

STAND. COM. REP. NO.

1395

Honolulu, Hawaii

, 2021

MAR 25

RE: S.B. No. 764

S.D. 1

H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which
was referred S.B. No. 764, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HUMAN TRAFFICKING,"

begs leave to report as follows:

The purpose of this measure is to bring the State in
substantial compliance with federal regulations by requiring the
examiner of drivers to disqualify, for life, any person from
driving a commercial motor vehicle if the person uses a commercial
motor vehicle in the commission of any felony involving a severe
form of trafficking in persons.

Your Committee received testimony in support of this measure
from the Department of Transportation and Hawaii Transportation
Association.

Your Committee finds that on July 23, 2019, the Federal Motor
Carrier Safety Administration issued a final rule that amends
title 49 Code of Federal Regulations parts 383 and 384 to
permanently disqualify individuals convicted of the felony severe
form of trafficking in persons from driving a commercial motor
vehicle (Final Rule). The Final Rule also requires states to be
in substantial compliance with the Final Rule within three years

2021-2620 SB764 HD1 HSCR HMSO



from the date the Final Rule became effective, which was September 23, 2019.

Your Committee further finds that for purposes of determining substantial compliance with the Final Rule, a state shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary of Transportation disqualifies the individual for certain acts. If a state fails to be in substantial compliance with the Final Rule within three years, the federal government is authorized to withhold certain federal funding. In the first year a state fails to be in substantial compliance, four percent of certain federal funds are withheld; for Hawaii, this would be equivalent to \$6,185,220. In subsequent years a state fails to be in substantial compliance, eight percent of certain federal funds are withheld; for Hawaii, this would be equivalent to \$12,370,440.

Your Committee, however, finds that the definition of "severe form of trafficking in persons" in this measure deviates from the federal definition. Your Committee notes that H.B. No. 459, H.D. 2 (Regular Session of 2021), which was previously passed by the House, is preferable because it aligns the definition of "severe form of trafficking in persons" with the federal definition.

Accordingly, your Committee has amended this measure by deleting its contents and inserting the contents of H.B. No. 459, H.D. 2, a substantially similar measure that:

- (1) Requires the examiner of drivers to disqualify, for life, any person from driving a commercial motor vehicle if the person uses a commercial motor vehicle in the commission of any felony involving a severe form of trafficking in persons; and
- (2) Takes effect on January 1, 2050.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 764, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 764, S.D. 1, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.



Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



AARON LING JOHANSON, Chair



