by air but also by water. While we can view passengers coming into the State on ships the containers coming into Hawaii needs to have some process or way to be inspected for explosives and other hazardous materials. Without some way to inspect, to fund this, and show those that want to bring in illegal explosives to include fireworks that there is a consequence, it will continue. Mahalo, Darryll Wong

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