

STAND. COM. REP. NO. 9

Honolulu, Hawaii

FEB 02 2011

RE: S.B. No. 824
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Transportation and International Affairs,
to which was referred S.B. No. 824 entitled:

"A BILL FOR AN ACT RELATING TO MOTOR CARRIERS,"

begs leave to report as follows:

The purpose and intent of this measure is to make null and unenforceable any portion of a motor carrier transportation services contract or agreement that requires the carrier to indemnify, defend, or hold harmless the other party to the contract from any liability for that party's negligence or intentional acts or omissions.

Your Committee received testimony in support of this measure from the Hawaii Transportation Association and Elite Limousine Service Inc.

Your Committee finds that motor carriers, including trucking and tour bus companies, are often required to sign transportation service contracts or agreements requiring them to indemnify the other party to a motor carrier transportation services contract for acts of negligence or intentional acts or omissions, regardless of who is actually at fault.

Your Committee further finds that while motor carriers should be held responsible for liability to the extent that the carrier is at fault, indemnification provisions can be unreasonable and place an undue burden on carriers since they are often not in a position to be able to refuse a transportation services agreement.

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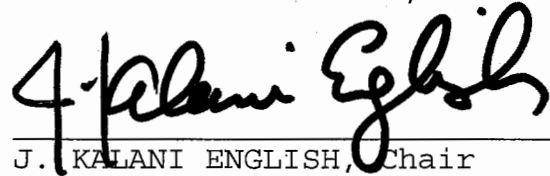


In addition, indemnification provisions may eliminate the incentive for the other party to take precautions at their facilities to protect the persons and property being transported.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Transportation and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 824, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 824, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on behalf of the members of the Committee on Transportation and International Affairs,


J. KALANI ENGLISH, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Transportation and International Affairs
TIA

Bill / Resolution No.:* SB 824	Committee Referral: TIA, JDL	Date: 1/28/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ENGLISH, J. Kalani (C)	✓			
ESPERO, Will (VC)	✓			
DELA CRUZ, Donovan M.	✓			
GABBARD, Mike	✓			
KAHELE, Gilbert	✓			
KOUCHI, Ronald D.				✓
SLOM, Sam	✓			
TOTAL	15	WR		1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Will Espero</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes