

STAND. COM. REP. NO.

684

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 2
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PILOTAGE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Limit the liability of port pilots to a specified monetary limit of damages or loss occasioned by a pilot's errors, omissions, fault, or negligence in the performance of pilotage or in the training of pilots, except for acts or omissions of the pilot in the performance of pilotage or in the training of pilots that constitute willful, intentional, or reckless misconduct;
- (2) Require every vessel, not just those involved in trade or commerce, entering or departing from any port in the State or traversing the waters of the State designated as pilotage waters to employ a licensed pilot unless otherwise exempt;
- (3) Exempt vessels under three hundred gross tons from pilotage regulation under chapter 462A, Hawaii Revised Statutes; and



- (4) Require the Department of Commerce and Consumer Affairs, in consultation with the Hawaii Pilots Association, to submit a written report to the Legislature regarding:
 - (A) Continuing education requirements for port pilots;
 - (B) Investigations of port pilots who are renewing their licenses to determine their qualifications; and
 - (C) Any other matters relevant to the professional competencies and education of port pilots when applying for a license or renewing a license.

Your Committee received testimony in opposition to this measure from the Hawaii Association for Justice. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs.

Your Committee finds that port pilots have the responsibility of ensuring the safe movement of all types of vessels in Hawaii's commercial harbors, including cruise ships, oil tankers, and container ships. Port pilots go aboard ships before they enter or depart from a harbor. Once on board a ship, the pilot directs the movement of the vessel as it moves throughout the harbor. Inattention, complacency, wrong decisionmaking, or a simple mistake by the port pilot could lead to vessel casualty with high monetary damages or loss of life, the end of the pilot's career, and financial loss for the pilot. This high risk of liability could hinder efforts to attract and maintain sufficient numbers of qualified pilots and threaten the State's ability to maintain effective compulsory pilotage systems.

Your Committee has amended this measure by:

- (1) Deleting the language under section 1, which would have limited the liability of port pilots to a specified monetary limit of damages or loss occasioned by a pilot's errors, omissions, fault, or negligence, and replacing it with language that requires a vessel and the owner or operator of the vessel to defend, indemnify, and hold harmless the pilot, any pilot association to which the pilot belongs, and their officers and employees, with respect to liability arising from any claim, suit, or action, by whomever



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asserted, resulting in whole or in part from any act, omission, or negligence of the pilot, any pilot association to which the pilot belongs, and their officers and employees;

- (2) Deleting section 4, which would have required the Department of Commerce and Consumer Affairs to submit a written report to the Legislature, and inserting language that:
 - (A) Requires the renewal of a pilot license to be in accordance with the Uniform Professional and Vocational Licensing Act under chapter 436B, Hawaii Revised Statutes; and
 - (B) Requires the Director of Commerce and Consumer Affairs to develop appropriate standards for renewal of licensure; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB2 SD1	Committee Referral: TRA / CPN, JDL	Date: 2/27/15		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike				✓
IHARA, Jr., Les				✓
THIELEN, Laura H.	✓			
SLOM, Sam				✓
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes