

# S.B. NO. 2758

JAN 25 2010

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## A BILL FOR AN ACT

RELATING TO SAFETY INSPECTION OF MOTOR CARRIER VEHICLES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 286-207, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§286-207 Exemptions, certain vehicles. This part shall  
4 not apply to the following vehicles, if such vehicles are in  
5 compliance with safety ordinances and rules of the county in  
6 which they operate and other applicable state safety laws and  
7 rules:

- 8           (1) The type of passenger carrying vehicle known as a  
9           "sampan bus" within a radius of twenty miles from the  
10           city of Hilo, Hawaii;
- 11           (2) Station wagons for the carriage of property;
- 12           (3) Trucks, truck-trailers, trailers, or other  
13           nonpassenger carrying equipment having a gross vehicle  
14           weight rating of 10,000 pounds or less [±], except  
15           vehicles used in transporting material found by the  
16           United States Secretary of Transportation to be  
17           hazardous under 49 U.S.C. section 5103 and transported

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- 1           in a quantity requiring placarding under 49 C.F.R.,  
2           subtitle B, chapter I, subchapter C;
- 3           (4) Taxicabs as described in section 271-5(3)(B);
- 4           (5) Passenger carrying vehicles with a seating capacity of  
5           nine or less used for the transportation of employees  
6           to and from the jobsite;
- 7           (6) Passenger carrying vehicles used by employees solely  
8           for their own transportation to, from, and during  
9           work;
- 10          (7) Passenger carrying vehicles with a gross vehicle  
11          weight of 10,000 pounds or less used in car or van  
12          pools for the movement of passengers to and from work;
- 13          (8) A passenger carrying vehicle used for the  
14          transportation, without compensation, of persons for  
15          private, recreational, or entertainment purposes;
- 16          (9) A passenger carrying vehicle with a gross vehicle  
17          weight rating of 10,000 pounds or less used solely for  
18          the transportation, without compensation, of the  
19          vehicle owner, the vehicle owner's family or guests;
- 20          (10) A passenger carrying vehicle with a gross vehicle  
21          weight rating of 10,000 pounds or less used for the  
22          transportation, without compensation, of persons for

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1 the furtherance of their physical or mental  
2 rehabilitation or for social welfare activities."

3 SECTION 2. Section 286-209, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Motor carrier vehicles, including but not limited to  
6 trucks, truck-tractors, semitrailers, trailers, or pole  
7 trailers, having a gross vehicle weight rating of more than ten  
8 thousand pounds, [~~and~~] motor carrier vehicles having a gross  
9 vehicle weight rating of ten thousand pounds or less which  
10 transport passengers in the furtherance of a commercial  
11 enterprise, including car rental transport vehicles, and motor  
12 carrier vehicles used in transporting material found by the  
13 United States Secretary of Transportation to be hazardous under  
14 49 U.S.C. section 5103 and transported in a quantity requiring  
15 placarding under 49 C.F.R., subtitle B, chapter I, subchapter C,  
16 shall be inspected and certified annually."

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



BY REQUEST

**Report Title:**

Highway; Safety Inspections; Motor Carrier Vehicles; FMCSR

**Description:**

Conform sections 286-207 and 286-209, HRS to be compatible to the Federal Motor Carrier Safety Regulations (FMCSR) and avoid any type of sanctions levied by the FMCSA.

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO SAFETY  
INSPECTION OF MOTOR CARRIER VEHICLES.

PURPOSE: Conform sections 286-207 and 286-209, Hawaii Revised Statutes, to be compatible with the Federal Motor Carrier Safety Regulations (FMCSR).

MEANS: Amend sections 286-207 and 286-209, Hawaii Revised Statutes.

JUSTIFICATION: Presently, the State Department of Transportation's Motor Vehicle Safety Office (MVS0) receives federal moneys from the Federal Motor Carrier Safety Administration (FMCSA) to fund its Motor Carrier Safety Assistance Program (MCSAP) and New Entrant Incentive Program. This funding allows the State Motor Carrier Officers to enforce the Federal Motor Carrier Safety Regulations and the Hazardous Material Regulations that ultimately provide safer roads for our residents and visitors.

The 2003 Program Review and the 2007 Program Review done by the FMCSA found that sections 286-207 and 286-209 were incompatible with the FMCSR. Section 350.341 reads in pertinent part, "However, a State may not exempt a CMV (Commercial Motor Vehicle) from such laws or regulations if the vehicle: (1) Transports hazardous materials requiring a placard." Nevertheless, this issue was not addressed in previous legislative sessions.

However, this issue must be addressed this legislative session to avoid any type of sanctions levied by the FMCSA. Section 350.335(d) reads, "Upon a finding by the FMCSA, based upon its own initiative or upon a petition of any person, including any

State, that your State law, regulation or enforcement practice pertaining to CMV safety, in either interstate or intrastate commerce, is incompatible with the FMCSRs or HMRs, the FMCSA may initiate a proceeding under §350.215 for withdrawal of eligibility for all Basic Program and Incentive Funds."

Impact on the public: If funding provided by the FMCSA is "withdrawn" because the state statute is incompatible with the FMCSR or Hazardous Materials Regulations (HMR), the state would have to replenish the withdrawn FMCSA funding to continue to enforce the state motor carrier safety laws to ensure compliance by the commercial motor carriers and to ensure that the roads in the State of Hawaii are safe for the traveling public.

Impact on the department and other agencies: There would be a loss of FMCSA funding necessary for the state motor carrier officers to continue to enforce the federal regulations as it relates to commercial motor vehicles.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TRN 597.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.