

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



TESTIMONY BY:
EDWIN H. SNIFFEN
DIRECTOR
KA LUNA HO'OKELE

Deputy Directors
Nā Hope Luna Ho'okele
DREANALEE K. KALILI
TAMMY L. LEE
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

February 27, 2024
2:00 p.m.
State Capitol, Room 329

H.B. 1936, H.D. 1
RELATING TO HARBOR SAFETY

House Committee on Consumer Protection & Commerce

The Hawaii Department of Transportation (HDOT) provides the following **comments** on this measure that requires the department to regulate the labor responsible for manning the mooring lines for certain vessels in state commercial ports.

HDOT considers this proposed change as a regulation of labor and not a regulation of facilities. This bill also proposes that HDOT certify and recertify health and safety guidelines that govern certain operations. This level of regulation of labor falls outside the purview of HDOT and our personnel do not have the expertise to carry out this responsibility. As such, HDOT recommends that the committee amend this measure to place the authorization in an appropriate chapter of the Hawaii Revised Statutes that controls labor, such as Chapter 382.

Thank you for the opportunity to provide these comments.

TESTIMONY OF
LEODOLOFF R. ASUNCION, JR.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

February 27, 2024
2:00 p.m.

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

MEASURE: H.B. No. 1936, H.D.1

TITLE: RELATING TO HARBOR SAFETY.

DESCRIPTION: Requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. Defines "stevedoring company." Exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS. Sunsets on 7/1/2028. Effective 7/1/3000. (HD1)

POSITION:

The Public Utilities Commission ("Commission") offers the following comments for consideration.

COMMENTS:

The Commission appreciates the intent of this measure to require that securing mooring lines from tug assistance is performed by local stevedoring companies.

The Commission finds that this measure would allow regulated intrastate shipping companies the ability to utilize their current qualified staff to safely and efficiently conduct their daily harbor operations. The Commission appreciates the Legislature's focus on safety certification and supports the provisions requiring such certifications and recertifications for regulated intrastate shipping companies.

The Commission also agrees with the Legislature that the Hawaii's stevedoring companies are well-versed in the unique challenges and safety concerns with the state's various harbors. The Commission defers to the Department of Transportation, Harbors Division, or other relevant entities for the administration of this measure's other provisions, including any potential enforcement and safety certification requirements.

Thank you for the opportunity to testify on this measure.

Island Plastic Bags

February 27th, 2024

TESTIMONY IN OPPOSITION TO HB 1936 HD1, RELATING TO HARBOR SAFETY

House Committee on Consumer Protection & Commerce
Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair

Chair Nakashima, Vice Chair Sayama, and members of the Committee,

Thank you for the opportunity to provide testimony in **STRONG** opposition to HB 1936 HD1, Relating to Harbor Safety.

This proposed bill is based on a faulty, misleading premise. Trained, U.S Coast Guard licensed barge operators have safely secured vessels at docks in Hawaii's harbors for decades. Statewide, there is an average 12.8 million tons of marine cargo annually, and the industry has not experienced concerning safety incidents with securing mooring lines. Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors.

The proposed bill also has serious unintended financial ramifications for the entire state. Being forced by law to use a stevedoring company, supplemental to existing marine licensed and union negotiated company comes at cost for the rest of us. It would add more significant cost to the existing barge operations with no appreciable benefit to existing tug assistance operators. Ultimately, these costs will end up in higher costs for local goods and services for Hawaii residents.

This is particularly troubling for those on Maui, which is already facing supply-chain challenges to rebuild Lahaina. The unnecessary shipping costs added for building materials and supplies must be borne by other Hawaii businesses and, ultimately, by consumers and taxpayers, many of whom are already struggling with inflationary prices on top of Hawai'i's high cost of living.

Island Plastic Bags



Thank you for the opportunity to provide testimony in opposition to HB 1936 HD1. Should you have any questions or comments about my testimony you can contact me by email at ahong@islandplasticbags.com or by phone at 808-484-4046.

Sincerely,

Adrian Hong

HB-1936-HD-1

Submitted on: 2/23/2024 12:50:20 PM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jim Gomes	Hawaiian Cement	Oppose	Written Testimony Only

Comments:

February 22, 2024

SUBJECT: TESTIMONY IN OPPOSITION TO HB 1936.HDI, RELATING TO HARBOR SAFETY

House Committee on Consumer Protection and Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair

February 27, 2024 @ 02:00 PM
Conference Room 329
State Capitol 415 South Beretania Street

Chair Nakashima, Vice Chair Sayama, and members of the Committee,

Hawaiian Cement has provided cement (a critical component for making concrete) throughout the State of Hawaii since 1962. And since 1981, we have delivered cement to four Neighbor Island Cement Terminals using our specialized 184-foot barge called the “Punapau.” For over 40 years, our local Unionized labor workforce working with our Unionized Tug Operator, American Marine, have safely and effectively moored our own lines without incident. We are a fully trained and “well-versed” barge crew team who follow stringent company and maritime standard operating procedures to ensure the safe handling of all aspects of our barge operation to include mooring our lines. As a joint team, we have experienced a clean safety record when mooring and “tending” lines during our operations. Our relationship provides us the flexibility required to manage what is often a challenging delivery schedule as Neighbor Island concrete construction needs are fluid. HB 1936.HD1 would impact those efficiencies while also raising the cost for our Neighbor Islands customers.

Conservatively the Neighbor Island Construction industry would incur an additional \$7/ton or \$806,400 (3% increase) in added passed through costs annually. I want to caveat these additional costs do not include potential additional charges associated with detention, emergency call outs, delays, and/or standby time.

Terminal Location	Potential Construction Industry 2024 Annual Cost Increase
Maui	\$268,800
Kawaihae	\$246,400
Nawiliwili	\$156,800
Hilo	\$134,400

Hawaiian Cement has a critical responsibility to the State's construction industry, and we are committed to providing high quality and affordable products while following Marine Industry Safety Polices and Regulations. No one knows our barge operation better than our crews. We take pride in running a safe and environmentally sound operation with dedicated Unionized employees. We do not support HB 1936.HD1 as it currently is written as our crews are fully trained to safely handle mooring lines. We instead recommend all marine tug and barge operators and mobile dry dock facilities operating within the State of Hawaii who have existing collective bargaining agreements be exempt from this Bill.

Mahalo,

Jim Gomes

VP of Operations

Hawaiian Cement

February 7, 2024

**TESTIMONY IN OPPOSITION TO HB 1936
RELATING TO HARBOR SAFETY**

House Committee on Transportation
The Honorable Chris Todd, Chair
The Honorable Darius K. Kila, Vice Chair

Tuesday, February 8, 2024, 9:00 am
Conference Room 312
State Capitol
415 South Beretania Street

Chair Todd, Vice Chair Kila and members of the Committee,

Thank you for the opportunity to provide comments on HB 1936, Relating to Harbor Safety. In opposition.

American Marine Corporation (“AMC”) is a Hawaii based corporation and a leading marine transportation operator in the state. AMC operates 6 tugs and barges in Hawaii. AMC has been in business in the State of Hawaii for over 45 years.

AMC has one of the top safety records in the maritime industry because of the company’s comprehensive Safety Management System (“SMS”). AMC’s SMS is continuously audited by the United States Coast Guard, its customers, and various maritime technical class societies. AMC has been securing our tugs & barges to the docks throughout the State of Hawaii for over four (4) decades without a safety incident.

AMC’s tugs and barges are part of the critical state infrastructure that resupplies the Neighbor Islands. AMC regularly transports cement and aggregate that are critical to the Neighbor Island construction industry. In addition, AMC regularly transports other general cargo to the Neighbor Islands on chartered barges. AMC tows the Hawaiian Cement barge “Punapau” and makes regular chartered barge deliveries to the Neighbor Islands, particularly Lanai.

For over four (4) decades, AMC’s union represented tug and barge crews have secured our vessels safely at the dock. The crews are qualified, trained, and licensed to carry out these duties safely.

AMC's barge does not have scheduled downtime and our schedule changes frequently as a result of inclement weather conditions or because of delays in loading or discharge operations. Many times these changes are last minute.

Any delays in resupply and would cause delays in construction projects, particularly on the Neighbor Islands.

The impacts of this legislation without the proposed amendments would be significant, as it would affect the costs and availability of a diverse range of goods that are essential to the State of Hawaii. These goods are transported throughout all the islands by AMC and other critical members of Hawaii's maritime supply chain.

We oppose HB 1936. Thank you for allowing us to share our concerns.

Mahalo,

Michael MacDonald
Vice President Tug & Barge Operations - Hawaii
American Marine Corporation

TESTIMONY
OF
MICHAEL N HANSEN, PRESIDENT
HAWAII SHIPPERS' COUNCIL
BEFORE THE
HOUSE CONSUMER PROTECTION & COMMERCE
THE THIRTY-SECOND LEGISLATURE OF THE STATE OF HAWAII
REGULAR SESSION OF 2024
REGARDING
HOUSE BILL 1936 HD1, RELATING TO HARBOR SAFETY
HEARING, 2:00 P.M., TUESDAY, FEBRUARY 27, 2024

Representatives Mark M. Nakashima, Chair, Jackson D. Sayama, Vice Chair, and Members of the Committee:

I am testifying in opposition to House Bill 1936 HD1 “Relating to Harbor Safety” on the basis that it is an unnecessary government intervention into the collective bargaining relationship between employers and employees in the private sector and it contains so many technical errors that it is fatally-flawed.

The Hawaii Shippers’ Council (HSC) is a business league organization representing merchant cargo owners known in law and the transportation industry as “shippers” (as opposed to those who carry the cargo including water, air, truck and rail carriers).

The technical problems with the H.B, 2746 HD1 (2024) are described and analyzed as follows:

1. The Bill addresses “certified longshore linespersons” to define those members of the International Warehouse and Longshore Workers Union (ILWU) engaged in the handling of vessel mooring lines in Hawaii. However, there is no public or private agency in the United States (U.S.) or the State of Hawaii that certifies individual stevedores (or longshoremen) for maritime cargo handling and related work including lines handling.
2. The Bill claims that out-of-state companies are not required to use “trained” (i.e., union) local stevedores for maritime lines handling in the State of Hawaii. In fact, the only applicable legal requirements are the federal statutes that require persons performing stevedoring work in the U.S. including lines handling be eligible to work in the U.S. (e.g., they must be US. citizens, green card holders or nationals). Although one inference of this claim is that out-of-state companies may be using lines handlers from out-of-state in Hawaii, as a practical matter this not would not be economical and does not actually occur.
3. In pursuit of a safety-based approach to justify State regulation of maritime lines handling in Hawaii, the drafters of the Bill state that the stevedore companies in Hawaii are certified for safety. This cannot possibly be true as there is no state, national or international certification

applicable to stevedoring safety in the U.S. and Hawaii. This dispels a key tenant of the Bill's safety approach.

4. The Bill would exempt from the proposed statutory lines handling mandate those entities engaged in interisland (intrastate) common carriers by water transportation of property and regulated by the Hawaii State Public Utilities Commission (HPUC). However, there is no operational difference between the regulated common carriers and the other interisland tug and cargo barge operations engaged in contract carriage that would justify the lines handling exemption on the basis of safety or for other reasons. The exemption is simply for political reasons to avoid HPUC opposition to the current Bill (the HPUC opposed the 2023 Bills).
5. The Bill confirms that regulated interisland water carrier of property targeted for the exemption from the lines handling mandate would be Young Brothers LLC (YB), which, ironically, is owned by an out-of-state corporation, Saltchuk Resources Inc. of Seattle, Washington State.
6. Despite the Bill's obvious impact on the interisland barge carriers (particularly the unregulated contract carriers), its broadly worded provisions would apply to virtually all commercial cargo vessels calling at Hawaii ports. This aspect of the Bill is an unnecessary codification of existing and long-established commercial practice.
7. The statutory amendments to Hawaii State law proposed by the Bill would be to the Hawaii Revised Statutes, Title 19 Transportation and Utilities, Chapter 266 Harbors, Section 2 Powers and duties of department (19 HRS §266-2). This references the Hawaii State Department of Transportation and delegation to its Harbors Division.
8. The Bill bases the applicability of the proposed statutory maritime lines handling mandate on vessels, including barges and large self-propelled ships, upon a supposed "authorization" awarded to stevedoring companies to secure vessel mooring lines. However, such an official and binding "authorization" for stevedoring companies does not exist in Hawaii specifically and the U.S. generally.
9. The bill asserts the Hawaii State Public Utilities Commission (HPUC) and its authority under the Hawaii Water Carriers Act of 1974 as amended (15 HRS 271G) to issue a Certificate of Public Convenience and Necessity (CPCN) to regulated water carriers extends to "transpacific" commerce. This is a non sequitur. Hawaii law and PUC authority do not extend to interstate (domestic) and international (foreign) trade conducted by those ocean carriers operating Transpacific and calling at ports in Hawaii. These trades are the jurisdictions of the federal Surface Transportation Board (STB) for domestic and Federal Maritime Commission (FMC) for the foreign trade.
10. The Bill's proposed exemption for HPUC regulated water carriers targeting YB is based upon a fallacy that there is an existing Hawaii State health and safety certification of their maritime

employees who are not stevedores. This certification facility does not exist because the maritime industry is a federal jurisdiction on a nation-wide basis. This makes the proposed exemption for YB inoperative. The reference to employees who are not stevedores addresses the crewmembers employed on regulated carrier's tugs, these personnel are licensed by the federal U.S. Coast Guard (USCG).

11. The Bill proposes three new statutory definitions for inclusion in the same section of the Harbors chapter (19 HRS §266-2) as the other amendments are to be inserted. The purpose of these proposed definitions is to support the codification of the lines handling mandate. There are no existing definitions and there is no existing definitions section in the Harbors chapter, as is commonplace in other HRS chapters for other agencies. When suggesting definitions for the Harbors chapter, the Bill's drafters should have proposed a new section typically entitled definitions.
12. There is an extensive list of definitions for Harbors in the Hawaii Administrative Rules (19 HAR §41-2). However, these HAR definitions for Harbors do not include cargo, stevedoring company, stevedore, longshoremen and tug, among other potentially useful ones.
13. The Bill's proposed definition of "manifested cargo" is not germane. It's generally applicable to international (foreign) cargo where cargo manifests are required for customs purposes. (E.g., in the U.S., manifested cargo is filed on CBP Form 1302 - Inward Cargo Declaration and CBP Form 1302A Cargo Declaration - Outward with Commercial Forms.) However, this federal documentary requirement does not apply to domestic intrastate or interstate cargo. Thus, this definition would not support the lines handling mandate on interisland and interstate barges and interstate ships.
14. The Bill's proposed definition of "stevedoring company" depends on an unspecified "authorization" to support the statutory lines handling mandate. However, such an "authorization" doesn't exist making the definition inoperative. It would not support the lines handling mandate.
15. The Bill's proposed definition of "tug" is limited to just towing. In contrast, the proposed statutory amendment specifically refers to "tug assistance" to define the vessels subject to the lines handling mandate.

FULL ANALYSIS
(With End Notes)

The following full analysis was made in reference to the PDF version of H.B. 1936 of 2024 as originally introduced on January 19, 2024.¹

SECTION 1.

Page 2, Lines 2-3 “. . . the mooring lines are secured by certified longshore linespersons.”

Comment: There is no certification of longshore (stevedore) lines handlers in the sense of a government agency or private body that certifies the qualifications of lines handlers in Hawaii or the U.S. generally.

From Vault Law, “There are no certification or licensing requirements for stevedores [in the U.S].”²

What is at issue and being referenced by the securing of mooring lines is the lines handling occurring on the wharf or other shoreside facility, which has traditionally been performed by stevedores and other maritime workers.

In contrast, seafarers, whether authorized to work in the U.S. or not, employed aboard U.S. and foreign flag vessels invariably handle the mooring lines onboard.

This includes tug crewmembers handling the lines onboard the barges they are towing. This requires tug crewmembers to be transferred from the tug to the barges.

In addition, in the U.S., domestic tug crewmembers (who are eligible to work in the U.S.) will typically handle and secure and unsecure the mooring lines of the barges they are towing to and from the wharf.

In comparison to the stevedores or longshoremen, the domestic seafarer crewmembers employed on U.S. flag tugboats are individually licensed by the federal U.S. Coast Guard (USCG) in a series of different deck department ratings from ordinary seaman to master mariner.

Lines 3-4: “. . . out-of-state companies are not required to utilize trained local longshore linespersons, or stevedores, to secure their operational vessels . . .”

Comment: This is a vague statement that can be construed with several different meanings, none of which may be true.

Existing federal law requires stevedoring activities including lines handling in the U.S. to be performed by individuals authorized to work in the U.S. (i.e., citizens, green card holders and

U.S. nationals) and prohibits foreign crew members, who are typically employed on foreign flag ships, from performing cargo and shoreside lines handling while under U.S. jurisdiction (Section 258 of the Immigration and Nationality Act of 1952 as amended (8 U.S.C. 1288)).³

This means that out-of-state companies are under the same federal legal obligations as in-state companies (i.e., corporations incorporated in Hawaii) to use persons who are eligible to work in the U.S.

The statement in the Bill implies that in-state companies are somehow legally required or otherwise obligated to use “local” (presumably Hawaii state resident) stevedore and longshore lines handlers, which is simply not true.

This statement has also been construed to mean that out-of-state companies may be using workers from out-of-state to perform lines handling in Hawaii. Although out-of-state lines handlers are eligible to work anywhere in the U.S. including Hawaii, they are not currently used to tie-up or let-go vessels in Hawaii. In this instance, the reference is to an ongoing activity that is primarily restricted to larger self-propelled ships that actually need the lines handling service. As a practical matter, it wouldn’t make any economic or everyday operating sense to transport people from out-of-state for the task of lines handling in Hawaii. This is a strawman argument.

What the drafters of the bill may actually be targeting is the out-of-state mariners onboard the coastwise-eligible (i.e. Jones Act) U.S. registered tugboats towing barges between the U.S. West Coast (USWC) and Hawaii. These USCG licensed U.S. seafarers typically handle the lines of the barges they are towing whether in Hawaii or on elsewhere in the U.S. If this is in fact the intent of the drafters, then the statement is duplicitous.

Lines 16-18: “Stevedoring companies in Hawaii are safety-certified and are well-versed in the unique challenges and safety concerns of each individual state harbor.”

Comment: There is no international, national (U.S.) or local (Hawaii State) public or private agency that specifically certifies stevedoring companies for safety. This appears to be a canard.

If there is such an agency, the drafters of this proposed legislation should clearly identify that agency by name and the procedure under which it certifies stevedoring companies for safety in Hawaii.

Local certification: Section 2, Pg. 6, lines 3-6 state “. . . a stevedoring company shall be certified and recertified on the State's health and safety guidelines that are applicable to the mooring of water carrier of property vessels . . .”

This is clearly a reference to the Hawaii State Department of Labor and Industrial Relations (DLIR), Occupational Safety and Health (HIOSH) division. The State of Hawaii does not have health and safety jurisdiction over the Hawaii maritime industry because it’s a federal

responsibility and is so across the country. Therefore, this provision and the corresponding proposed statutory amendment based upon this provision included the instant bill are not operative.^{4 5}

(Note: Federal jurisdiction of the U.S. maritime industry for regulatory purposes is generally paramount. For example, with maritime workmen’s compensation there are two federal programs (as opposed to state jurisdiction for most other industries). The Longshore and Harbor Workers’ Compensation Act of 1927 as amended (LHWCA) is a federal jurisdiction covering most maritime workers with the exception of seafarers.⁶ Mariners on U.S. flag vessels are covered by Section 33 of the Merchant Marine Act of 1920, commonly known as the Jones Act personal injury law.⁷ Another example is the licensing of seafarers in the U.S., which is a federal responsibility performed by the USCG.)

