

Honolulu, Hawaii

APR 24 2012

RE: S.B. No. 824
S.D. 2
H.D. 2
C.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 824, S.D. 2, H.D. 2, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to deem void 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 from any claim or liability for that party's negligence or intentional acts or omissions.

Your Committee on Conference 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 the motor carrier transportation services contract for acts of negligence or intentional acts or omissions, regardless of who is actually at fault.



Your Committee on Conference finds that a motor carrier should be held responsible for liability to the extent that the carrier is at fault. However, motor carriers often agree to indemnify the other party to secure work, so these indemnification provisions can become unreasonable conditions of a transportation services agreement that carriers are often unable to refuse.

Your Committee on Conference has amended this measure by inserting language to clarify that the provisions that shall be deemed void and unenforceable include provisions that purport to indemnify, defend, or hold harmless, whether in whole or in part, the indemnitee and that the provisions shall be deemed void and unenforceable to the extent that they seek to indemnify, defend, or hold harmless the indemnitee.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 824, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 824, S.D. 2, H.D. 2, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE


JOSEPH M. SOUKI, Co-Chair


J. KALANI ENGLISH, Chair


ROBERT N. HERKES, Co-Chair


CLAYTON HEE, Co-Chair


GILBERT KEITH-AGAHAN, Co-Chair



Hawaii State Legislature

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: SB 824, SD 2, HD 2					Date/Time: <i>19 April 2012 1:46 pm</i>						
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).											
<input type="checkbox"/> The Committee is reconsidering its previous decision.											
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.						
Senate Managers		A	WR	N	E	House Managers		A	WR	N	E
ENGLISH, J. Kalani, Chr.		✓				SOUKI, Joseph M., Co-Chr.		✓			
HEE, Clayton, Co-Chr.		✓				HERKES, Robert N., Co-Chr.		✓			
SLOM, Sam					✓	KEITH-AGARAN, Gilbert S.C., Co-Chr.		✓			
						ICHIYAMA, Linda		✓			
						YAMANE, Ryan I.		✓			
						FONTAINE, George R.		✓			
TOTAL		2			1	TOTAL		6			
A = Aye				WR = Aye with Reservations				N = Nay		E = Excused	
Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted						House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					
Senate Lead Chair's or Designee's Signature: <i>[Signature]</i>						House Lead Chair's or Designee's Signature: <i>[Signature]</i>					
Distribution: Original		Yellow				Pink		Goldenrod			
File with Conference Committee Report				House Clerk's Office		Senate Clerk's Office		Drafting Agency			