

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

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 764, S.D. 1, entitled:  
"A BILL FOR AN ACT RELATING TO HUMAN TRAFFICKING,"

begs leave to report as follows:

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

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

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

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

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

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

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

(2) Takes effect on January 1, 2050.

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

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

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AARON LING JOHANSON, Chair