National certification: The federal Occupational Safety and Health Administration (OSHA) has safety jurisdiction over the maritime industry on a national basis including stevedoring (see 29 CFR 1918 Longshoring), but does not certify compliance. OSHA has established standards and conducts inspections to ensure compliance but does not certify.^{8 9}

International certification: The International Organization for Standardization (ISO) offers quality assurance certification for management (ISO 9001) and work environment management (ISO 45001)¹⁰ which are generally sought by European stevedores but not in the U.S. ¹¹ ISO certification is generally required for ship owners and operators and is performed by the marine classification societies. ISO also has technical standards for vessel construction and maintenance. There are no ISO stevedoring specific standards and certification.¹²

Lines 18-21: “. . . the legislature also recognizes that there are public utilities commission regulated shipping carriers with personnel who are capable of safely mooring the carrier’s vessels.”

Comment: The regulated shipping carrier referenced is Young Brothers LLC (YB) the sole intrastate ocean common carrier of property, which operates under the Hawaii Water Carriers Act of 1974 as amended (15 HRS §271G),¹³ and is regulated by the Hawaii State Public Utilities Commission (HPUC).¹⁴

YB operates in a tow-line ocean tug and cargo barge mode with a radial routing from their base port of Honolulu (Piers 39 and 40). This preamble statement previews and describes the statutory exemption proposed in Section 2 intended to allow YB tugboat crews to continue handling the YB barge mooring lines on the shoreside and avoid the cost and inefficacies of calling-out stevedore company lines handlers to secure the lines on the wharf or pier.

This proposed exemption would create a regulatory incongruity in the context of the maritime industry as a whole. Namely: If the YB tugboat crews are competent to handle barge mooring lines, and virtually all the tugboat crews operating in Hawaii (including YB’s) and those from

out-of-state calling on Hawaii ports are represented by the same union – the Inland Boatman’s Union (IBU) -- and are US Coast Guard (USCG) licensed, then why aren’t all these tug crews competent and why do we need this proposed legislation?

It is widely assumed this exemption for YB only was proposed by the drafters because last year YB and the HPUC testified against the companion bills (HB 714 / SB 824) saying the proposed lines handling requirement would harm the State’s only regulated water carrier of property and harm the State economically. As these were politically salient arguments, by exempting YB, the drafters of the current bills bill wished to avoid YB and HPUC opposition to the measures.

Page 3, Lines 1-4: “. . . [HPUC regulated water] carriers [primarily YB} should be permitted to continue using the services of their own personnel; providing that the personnel are certified and regularly recertified on the State’s safety guidelines and best practices.”

Comment: The phrase “continue using the services of their own personnel” is confirmation that the proposed exemption is intended to allow YB to continue using their tug crews to handle their barge mooring lines and not by the force of law be required to use stevedore company lines handlers.

The phrase “. . . providing that the [the YB] personnel [tug crews] are certified and regularly recertified on the State’s safety guidelines and best practices” is meaningless.

There is no existing state certification of YB personnel employed aboard their tugs for any purpose. The tug crews are federally documented by the USCG. Therefore, this provision is inoperative.

If the drafters of the instant bill believe there is a state certification process for YB’s tug crews, then they need to specify what it is.

Lines 10-14: “Accordingly, the purpose of this Act is to require, with certain exceptions, that the securing of mooring lines from vessels requiring tug assistance to the state’s commercial docks, wharves, quays and landings be performed by a stevedoring company.”

Comment: This statement expands the scope of the legislation beyond just barges to include all vessels including self-propelled ships. This may be more expansive than might have been originally thought and an unnecessary codification of existing and long-standing commercial practice.

SECTION 2.

Page 3, Lines 15-17: “Section 266-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows: ‘(a) The department of transportation shall:’”

Comment: Section 266-2 is a reference to Hawaii Revised Statutes (HRS), Title 19 Transportation and Utilities, Chapter 266 Harbors, Part I Generally, Section 2 Powers and duties of department. This section of Hawaii State law can be abbreviated as: 19 HRS §266-2. ¹⁵

Although it specifically references the Hawaii State Department of Transportation (DOT), HRS Chapter 266 applies to the delegation by the DOT to its Harbors Division (often, simply, “Harbors”).

19 HRS Chapter 266 Harbors consists of two parts as follows:

- Part I – Generally – Sections 266-1 – 266-31
- Part II – Special Facility Projects – Sections 266-51 – 266-56

These are the only sections of the HRS which specifically apply to Harbors. There is no definitions section in the applicable Part I.

Page 5, Lines 10-21: “(6) Require that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company; provided that this paragraph shall not apply to the securing of mooring lines from any vessels operating on behalf of an authorized intrastate or transpacific water carrier of property holding a certificate of public convenience and necessity issued under section 271G-10; provided further that all personnel conducting the mooring of vessels operating on behalf of an authorized intrastate or transpacific water carrier of property . . .”

Continuation, Page 6. Lines 1-6: “. . . holding a certificate of public convenience and necessity under section 271G-10 who are not employed by a stevedoring company shall be certified and recertified on the State's health and safety guidelines that are applicable to the mooring of water carrier of property vessels;”

Comment: The foregoing section of text (from pages 5 and 6) is the essential amendment proposed by the bill’s drafters to implement their desired policy to statutorily require the use of shoreside stevedore company lines handlers for cargo barges. This amendment does not appear to be workable due to several errors in construction and inherent contradictions.

General applicability. The operative phrase is, “Require that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. . .”

This phrase would act in two ways. It would impose a statutory requirement on tug and barge operators to use lines handlers employed by stevedoring companies as opposed to the current and longtime customary practice of the tug crew handling on shore the mooring lines of the barges they are towing. It would also create a statutory mandate to call-out stevedore company lines handlers for virtually all larger vessels, typically self-propelled ships, which is the existing and longtime commercial practice and for which a statute is not required.

The instant bill's Section 1 preamble describes at length certified stevedore lines handlers and certified stevedoring companies creating the expectation these will be germane and material to the proposed statutory amendments. However, the actual language of the proposed amendment doesn't impose those certification requirements making the preamble seemingly a ruse.

The general applicability of this amendment pivots on the description of a "stevedore company" which follows in lines 11-20, "'stevedoring company' means a company that is registered to do business in the State . . . authorized to secure mooring lines and . . . provides . . . loading and offloading of . . . cargo" [emphasis added]. The regulatory body which would "authorize" a company engaged in stevedoring "to secure mooring lines" and the process and standards by which such "authorization" might be granted are not defined and do not exist.

The phrase "vessels requiring tug assistance" means the proposed statute would apply to all vessels including self-propelled ships not just intrastate and interstate cargo barges as the general understanding might have been. Although virtually all the larger self-propelled ships calling in Hawaii ports use tug assistance and line handlers when berthing and unberthing, this may be a broader mandate than many were anticipating. This broader application also addresses a situation where the use of lines handlers is common practice and really needs no statutory mandate making this aspect of the proposed legislation superfluous.

YB applicability. The amendment creating a YB exemption is fraught with problems both in terms of the scope of the statute and the basis upon which the exemption would become effective.

The mention of "transpacific," in the phrase "an authorized intrastate or transpacific water carrier of property holding a certificate of public convenience and necessity issued under section 271G-10," is a non sequitur.

The Hawaii State Public Utilities Commission (PUC) and its authority under the Hawaii Water Carriers Act of 1974 (HWCA 1974) as amended (15 HRS 271G) to issue a Certificate of Public Convenience and Necessity (CPCN)¹⁶ is limited to transportation within the State of Hawaii. Hawaii law and PUC authority do not extend to interstate (domestic) and international (foreign) trade conducted by those ocean carriers operating Transpacific and calling at ports in Hawaii. These trades are the jurisdictions of the federal Surface Transportation Board (STB)¹⁷ for domestic and Federal Maritime Commission (FMC)¹⁸ for the foreign trade. Hence the words "or transpacific" should be struck.

There is a major problem with the last phrase of this section of text ". . . all personnel conducting the mooring of vessels operating on behalf of an authorized intrastate or transpacific water carrier of property holding a certificate of public convenience and necessity under section 271G-10 who are not employed by a stevedoring company shall be certified and recertified on the

State's health and safety guidelines that are applicable to the mooring of water carrier of property vessels;”

The intent of this provision is to create an exemption for YB, as the PUC regulated interisland ocean carrier under the HWCA 1974 as amended (15 HRS 271G), to continue to use their tug crewmembers to handle their barge mooring lines rather than calling-out stevedore company longshoremen for this task.

The Hawaii State agency which regulates workplace health and safety is the Department of Labor and Industrial Relations (DLIR), Occupational Safety and Health (HIOSH) division. It doesn't have jurisdiction over the maritime industry in the State of Hawaii because it's a federal responsibility. As such, the basis for this proposed YB exemption does not exist de jure and would be unlikely to prevail de facto if enacted and thus rendering the YB exemption inoperative.

Meanwhile, YB tug crewmembers are certified by the USCG, which on its face should negate the need for this exemption (and the bill itself).

Page 6, Lines 11-20:

As used in this subsection:

"Manifested cargo" means the cargo, passengers, and crew of a vessel that are listed on a manifest or cargo document for the use of customs and other officials.

"Stevedoring company" means a company that is registered to do business in the State and authorized to secure mooring lines from vessels to commercial docks, wharves, piers, quays, bulkheads, and landings and that provides services in the loading and offloading of manifested cargo.

"Tug" means a boat used for towing larger vessels.

Comment: This is the other major amendment proposed by the instant bill to 15 HRS §266-2.

Currently, there are no statutory definitions nor a definitions section for Harbors in 15 HRS Chapter 266 Part I, which would apply generally to Harbors.

These definitions proposed by the Bill would be more appropriately be placed in a definitions section as part of 15 HRS Chapter 266 Harbors, Part I, generally, as opposed to inclusion in 15 HRS §266-2 as proposed by the Bill.

In contrast, there is an extensive listing of definitions in Hawaii Administrative Rules (HAR), Title 19 Department of Transportation (DOT), Subtitle 3 Harbors Division, Chapter 41, Section 2, Definitions, general (19 HAR §41-2).¹⁹ However, these HAR definitions do not include cargo, stevedoring company, stevedore, longshoremen and tug; and many other definitions that might be useful.

There are problems with the proposed definitions as follows:

The term “manifested cargo” would typically apply to international (foreign) cargo where there is a customs interface necessitating a formal manifest to meet regulatory requirements. (In the U.S., this is a Customs and Boarder Protection (CBP) documentary requirement: CBP Form 1302 - Inward Cargo Declaration²⁰ and CBP Form 1302A Cargo Declaration - Outward with Commercial Forms²¹). This would not necessarily apply to domestic cargo whether intrastate or interstate, which is the majority of general cargo (today typically in the form of container cargo) currently landed in Hawaii.

A stevedoring company as “. . . authorized to secure mooring lines from vessels to commercial docks, wharves, piers, quays, bulkheads, and landings and that provides services in the loading and offloading of manifested cargo.”

There is no authority that “authorizes” stevedore companies to perform cargo handling and related work in Hawaii. If the drafters of this proposed legislation believe there is such an authority, they should identify it and describe the authorization process.

As such an authority is unlikely to be identified, it would be more accurate to say “a stevedoring company is one that customarily performs maritime cargo handling and associated work.”

The definition of a “tug” is too limited only stating they’re “. . . used for towing large vessels.” Even the bill’s proposed amendment refers to tug assistance in order to define those vessels requiring stevedore company lines handlers.

Creating a definitions section for 15 HRS Chapter 266 Part I might be a useful endeavor to enhance its effectiveness. However, it should be done in consultation with the Harbors Division. At the end of the day, Harbors Division may believe the definitions in 18 HAR §41-2 are sufficient for their purposes.

If a statutory definitions section were to be created in 15 HRS Chapter 266, Part I, a good reference would be the federal United States Code Title 33, Navigation, and Title 46, Shipping. It would be best to harmonize definitions between the state and federal law where appropriate.

¹ Senate Bil 2746, Relating to Harbor Safety, Sen Chris Lee et al, 32nd Hawaii State Legislature, January 23, 2024, https://www.capitol.hawaii.gov/sessions/session2024/bills/HB1936_.HTM

² Stevedores; Requirements, Vault Law (Firsthand Inc. / Infobase Holding, LLC), New York City, NY, Retrieved February 14, 2024, <https://vault.com/professions/stevedores/requirements>

³ Wayne, E. Anthony, Foreign Prohibitions on Longshore Work by U.S. Nationals, Bureau for Economic and Business Affairs, U.S. Department of State, November 9, 2001,

<https://www.federalregister.gov/documents/2002/02/12/02-3335/foreign-prohibitions-on-longshore-work-by-us-nationals>

⁴ State Plans Hawaii, U.S. Occupational Safety and Health Administration (OSHA), Retrieved February 14, 2024, <https://www.osha.gov/stateplans/hi>

⁵ Lincoln, Reynolds, Hawaii State Occupational Safety and Health (HIOSH) Division, Department of Labor and Industrial Relations (DLIR), telephonic interview (808 586-9110), February 2, 2024.

⁶ The Longshore and Harbor Workers' Compensation Act (LHWCA): Overview of Workers' Compensation for Certain Private-Sector Maritime Workers (R41506), Congressional Research Service, May 14, 2020, <https://crsreports.congress.gov/product/pdf/R/R41506/9>, Pgs. 1 & 2.

⁷ Injuries at Sea: Establishing Liability, FindLaw.com / Thomson Reuters, March 26, 2008. <https://corporate.findlaw.com/human-resources/injuries-at-sea-establishing-liability.html>

⁸ Maritime (29 CFR 1915, 1917, 1918), Occupational Safety and Health Administration (OSHA), U.S. Department of Labor (DOL), Retrieved February 4, 2024, <https://www.osha.gov/maritime/standards>

⁹ Ruhl, Nick, Honolulu Office, OSHA, Telephonic interview (808 541-2680), February 4, 2024.

¹⁰ Certification, International Organization for Standardization (ISO), Retrieved February 4, 2024, <https://www.iso.org/certification.html>

¹¹ Quality assurance, Aalborg Stevedore Company A/S, Denmark, Retrieved February 4, 2024, <https://asc-as.dk/en/quality-assurance/>

¹² Policy - Ships and Marine Technology, International Organization for Standardization (ISO) Retrieved February 4, 2024, <https://policy.iso.org/ships-and-marine-technology.html>

¹³ Chapter 271G, Hawaii Water Carrier Act of 1974, Hawaii Revised Statutes (HRS) https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0271G/HRS_0271G-.htm

¹⁴ Water Carriers, Public Utilities Commission (PUC), State of Hawaii, Retrieved 19, 2024, <https://hpuc.my.site.com/cdms/s/regulated-entities/water-carriers>

¹⁵ Section 266-2 Powers and duties of department, Chapter 266 Harbors, Title 15 Transportation and Utilities, Hawaii Revised Statutes (HRS), (15 HRS §266-2), https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0266/HRS_0266-0002.htm

¹⁶ Certificate of public convenience and necessity (CPCN), Wikipedia, Retrieved February 18, 2024, https://en.wikipedia.org/wiki/Certificate_of_public_convenience_and_necessity

¹⁷ Surface Transportation Board (STB), Retrieved February 18, 2024, <https://www.stb.gov/>

¹⁸ Federal Maritime Commission (FMC), Retrieved February 18, 2024. <https://www.fmc.gov/>

¹⁹ Section 2, Definitions, general, Chapter 41, Subtitle 3 Harbors Division, Title 19 Department of Transportation (DOT), Hawaii Administrative Rules (HAR) (19 HAR §41-2), Retrieved February 18, 2024, <https://hidot.hawaii.gov/harbors/files/2013/01/19-41-2.pdf>

²⁰ CBP Form 1302 - Inward Cargo Declaration, U.S. Customs and Border Protection (CPB), U.S. Department of Homeland Security (DHS), August 04, 2023, <https://www.cbp.gov/document/forms/form-1302-inward-cargo-declaration>

²¹ CBP Form 1302A Cargo Declaration - Outward with Commercial Forms, U.S. Customs and Border Protection (CPB), U.S. Department of Homeland Security (DHS), https://www.cbp.gov/sites/default/files/assets/documents/2018-Feb/CBP%20Form%201302A_0.pdf

#

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File Ref: HSC-1400f (Test HI House CPC Hearing 02-27-2024)



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Steve Wetter

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Testimony of Bob Hood

President of the Hawaii Energy Marketers Association (HEMA)

TESTIMONY IN OPPOSITION TO HB 1936, HD1 RELATING TO HARBOR SAFETY

House Committee on Consumer Protection & Commerce

The Honorable Mark M. Nakashima, Chair

The Honorable Jackson D. Sayama, Vice Chair

February 27, 2024 @ 2:00 p.m.

Conference Room 329; Via Videoconference

Hawaii State Capitol; 415 South Beretania Street

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

I am Bob Hood, President of the Hawaii Energy Marketers Association (HEMA). HEMA is a nonprofit trade association comprised of members who market motor fuel products and operate convenience stores across the state. In addition, some of its members also contract with marine transportation companies for its safe, reliable and cost-effective transportation of fuel products to the Neighbor-Islands.

HEMA **OPPOSES** HB 1936, HD1, Relating to Harbor Safety.

The proposed legislation is based on a misleading premise that suggests a need for safe harbor operations. However, highly-trained, certified, and U.S Coast Guard licensed tug and barge operators are already in place. These professionals have been safely securing cargo vessels at docks in Hawaii's harbors for many decades.

We are not aware of any safety incidents related to the securing of dock lines in Hawaii. These operators are experts in their field and transport approximately 12.8 million tons of cargo to Hawaii's neighboring islands each year. This includes essential fuel provided by HEMA's members. Therefore, the existing operators have proven their professionalism and capability in ensuring safe harbor operations.

Furthermore, Hawaii's Neighbor-Island barging operations are highly coordinated to keep fuel flowing to these communities. This requires the vessels to be operated efficiently and with little downtime. Requiring stevedoring services would lead to yet further additional scheduling complexities that will inevitably result in disruptions in delivery for HEMA's essential products, in addition to other essential commodities for Hawaii.

Testimony of Bob Hood
President of the Hawaii Energy Marketers Association (HEMA)
House Bill 1936, HD1
Page 2

Finally, this proposed legislation will meaningfully increase the Neighbor Island logistics costs, which will lead to higher prices for the Neighbor Island residents.

Enacting HB 1936, HD1 would generate: (i) unnecessary state-mandated overstaffing, (ii) delays in delivery of commodities that may even lead to product outages, and (iii) significant additional bargaining costs that would inevitably be passed to the Neighbor Island residents.

It should also be noted that this proposed legislation would further compound the challenges of rebuilding on Maui, which is already facing supply-chain constraints and escalating costs.

We urge the committee's deferral of HB 1936, HD1. Thank you for allowing us to share our concerns.



Chamber of Commerce HAWAII

The Voice of Business

Testimony to the House Committee on Consumer Protection & Commerce

Tuesday, February 27, 2024, 2:00PM

Conference Room 329 & Videoconference

RE: HB1936 HD1 Relating to Harbor Safety

Chair Nakashima, Vice Chair Sayama, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") has serious concerns regarding **HB1936 HD1**, which requires the department to regulate the labor responsible for manning the mooring lines for certain vessels in state commercial ports.

The Chamber is wary of the negative consequences for the maritime industry in Hawaii if this measure is to be enacted. Mandating the use of a specific stevedoring company would limit competition and potentially drive-up costs for businesses in the industry. This could lead to a decrease in business and ultimately harm the economy.

There are concerns about the practicality of this proposed requirement. There are a limited number of existing, operational stevedoring companies operating within the State, and mandating that vessels use one of these companies could create logistical challenges and delays for both the vessels and the stevedoring companies. This could lead to increased costs for businesses, as they would need to allocate more resources to navigate these challenges.

If enacted, this measure would imply widespread issues in our energy supply chain and ultimately increase costs for businesses, which would in turn lead to increased costs to the consumers in Hawaii. It could also lead to a shortage of a wide range of goods that are vitally important to our economy and are transported across all neighbor islands.

For the above concerns and unintended consequences of this bill, we ask this committee to defer **HB1936 HD1**.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern. Thank you for this opportunity to testify.



**Testimony in opposition to HB1936
Relating to Harbor Safety
House Committee on Transportation**

February 27, 2024
House Conference Room 329

Members of the Committee,

Thank you for the opportunity to submit comments in OPPOSITION to HB1936 relating to harbor safety.

Centerline Logistics, through its various companies, operates one of the nation's largest maritime petroleum transportation fleets. Our operating area includes Hawaii, Alaska, West, East, and Gulf Coasts and includes over 130 vessels.

The day-to-day operations of our vessels necessitate safely mooring and unmooring of barges ranging in size from 200 feet to over 650 feet in length totaling thousands of evolutions per year and encompass facilities throughout both the nations smallest and largest ports in environmentally sensitive areas. Throughout our operating history, we have never recorded damage or injuries due to unsafe dockside lines handling events.

This proposed legislation will not facilitate safer operations or improve environmental security. To the contrary, the proposed legislation will most certainly:

1. Introduce opportunity for added personal injury to the crew and line handlers
2. Decrease operational efficiency and introduce opportunities for fuel shortages throughout Hawaii
3. Add unnecessary and egregious costs to petroleum products

For the committee's awareness, this is not the first time Centerline has opposed Hawaii line handling fees. Several years ago, prior to this proposed legislation, Centerline crews and vessels were threatened to either pay line handling fees or face physical threats to our personnel and crews. We refused to pay what amounted to extortion fees and were subsequently notified that those attempting to charge the fees would seek to do so via legislation since their criminal threats were not successful.

I have attached a copy of my legal declaration made in these related matters. Additionally, I am aware of a federal criminal investigation into the matters associated with line handling "fees" and have served as a cooperating witness in that investigation.

I urge the committee to please investigate the underlying matters that have propelled this legislation and not approve legislation that will negatively impact the critical supply chain for the State of Hawaii.

Matthew Godden
President and CEO
Centerline Logistics

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a Limited Liability Law Partnership

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10 Attorneys for Plaintiff
11 CENTERLINE LOGISTICS CORP.;
OLYMPIC TUG AND BARGE, INC.

12 THE CIRCUIT COURT OF THE FIRST CIRCUIT
13 STATE OF HAWAII

14 CENTERLINE LOGISTICS CORP.;
15 OLYMPIC TUG AND BARGE, INC.,
Plaintiffs,

Civil No. _____

16 v.

**DECLARATION OF MATTHEW
GODDEN**

17 INLANDBOATMEN’S UNION OF THE
18 PACIFIC; INTERNATIONAL LONGSHORE
& WAREHOUSE UNION;
19 INTERNATIONAL LONGSHORE &
WAREHOUSE UNION LOCAL 142;
20 MICHAEL ANDERSON, JR.; JOHN OR
JANE DOE 1 THROUGH JOHN OR JANE
21 DOE 100; and all other persons associated with
or acting by or through or under or in
22 connection or in concert with any of the above-
named Defendants or any of them,
23 Defendants.

1 I, MATTHEW GODDEN, being over the age of 18 and having personal knowledge
2 of the matters set forth in this Declaration, declare as follows:

3 1. I am the President, Chief Executive Officer, Chief Operating Officers and
4 Secretary of Centerline Logistics Corp. (“Centerline”) and have acquired personal
5 knowledge of the facts in this declaration in those capacities.

6 2. Centerline is a Delaware corporation. It is a parent company of Olympic Tug
7 & Barge, Inc. (“OTB”), a Washington corporation. OTB does not have a bargaining
8 relationship with a union (i.e., it is non-union).

9 3. OTB is a petroleum transportation company in the maritime industry. OTB
10 is engaged in lightering, dry bulk transportation, bunkering, container ship assist, and coast-
11 wide harbor tows along the U.S. West Coast. OTB utilizes Articulated Tugs and Barges
12 (“ATBs”) for terminal transportation in Hawaii. Terminal transportation consists of moving
13 petroleum product cargoes to and between liquid bulk terminals, petroleum refineries, and
14 storages facilities. OTB has been transporting petroleum products in Hawaii for months,
15 without incident. OTB’s petroleum transfers provides necessary fuel throughout Hawaii.
16 OTB has received confirmation from an official at the Hawaii Department of Transportation
17 (“DOH”), Harbors Division, that the DOH did not require a company to enter into a labor
18 agreement to perform the transfer of petroleum. In fact, I am aware that Kirby Corporation
19 performed maritime petroleum transfers in Hawaii for a long time (pulling out of the market
20 on January 1, 2022) and is non-union.

21 4. With an ATB, the stern of the barge is built with a specially designed notch
22 so that a bow of a tugboat can easily fit in place with a connection system. The combined
23
24

1 unit provide better maneuverability and steering capabilities while allowing safer and more
2 efficient transportation.

3 5. One such ATB utilized by OTB is the Tug Min Zidell married to the Barge
4 One Dream (referred collectively as “the Vessels). OTB will also have the Tug Sun Spirit
5 married to the Barge Aloha Spirit transferred to Hawaii in the near future. This is also an
6 ATB unit.

7 6. On February 1, 2022, I was informed that while the Vessels were at the Par
8 Petroleum, Inc. (“Par”) terminal preparing for a discharge of gas at Pier 2A, located at
9 Nawiliwili Harbor, Kauai, Hawaii, the crew was approached by an individual claiming to be
10 a stevedore with the International Longshoremen Workers’ Union (“ILWU”). The crew was
11 informed that the lines would be cut to the barge unless union members were used.

12 7. On the same day, Shannon Patt, OTB’s Operations Manager for Hawaii,
13 confirmed that he received a similar threat of violence to person and property in a meeting
14 that he attended at the Inlandboatmen’s Union of the Pacific (“IBU”) and ILWU joint-union
15 hall.

16 8. I was told that Par contacted the U.S. Coast Guard and the local authorities
17 due to these threats made in Kauai. Centerline and OTB also contacted the local authorities,
18 the U.S. Coast Guard, and the U.S Homeland Security due to the severity of the threat.

19 9. The threat would cause substantial harm, and was significant enough that
20 discharging was delayed until the security of the port could be confirmed. The Vessels then
21 left the Nawiliwili Harbor as soon as possible so as not to leave the Vessels in harms’ way,
22 heading to Hilo, Hawaii.

1 10. On February 4, 2022, at approximately 06:15 a.m., I received a call notifying
2 me that there were about twenty-five (25) people gathered at the Hilo dock awaiting the
3 arrival of the vessels. They were apparently yelling that “promises had been made.” The
4 port’s head of security, Greer “Baba” McKenn had apparently attempted to escort the people
5 away from the dock area. The group would not leave until one of the members could make
6 a “statement.”

7 11. At approximately 07:23 a.m., I was able to contact the individual that wanted
8 to make the statement. I spoke with Brandon Wolff with Dan Paige, Centerline’s General
9 Counsel, also on the call. He identified Dustin Dawson as being the ILWU Division
10 Director. I was later provided a business card of Wolff’s where he was identified as the
11 ILWU International Organizer for the ILWU. Attached as Exhibit 2 is a true and correct
12 copy of that business card.

13 12. Wolff indicated during that call that unless the ILWU were allowed to tie-up
14 the Vessels as line-handlers, or unless the company signed up with the IBU, OTB was not
15 going to be allowed to dock the Vessels. I asked Wolff repeatedly to allow our boat to come
16 in and dock, and to not touch it. Wolff would not agree. He said that if you want to escalate
17 the situation, then defend your boat, and we will defend our property. Wolff would **only**
18 agree that the docking operations of the Vessels would be allowed if OTB agreed to the
19 ILWU/IBU demands.

20 13. Under the circumstances, where there had been previous threats of cutting
21 lines with chain saws, the threatening meeting with Shannon Patt, and the following the
22 Vessels to Hilo with a group of twenty-five people, what I heard from Wolff in this call was
23
24

1 a veiled threat. There is no doubt in my mind we were being threatened. Our Vessels were
2 not going to be allowed to dock unmolested unless we agreed to their demands.

3 14. During the morning of February 4, I was informed by our customer, Sunoco
4 (d/b/a Aloha Petroelum), that they had contacted the local police and the U.S. Coast Guard
5 because Sunoco's employees were not allowed into the dock area.

6 15. Centerline and OTB also alerted the local police and the U.S. Coast Guard to
7 the situation in Hilo, Hawaii.

8 16. Despite alerting the local police and the U.S. Coast Guard, the twenty-five
9 individuals remained near the dock area, and would not leave. Since it was not safe to dock,
10 the Vessels were directed to circle the area. We have directed the Vessels to remain in place
11 for seventy-two (72) hours. Hilo is very short on fuel, and a failure to deliver fuel would
12 cause the island to run out of fuel. The lack of security of the Vessels will not allow OTB
13 to discharge fuel, however, until the threat is resolved.

14 17. On February 5, 2022, I was informed of another incident that occurred the
15 prior night. While the Vessels were drifting, the ILWU/IBU group apparently thought that
16 we had headed to a different port (Port of Kawaihae). The local police were called. The
17 group reportedly refused to leave the Port of Kawaihae to make sure the OTB fuel barge did
18 not arrive. The HPD was contacted and eventually had the group removed with contract
19 security out of Kawaihae.

20 18. It is apparent from this activity that the group is tracking the Vessel's
21 Automatic Identification System ("AIS"). The AIS is an automatic tracking system on
22 vessels. It transmits a ship's position so that other ships are aware of that position to avoid
23
24

1 collisions. The AIS can be monitored on government sites. See
2 <https://www.navcen.uscg.gov/?pageName=aismain>.

3 19. The Vessels are intended to remain providing fuel in Hawaii for the indefinite
4 future.

5 20. The safety of our crew, our equipment and the environment is of paramount
6 concern to our operations. We must operate in a safe manner. Failure to do so can jeopardize
7 the entire company. A threat to cut the line of the barge while it is discharging petroleum
8 product would potentially cause substantial harm to the company, potential death to
9 employees, and destruction of the environment. The threats made would cause substantial
10 irreparable harm to people and property that would be unavoidable if carried out.

11
12 I declare under penalty of perjury under the laws of the State of Hawaii that the
13 foregoing statements are true and accurate.

14
15 DATED at Seattle, Washington, this 7th day of February, 2022.

16 
17 _____
Matthew Godden



**Testimony to
The House Committee on Consumer Protection &
Commerce
Tuesday, February 27, 2024
2:00 PM
Conference Room 329 & VIA videoconference
Hawaii State Capitol**

HB 1936

Chair Nakashima, Vice Chair Sayama, and members of the committee,

Hawaii Gas offers comments on HB 1936, which requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company. Defines “stevedoring company”.

Since 1904, Hawaii Gas has been a pioneer in the gas industry. Hawaii Gas is again at the leading edge of our industry given our integration of both renewable natural gas (RNG) and hydrogen into our fuel supply mix and distributing it through our utility pipeline system. Hawaii Gas plays a vital role in Hawaii’s energy portfolio by providing clean, reliable, and cost-effective energy to over 70,000 customers on all islands, all of whom depend on the company for water heating, cooking, drying, and other commercial and industrial applications. The company employs some 350 professionals, over 75% of whom are under collective bargaining.

Hawaii Gas has concerns that this bill would create additional costs and cause unnecessary delays of critical energy resources to our customers. Hawaii Gas has utilized Sause Brothers for over twenty years to perform towing services for delivery of essential fuel that provides reliable and resilient energy to our customers. For decades, the union-represented workforce of Sause Brothers has secured our vessels safely at the dock and has coordinated harbor access with DOT-Harbors. The crew members are trained and licensed to carry out these duties through a rigorous US Coast Guard regulated testing and licensing program. The current process has a proven track record for both safety and energy security.

Additionally, scheduling barges in Hawaii’s congested harbors is a difficult task due to the countless arrivals and departures per month throughout the State. Attempting to schedule around line handler availability in conjunction with dynamic resupply schedules and weather events, particularly on neighboring islands, will be a challenging endeavor.

We respectfully request consideration for an amendment that provides that this bill not apply to tug operators who are regulated by the Coast Guard and who are signatory to a collective bargaining agreement.

Thank you for the opportunity to testify.



February 27, 2024

**TESTIMONY IN OPPOSITION TO HB 1936 HD1
RELATING TO HARBOR SAFETY**

House Committee on Consumer Protection & Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair

Tuesday, February 27, 2024, 2:00 PM
Conference Room 329
State Capitol 415 South Beretania Street

Chair Nakashima, Vice Chair Sayama and members of the Committee,

Thank you for the opportunity to provide comments in **OPPOSITION** to **HB 1936 HD1**,
Relating to Harbor Safety.

Par Hawaii is critical infrastructure defined by the Cybersecurity & Infrastructure Security Agency (CISA) in providing energy security for our State. HB 1936 HD1, if enacted: 1) will not increase harbor safety; 2) will increase the risk of a supply disruption particularly to the Neighbor-Islands; and 3) will lead to unnecessary added labor which will be passed onto the consumer through higher fuel and energy costs.

To transport the millions of gallons of fuel (e.g. gasoline, diesel, jet fuel) to the Neighbor Islands, our company charters a tug and barge on a long-term basis through Sause Brothers who has been operating marine vessels in Hawaii for 58 years. We load fuel products from our refinery at Barbers Point Harbor approximately every three days and transit to Kauai, Hawaii Island or Maui. We generally visit each island at least once every ten days, approximately 40x annually, in consistent and reliable delivery of fuel to the Neighbor Islands. It's a demanding schedule that requires our barge to be on the move essentially all of the time, around the clock, and in coordination with all harbors.

For decades, the union-represented workforce of Sause Brothers has secured our vessels safely at the dock and has coordinated harbor access with DOT-Harbors. The crew members are **trained and licensed** to carry out these duties through a rigorous US Coast Guard testing and licensing program. If the tug and barge crew and DOT-Harbors are not in-sync, delivery will be delayed.

And, because our barge does not have scheduled downtime, the schedule changes frequently (can be multiple times per week) as a result of inclement weather conditions or because of loading or discharge operations.

If we were required to use a stevedoring company to tie up the tug and barge, Neighbor-Island **energy resupply would become subject to the schedule and availability of stevedoring personnel.** This will lead to delays in resupply and would meaningfully increase the risk of fuel runouts on the Neighbor-Islands.

Par Hawaii would not be the only party impacted by this legislation. Other energy companies, including Hawaiian Electric, Hawaii Gas, Aloha Petroleum and Island Energy Services, all charter tugs and barges would be subject to these new and unnecessary requirements. Additionally, several non-energy companies such as Hawaiian Cement, American Marine Corporation, and Aloha Marine Lines, who bring in building materials and supplies would be impacted.

We believe this bill is unnecessary and, we also ask the committee to clarify what it means for a non-stevedore company to be certified by the State's health and safety guidelines that are applicable to the mooring of vessels, which currently does not exist.

If the committee intends to move this measure forward, we request at minimum, the following by added to Section 3 and the opportunity for stakeholders to continue in this discussion.

SECTION 3. The provisions of this Act shall be enforced to the extent they are not held to conflict with any federal or state constitutional provision, law, rules, or regulations. The provisions of this Act are not severable and if any provision of the Act, or the application thereof to any person or circumstance is held to conflict with any federal or state constitutional provision, law, rule, or regulation, this Act, in its entirety, shall be invalid and section 266-2, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the approval of this Act[.] ; provided further that this Act shall not apply to tug operators regulated by the United States Coast Guard and who are signatory to a collective bargaining agreement.

Mahalo,

Eric Wright
President
Par Hawaii

Hawai'i Cost of Living Coalition

A coalition of Hawai'i businesses and organizations committed to building resilience in our island home

Members

Aloha Marine Lines

American Marine Corporation

Building Industry Association of Hawaii

Chamber of Commerce of Hawaii

Kapolei Chamber of Commerce

Kona-Kohala Chamber of Commerce

Maui Chamber of Commerce

Construction Industry of Maui

Contractors Association of Kauai

General Contractors Association of Hawaii

Hawaii Fueling Facilities Corporation

Hawaiian Cement

Island Energy Services

Island Plastic Bags

Par Hawaii

Retail Merchants of Hawaii

Sause Bros.

February 27, 2024

OPPOSITION TO HB 1936 HD1 RELATING TO HARBOR SAFETY

House Committee on Consumer Protection & Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair

Tuesday, February 27, 2024, 2:00 PM
Conference Room 329

Hawaii State Capitol; 415 South Beretania Street

Chair Nakashima, Vice Chair Sayama, and members of the Committee,

Thank you for the opportunity to provide testimony in opposition to HB 1936 HD1, Relating to Harbor Safety.

This proposed bill is based on a faulty, misleading premise. Trained tug operators have safely secured vessels at docks in Hawaii's harbors for decades. Statewide, there is an average 12.8 million tons of marine cargo annually, and the industry has not experienced concerning safety incidents with securing mooring lines. Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors.

The proposed bill also has serious unintended financial ramifications for the entire state. Being forced by law to use a stevedoring company may benefit that company and those members but comes at cost for the rest of us. It would add more significant cost to the existing barge operations with no appreciable benefit to existing tug assistance operators. Ultimately, these costs will end up in higher costs for local goods and services for Hawaii residents.

This is particularly troubling for those on Maui, which is already facing supply-chain challenges to rebuild Lahaina. The unnecessary shipping costs added for building materials and supplies must be borne by other Hawaii businesses and, ultimately, by consumers and taxpayers, many of whom are already struggling with inflationary prices on top of Hawai'i's high cost of living.

We urge the committee's deferral of HB 1936 HD1. Thank you for allowing us to share our concerns.

Mahalo,

Hawaii Cost of Living Coalition



Pier 5
91-550 B Malakole St.
Kapolei, HI 96707
(808) 536-7033

February 26, 2024

**TESTIMONY IN OPPOSITION TO HB 1936 HD1,
RELATING TO HARBOR SAFETY**

House Committee on Consumer Protection & Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair

Tuesday, February 27, 2024, 2:00 PM
Conference Room 329
State Capitol
415 South Beretania Street

Chair Nakashima, Vice Chair Sayama, and members of the committee:

Thank you for the opportunity to provide comments and concerns on HB 1936 HD1 - Relating to Harbor Safety. This legislation will not improve safety and will have unintended consequences that negatively impact our operations and substantially increase transportation costs to Hawaii businesses and consumers. Therefore, **Aloha Marine Lines OPPOSES HB 1936 HD1** and recommends the bill not be moved out of committee.

Aloha Marine Lines (AML) has been serving customers for over four decades. Our fleet of barges safely transports vital commodities from the Pacific Northwest to the communities in Hawaii. We maintain a regular bi-weekly sailing schedule to and from Hawaii, and our operation requires around-the-clock service. AML utilizes ocean going tugboats and additional assist tugboats to safely secure its barges to the Kalaeloa Barbers Point Harbor Pier. Our barges are then secured to the bulkhead with mooring lines by a union tug crew of highly trained safety-certified professionals, with an exemplary safety record. AML moors its barges in Hawaii, Alaska, and Pacific Northwest in excess of 2000 times a year, under sometimes challenging conditions, and has no reported accidents to personnel or dock infrastructure pertaining to the handling of mooring lines. In fact, we have been unable to find a record of any line handling incident closing any port anywhere in the United States. Safety is the number one priority for AML, as it is for all responsible water carriers, and we actively ensure that every aspect of our operation, including docking and mooring, is handled safely and in accordance with State and Federal safety guidelines and regulations.

Similar to Young Brother's intrastate barge operation, Aloha Marine Lines interstate barge operation requires service at all times. Therefore, we are concerned that local union line handlers may not always be available when needed, and there will be substantial increased costs from delays with tug, barge, and required tug assist, coupled with a large gang of union stevedore crews standing by waiting for line handlers. A requirement for a separate stevedoring company just to handle lines provides no improvement in safety and will result in delays, additional cost, and inefficiencies for companies like ours that already operate safely, utilizing highly trained and skilled union labor. This would be an unnecessary burden on AML and its customers, and ultimately lead to significant increased costs for consumers. With respect to mooring and line handling, operations of a PUC-regulated carrier are no different from a non-regulated carrier. Accordingly, any exemption applicable to a regulated carrier should also extend to non-regulated barge carriers, such as AML. There is no safety or other operational reason to treat them differently.

In conclusion, we urge deferral of HB 1936 HD1 as this bill would result in substantially increased costs for Aloha Marine Lines, its customers, and ultimately Hawaii consumers. In particular, we are concerned the potential delays and significant added costs will negatively impact the Lahaina recovery efforts. The proposed legislation provides no evidence or trends that support the need for a change in mooring line personnel or procedures. AML has an impeccable safety record, and remain steadfast and confident that we will continue to dock and moor our barges safely as we have demonstrated year after year. Furthermore, there should be no safety related distinction between our interstate barge service to that of the PUC regulated intrastate operation provided by Young Brothers, therefore if this legislation moves forward, other barge carriers with strong safety records should enjoy the same exemption. Overall, the bill is excessive, burdensome, and unnecessary for companies with a practical, safe, and proven operational history. Thank you for your attention to our concerns.

Bret L. Harper
Vice President of Sales

ALASKA MARINE LINES / ALOHA MARINE LINES

 Tel (206) 892.2594 |  Cell (206) 817.5395

 bharper@lynden.com |  www.shipaml.com



INTERNATIONAL LONGSHORE & WAREHOUSE UNION

LOCAL OFFICE • 451 ATKINSON DRIVE • HONOLULU, HAWAII 96814 • PHONE 949-4161

HAWAII DIVISION: 100 West Lanikaula Street, Hilo, Hawaii 96720 • OAHU DIVISION: 451 Atkinson Drive, Honolulu, Hawaii 96814
MAUI COUNTY DIVISION: 896 Lower Main Street, Wailuku, Hawaii 96793 • KAUAI DIVISION: 4154 Hardy Street, Lihue, Hawaii 96766
HAWAII LONGSHORE DIVISION: 451 Atkinson Drive, Honolulu, Hawaii 96814

LOCAL 142

February 26, 2024

The Thirty-Second Legislature
Regular Session of 2024

THE HOUSE OF REPRESENTATIVES

Committee on Consumer Protection and Commerce

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

State Capitol, Conference Room 329 & Videoconference

Tuesday, February 27, 2024 at 2:00 p.m.

STATEMENT OF THE ILWU LOCAL 142 IN STRONG SUPPORT OF HB1936 HD1 RELATING TO HARBOR SAFETY

On behalf of the International Longshore and Warehouse Union Local 142, I am writing to express my **STRONG SUPPORT** for HB1936, which aims to enhance harbor safety and mooring operations in Hawai'i. As the President of ILWU Local 142 and a stevedore with 25 years of experience in our state harbors, I have a deep understanding of the unique challenges and essential role they play in our island community.

The legislative findings in HB1936 accurately recognize Hawai'i's unique position as the most remote island chain in the world. Our harbor system serves as a vital lifeline for 98% of all goods arriving in Hawai'i.

HB1936 proposes a responsible solution by mandating the involvement of Hawai'i-based, safety-certified stevedoring companies. These companies employ highly skilled, experienced local longshore workers who possess the intimate knowledge of Hawaiian waters and mooring practices crucial for minimizing accidents and ensuring optimal safety. As with any stevedoring job, mooring operations carry significant risks, and accidents can have devastating consequences, even death.

The current lack of a requirement for out-of-state companies to utilize such personnel poses a significant risk. Unregulated vessel traffic accounts for about 1500-2000 arrivals and departures annually. With nearly 2,000 vessels arriving and departing each year without proper oversight, there's a significant risk when it comes to harbor safety.

HB1936 strikes a commendable balance with oversight by the DOT and recognition of the existing competence of PUC-regulated shipping carriers. These carriers will be permitted to continue using their certified and regularly recertified personnel, ensuring minimal disruption to operations.

I urge you to join me in supporting HB1936. This legislation is critical for ensuring the safety and efficiency of our harbors and protecting our state's infrastructure.

Mahalo for the opportunity to testify in strong support of HB1936.

A handwritten signature in black ink that reads "Christian West". The signature is written in a cursive, flowing style.

Christian West
President, ILWU Local 142



February 27, 2024

**TESTIMONY IN OPPOSITION TO HOUSE BILL 1936 HD1
RELATING TO HARBOR SAFETY**

House Committee on Consumer
Protection & Commerce

The Honorable Mark Nakashima, Chair
The Honorable Jackson Sayama, Vice Chair
Tuesday, February 27, 2024, 2:00 pm
VIA VIDEOCONFERENCE
Conference Room 329
State Capitol
415 South Beretania Street

Chair Nakashima, Vice Chair Sayama and members of the Committee,

Island Energy Services, LLC (“IES”) offers the following testimony in OPPOSITION to HB1936 HD1 requiring the securing of mooring lines for tug assisted vessels to be manned by an existing, operational stevedoring company operating within the State.

IES contracts Sause Bros. to transport its shipments of petroleum fuel from Honolulu to Neighbor Island customers. Approximately seven hundred tug assisted barge arrivals and departures occur annually to supply this critical commodity of fuel to power various energy dependent businesses and residence alike.

IES has not experienced any safety or other operational incidents that would warrant the need for additional marine operations proposed by this measure. The requirements proposed by HB1936 HD1 will however add significant cost to the existing barge operations with no appreciable benefit to existing tug assisted operations. The increased cost incurred by IES, as well as all companies transporting commodities and manifested cargo via tug assisted barges utilizing State owned and controlled facilities will result in higher costs for local goods and services for Hawaii residents. Neighbor Island consumers in particular will likely bear a disproportionate amount of the increased cost due to the double handling of commodities like fuel originating from facilities located on Oahu.

Furthermore, the current fuel barging operations and port call schedules are complex and designed to be efficient and optimal to reduce unnecessary logistical costs. Adding the

additional layer of services by a third-party proposed by HB1936 HD1 will undoubtedly increase the likelihood of scheduling and other logistical delays not experienced by IES' existing operations. Other unintended consequences could result in increased operational risks, which could result in fuel shortages and runouts on the Neighbor Islands.

We thank the House Transportation Committee for this opportunity to share our concerns and **urge this measure be HELD.**

Albert D.K. Chee, Jr.
Vice President
Island Energy Service LLC



SAUSE BROS.

499 N. NIMITZ HWY, PIER 21 • HONOLULU, HI 96817
TELEPHONE: (808) 521-5082 • WWW.SAUSE.COM

February 26, 2024

**TESTIMONY PROVIDING COMMENTS TO HOUSE BILL 1936 HD1
RELATING TO HARBOR SAFETY**

House Committee on Consumer Protection & Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair

Tuesday, February 27, 2024, 2:00 PM
Conference Room 329
State Capitol 415 South Beretania Street

Chair Nakashima, Vice Chair Sayama and members of the Committee,

Sause Bros. offers the following comments regarding how HB 1936 HD1 will negatively impact operations throughout Hawaii.

For the past 58 years, Sause Bros. has maintained a local office and operations in Hawaii. Our union mariners are licensed, highly trained and have the greatest level of experience in the industry which is evidenced by operating safely and efficiently in Hawaii for over five (5) decades. Requiring mooring lines handlers who are not familiar with our specialized equipment provides no value-added safety benefit to our operations.

Additionally, scheduling barges in Hawaii's congested harbors is a difficult task due to the countless arrivals and departures per month throughout the State. Attempting to schedule around mooring line handler availability in conjunction with dynamic resupply schedules and weather events, particularly on neighbor islands, will be a challenging endeavor.

Thank you for allowing us to share our concerns.

Blaine Gemeno
Vice President
Sause Bros., Inc.

February 27, 2024

TESTIMONY IN OPPOSITION TO HB 1936, HD1, RELATING TO HARBOR SAFETY

House Committee on Consumer Protection & Commerce

The Honorable Mark M. Nakashima, Chair

The Honorable Jackson D. Sayama, Vice Chair

Tuesday, February 27, 2024, 2:00 PM

Conference Room 329

State Capitol 415 South Beretania Street

Chair Nakashima, Vice Chair Sayama, and members of the Committee:

Thank you for the opportunity to provide comments in **strong opposition** to HB 1936 HD1, relating to harbor safety.

The American Waterways Operators (AWO) is the tugboat, towboat and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. Our industry is the largest segment of the nation's 40,000-vessel domestic maritime fleet and moves 665 million tons of cargo each year safely and efficiently. AWO member companies move cargo both between the Hawaiian Islands and from the mainland to the state, which ranks number two in per capita jobs related to the domestic maritime industry, contributing over \$3.3 billion to the state's economy. AWO appreciates the opportunity to testify regarding HB 1936 HD1. This bill will unnecessarily raise the costs on Hawaiians by adding an unneeded step to be taken when tugs, including ship assist vessels, tie up their mooring lines.

AWO agrees wholeheartedly with the sentiment that Hawaii's ports and harbors are of the utmost importance, as they provide the most cost-effective way to get needed products to the state, including food, fuel, and other important necessities of everyday life. With regard to HB 1936 HD1, however, we believe that this bill will not improve safety at Hawaii ports and will instead simply increase the costs of goods for Hawaiians statewide.

