

JAN 27 2010

S.B. NO. 2853

A BILL FOR AN ACT

RELATING TO MOTOR CARRIERS.

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

1 SECTION 1. The purpose of this Act is to remove the
2 exemption from regulation and oversight by the public utilities
3 commission for entities transporting garbage or refuse. During
4 the last five years, many condominium and single-family
5 residents have complained about the noise emanating from back-up
6 beeping or horns used by early-morning trash haulers contracted
7 as private commercial entities in high-density condominium
8 neighborhoods.

9 Private trash haulers have cited the need to make their
10 pick-ups in time to meet city dumpsite closure times, and
11 frequently are in residential neighborhoods as early as 4:00 am
12 to collect garbage and refuse. Although residents, legislators,
13 and various business establishments have sought to develop
14 solutions to this problem over the last three years, none of the
15 recommendations for solution have yielded adequate relief to
16 residents disturbed by the early-morning beeping or horns used
17 by commercial garbage or refuse trucks.



1 SECTION 2. Section 271-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§271-5 Exemptions, generally. Notwithstanding any other
4 provisions of this chapter, its contents shall not apply to:

5 (1) Persons transporting their own property where the
6 transportation is in furtherance of a primary business
7 purpose or enterprise of that person, except where the
8 transportation is undertaken by a motor carrier to
9 evade the regulatory purposes of this chapter;

10 (2) Persons operating motor vehicles when engaged in the
11 transportation of school children and teachers to and
12 from school, and to and from school functions;
13 provided that these persons may engage in providing
14 transportation at special rates for groups of persons
15 belonging to an eleemosynary or benevolent
16 organization or association domiciled in this State
17 where the organization or association sponsors or is
18 conducting a nonregular excursion; provided that
19 whenever the persons engage in the transportation of
20 persons other than those exempted in this paragraph,
21 that portion of their operation shall not be exempt
22 from this chapter. Nothing in this paragraph shall be



1 construed to authorize any person to engage in the
2 transportation of persons, other than the
3 transportation of persons exempted by the terms of
4 this paragraph, without a permit or certificate issued
5 by the commission authorizing such transportation;

- 6 (3) Persons operating taxicabs or other motor vehicles
7 utilized in performing a bona fide taxicab service.

8 "Taxicab" includes:

9 (A) Any motor vehicle used in the movement of
10 passengers on the public highways under the
11 following circumstances, namely the passenger
12 hires the vehicle on call or at a fixed stand,
13 with or without baggage for transportation, and
14 controls the vehicle to the passenger's
15 destination;

16 (B) Any motor vehicle for hire having seating
17 accommodations for eight or fewer passengers used
18 in the movement of passengers on the public
19 highways that may, as part of a continuous trip,
20 pick up or discharge passengers from various
21 unrelated locations; provided that they shall be
22 regulated by the counties in accordance with



1 section 46-16.5(c); and provided further that
2 this subparagraph shall not apply to any
3 exclusive rights granted by the department of
4 transportation for taxicab services at facilities
5 under the department's control; and

6 (C) Any motor vehicle having seating accommodations
7 for eight or fewer passengers used in the
8 movement of passengers on the public highways
9 between a terminal, i.e., a fixed stand, in the
10 Honolulu district, as defined in section 4-1 and
11 a terminal in a geographical district outside the
12 limits of the Honolulu district, and vice versa,
13 without picking up passengers other than at the
14 terminals or fixed stands; provided that the
15 passengers may be picked up by telephone call
16 from their homes in the rural area or may be
17 unloaded at any point between the fixed stands or
18 may be delivered to their homes in the rural
19 area;

20 (4) Persons operating motor vehicles in the transportation
21 of persons pursuant to a franchise from the



1 legislature and whose operations are presently
2 regulated under chapter 269;

3 (5) Nonprofit agricultural cooperative associations to the
4 extent that they engage in the transportation of their
5 own property or the property of their members;

6 (6) Persons operating motor vehicles specially constructed
7 for the towing of disabled or wrecked vehicles but not
8 otherwise used in the transportation of property for
9 compensation or hire;

10 (7) Persons operating motor vehicles in the transportation
11 of mail, newspapers, periodicals, magazines, messages,
12 documents, letters, or blueprints;

13 (8) Persons operating funeral cars or ambulances;

14 [~~9~~] ~~Persons operating motor vehicles in the transportation~~
15 ~~of garbage or refuse;~~

16 ~~(10)~~ (9) Persons operating the type of passenger carrying
17 motor vehicles known as "sampan buses" within the
18 radius of twenty miles from the city of Hilo, Hawaii;

19 [~~11~~] (10) Persons transporting unprocessed pineapple to a
20 cannery, seed corn to a processing facility, or
21 returning any containers used in such transportation
22 to the fields;



1 [~~(12)~~] (11) Sugar plantations transporting sugarcane, raw
2 sugar, molasses, sugar by-products, and farming
3 supplies for neighboring farmers pursuant to contracts
4 administered by the United States Department of
5 Agriculture;

6 [~~(13)~~] (12) Persons engaged in the ranching or meat or feed
7 business who transport cattle to slaughterhouses for
8 hire where such transportation is their sole
9 transportation for hire and where their earnings from
10 the transportation constitute less than fifty per cent
11 of their gross income from their business and the
12 transportation for hire;

13 [~~(14)~~] (13) Persons transporting unprocessed raw milk to
14 processing plants and returning any containers used in
15 such transportation to dairy farms for reloading;

16 [~~(15)~~] (14) Persons transporting animal feeds to animal
17 husbandry farmers and farming supplies directly to
18 animal husbandry farmers and returning any containers
19 used in such transportation to these sources of such
20 feeds and supplies for reloading;

21 [~~(16)~~] (15) Persons engaged in transporting not more than
22 fifteen passengers between their places of abode, or



1 termini near such places, and their places of
2 employment in a single daily round trip where the
3 driver is also on the driver's way to or from the
4 driver's place of employment;

5 ~~[(17)]~~ (16) Persons transporting passengers without charge
6 in motor vehicles owned or operated by such person,
7 where such transportation is provided in conjunction
8 with and in furtherance of a related primary business
9 purpose or enterprise of that person, and such
10 transportation is provided only directly to and from
11 the place of business of such person, except that this
12 exemption shall not apply to persons making any
13 contract, agreement, or arrangement to provide,
14 procure, furnish, or arrange for transportation as a
15 travel agent or broker or a person engaged in tour or
16 sightseeing activities, nor shall this exemption apply
17 where the transportation is undertaken by a person to
18 evade the regulatory purposes of this chapter; and

19 ~~[(18)]~~ (17) Persons conducting the type of county-regulated
20 passenger carrying operation known as "jitney
21 services". For the purposes of this paragraph,
22 "jitney services" means public transportation services



1 utilizing motor vehicles that have seating
2 accommodations for six to twenty-five passengers,
3 operate along specific routes during defined service
4 hours, and levy a flat fare schedule."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

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

8

INTRODUCED BY: *Carol Fukumasa*

Report Title:

Motor Carrier Law; Exemptions; Garbage or Refuse Transport

Description:

Repeals the exemption from the motor carrier law for persons transporting garbage or refuse.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