The towing industry is proud of our safety record, and it's worth mentioning here that our industry has not experienced the sort of safety incidents this bill purports to address. If you know our industry, then that accomplishment should not surprise you. Our mode of transportation is the safest because we have asked the Coast Guard to create regulations for the tugboat and towboat industry. This was done to improve mariner safety, vessel safety, harbor safety, and improve customer service. This has also led to improvements in sustainability and environmental responsibility in our sector. Tugboats, towboats, and barges receive rigorous inspections on a regular basis, mariners onboard are credentialed by the U.S. Coast Guard, and require endorsements in order to serve in various roles, such as Master of Towing Vessels, Mate of Towing Vessels, and others. Moreover, men and women working on towing vessels

undergo rigorous training, above and beyond the training found on uninspected fishing vessels, including navigation, towing operations, firefighting, and pollution control. Additionally, regulated towing vessels are required to maintain health and safety plans. Finally, customers of the tugboat and towboat business often have strict guidelines for safety and performance in the movement of their products, further upping the standard of service in our industry. Given all of these federal requirements, added state requirements with regard to line handling are simply unnecessary.

As you think about the towing industry and our friends in commercial fishing, we would like to draw a distinction. Compare the towing-industry requirements to the most recent incident touted by proponents of HB 1936 HD1, where a fishing vessel struck a bridge in Honolulu Harbor. It is important to point out that when comparing safety requirements of fishing industry vessels to the tugboats operating on Hawaii waters, there is no comparison. The vast majority of fishing industry vessels are not inspected and are regulated only for general safety equipment and navigational safety requirements. There are no specific certifications required for individuals working on these vessels, and the training required pales in comparison to the requirements of Subchapter M, that portion of the Code of Federal Regulations pertaining to tugboats and towboats. Our industry invests in mariner training on an annual basis and the lack of incidents shows.

Hawaii ports are the most remote in the world and are a critical lifeline for goods needed by Hawaiians. As a result, the cost of living in Hawaii is among the highest in the United States. Requiring tugboat and barge crews to engage the use of line handlers is an unnecessary expense that will be passed onto consumers who should not have to bear it.

Thank you for your consideration. We would ask that you oppose HB 1936 HD1.

Mahalo,

Peter Schrapen, CAE Vice President – Pacific Region

American Waterways Operators



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 27, 2024
Re: HB 1936 HD1 RELATING TO HARBOR SAFETY**

Good afternoon, Chair Nakashima, and members of the House on Consumer and Protection Commerce. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We respectfully oppose HB 1936 HD1. This measure requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company; defines "stevedoring company;" exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS; sunsets on 7/1/2028 and is effective 7/1/3000.

It is our understanding that for decades, there are trained, U.S. Coast Guard licensed barge operators that continue to safely secure vessels at docks in Hawaii's harbors. Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors. So why are we trying to fix something that is not broken as the industry has not experienced concerning safety incidents with securing mooring lines?

It is measures like these that have the potential to increase the cost of goods and products and make it even more costly for Hawaii's residents to shop for food, clothing, beverages, appliances, equipment, and other necessities as well as continue to make Hawaii one of the most expensive states to live in.

An average of 12.8 million tons of cargo is shipped into Hawaii by sea every year. Most of the items we see in stores are part of this cargo as Hawaii must ship everything from the mainland and internationally as well as ship it between islands.

If this bill is passed, we will see prices of goods and products increase. The cost to use a mandated stevedoring company will be passed on to the distributor, the distributor will pass the cost on to the retailer and the retailer will pass the cost on to the customer. This would also impact the local businesses on the neighboring islands like farmers and retailers who ship their products and goods between the islands. In other words, we will see a price hike in our rice, spam, shoes, clothing, appliances, and building supplies to name a few.

In addition, having to wait for the mandated workers could also delay the offloading of the cargo. This will especially impact the neighbor Islands who get shipment once a week. If the ship is not offloaded in time and loaded on to the barges that go between islands, our neighbor island community will have to wait another week for their goods and products. We are especially concerned about the island of Maui who is in the process of rebuilding and are already facing supply-chain challenges to rebuild Lahaina.

Hawaii is already an expensive place to live, and we cannot afford higher prices.

Mahalo again for this opportunity to testify.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

LATE

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
Tuesday, February 27, 2024 AT 2:00 P.M.

To The Honorable Kyle T. Yamashita, Chair
The Honorable Lisa Kitagawa, Vice Chair
Members of the Committee on Finance

OPPOSE HB1936 RELATING TO HARBOR SAFETY

The Maui Chamber of Commerce **OPPOSES HB1936** which requires that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company, defines "stevedoring company," and exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS.

The Chamber notes that trained, U.S Coast Guard licensed barge operators have safely secured vessels at docks in Hawaii's harbors for decades. Statewide, there is an average 12.8 million tons of marine cargo annually, and the industry has not experienced concerning safety incidents with securing mooring lines. Those who operate in these harbors undergo extensive training and must meet certain requirements to be authorized. No one is allowed to work in these positions without this authorization and this has maintained the high safety standards at the harbors. If anyone feels there have been safety issues, particularly in Hawaii, we feel they should submit a 5-year review of Hawaii operations before such legislation is considered.

Further, those most concerned with the safety of the ship and the crew would be the boat owners and they seem to be fine with how everything is working now.

The proposed bill also has serious unintended financial ramifications for the entire state. Being forced by law to use a stevedoring company, supplemental to existing marine licensed and union negotiated company comes at cost for the rest of Hawaii's population. It would add more significant cost to the existing barge operations with no appreciable benefit to existing tug assistance operators. Ultimately, these costs will end up in higher costs for local goods and services for Hawaii residents.

This is particularly troubling for those of us here on Maui, which is already facing supply-chain challenges to rebuild Lahaina. The unnecessary shipping costs added for building materials and supplies must be borne by other Hawaii businesses and, ultimately, by consumers and taxpayers, many of whom are already struggling with inflationary prices on top of Hawaii's high cost of living.

For these reasons we **OPPOSE HB1936** and respectfully request that this bill be deferred.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



LATE

**HAWAII STATE HOUSE OF REPRESENTATIVES
COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
State Capitol, Room 325
2:00 PM**

FEBRUARY 27, 2023

RE: HB 1936 - RELATING TO HARBOR SAFETY

Chair Nakashima, Vice Chair Sayama, and members of the committee:

My name is Max Lindsey, 2023 Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii offers the following comments regarding HB 1936, Relating to Harbor Safety. This bill would require that the securing of mooring lines from vessels requiring tug assistance to commercial docks, wharves, piers, quays, and landings be performed by a stevedoring company, defines "stevedoring company", exempts, under certain circumstances, vessels operating on behalf of an authorized intrastate or transpacific water property carrier holding a certificate of public convenience and necessity issued under section 271G-10, HRS.

BIA Hawaii is concerned about the possible unintended consequence of this bill raising the cost of housing in Hawaii. Adding an additional layer of cost onto shipping would raise the cost of building materials, which could in turn further raise the already-high cost of construction.

The state of Hawaii is in a dire housing crisis. As the Legislature is aware, the cost of housing in Hawaii is extremely high, and out of touch for many kama`aina. Approximately 153,967 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB).

We appreciate the opportunity to share our comments.

HB-1936-HD-1

Submitted on: 2/26/2024 8:33:41 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lyle Nicely	Individual	Support	Written Testimony Only

Comments:

I strongly support HB1936.

HB-1936-HD-1

Submitted on: 2/26/2024 8:34:45 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Sur	Individual	Support	Written Testimony Only

Comments:

Strong support for safety. Thank you

HB-1936-HD-1

Submitted on: 2/26/2024 8:37:48 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
B. Hansen	Individual	Support	Written Testimony Only

Comments:

Strong **SUPPORT** for SB2746! Harbor Safety & Transparency. We depend on safe and secure ports. This bill sets training & oversight standards for Hawaii's critical infrastructure. Mahalo!

HB-1936-HD-1

Submitted on: 2/26/2024 8:38:17 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sam	Individual	Support	Written Testimony Only

Comments:

I strongly support HB1936.

HB-1936-HD-1

Submitted on: 2/26/2024 8:40:52 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kenneth	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill and feel that our lawmakers in this state have an opportunity to raise the bar on harbor safety.

HB-1936-HD-1

Submitted on: 2/26/2024 9:00:31 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ronny De Reis	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill.

HB-1936-HD-1

Submitted on: 2/26/2024 9:06:41 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Matthew Coleman	Individual	Support	Written Testimony Only

Comments:

Support

HB-1936-HD-1

Submitted on: 2/26/2024 9:13:26 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Collin Mansanas	Individual	Support	Written Testimony Only

Comments:

I strongly support HB1936

HB-1936-HD-1

Submitted on: 2/26/2024 9:20:45 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kaipo Bee	Individual	Support	Written Testimony Only

Comments:

I Kaipo Bee strongly support HB1936.

HB-1936-HD-1

Submitted on: 2/26/2024 9:38:12 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
James Mueller	Individual	Support	Written Testimony Only

Comments:

I STRONGLY SUPPORT BILL HB1936

HB-1936-HD-1

Submitted on: 2/26/2024 9:40:31 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Keone Bee	Individual	Support	Written Testimony Only

Comments:

Strongly support this bill

HB-1936-HD-1

Submitted on: 2/26/2024 10:07:18 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
J White	Individual	Support	Written Testimony Only

Comments:

I stand in strong support of HB1936

HB-1936-HD-1

Submitted on: 2/26/2024 10:07:22 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nathan Dudoit	Individual	Support	Written Testimony Only

Comments:

I strongly support the passage of HB1936 relating to harbor safety. Mahalo

HB-1936-HD-1

Submitted on: 2/26/2024 10:22:11 AM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Maeva	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill!!!

HB-1936-HD-1

Submitted on: 2/26/2024 12:05:48 PM

Testimony for CPC on 2/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Victor Papapa	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill. It will provide income for local families and tax revenues for the state.