

---

---

## A BILL FOR AN ACT

RELATING TO MOTOR CARRIERS.

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

1           SECTION 1. Section 271-24, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§271-24 **Recovery of overcharges or undercharges.** (a)

4 All actions by common carriers by motor vehicle for the recovery  
5 of their charges, or any part thereof, shall ~~[be begun]~~ commence  
6 within three years from the time the cause of action accrues,  
7 and not after.

8           (b) For recovery of overcharges, actions shall ~~[be begun]~~  
9 commence within three years from the time the cause of action  
10 accrues, and not after, subject to subsection (c) ~~[of this~~  
11 ~~section]~~, except that if claim for the overcharge has been  
12 presented in writing to the carrier within the three-year period  
13 of limitation the period shall be extended to include six months  
14 from the time notice in writing is given by the carrier to the  
15 claimant of disallowance of the claim, or any part or parts  
16 thereof specified in the notice.

17           (c) If, on or before the expiration of the three-year  
18 period of limitation in subsection (b), a common carrier by



1 motor vehicle [~~begins~~] commences an action under subsection (a)  
2 for recovery of charges in respect of the same transportation  
3 service, or, without [~~beginning~~] commencing an action, collects  
4 charges in respect of that service, the period shall be extended  
5 to include ninety days from the time the action is [~~begun~~]  
6 commenced or the charges are collected by the carrier.

7 (d) The cause of action in respect of a shipment of  
8 property [~~shall~~], for the purpose of this section, shall be  
9 deemed to accrue upon delivery or tender of delivery thereof by  
10 the carrier, and not after.

11 (e) The term "overcharges" as used in this section means  
12 charges for transportation services in excess of those  
13 applicable thereto under the tariffs lawfully on file with the  
14 commission.

15 (f) Common carriers by motor vehicle in violation of  
16 section 271-8 shall not enforce undercharge recoveries under  
17 subsection (a)."

18 SECTION 2. Section 271-28, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§271-28 **Collection of rates and charges.** (a) No common  
21 carrier by motor vehicle shall deliver or relinquish possession  
22 at destination of any freight transported by it until all tariff



1 rates and charges thereon have been paid, except under such  
2 rules [~~and regulations~~] as the public utilities commission may  
3 from time to time prescribe to govern the settlement of all the  
4 rates and charges, including rules [~~and regulations~~] for weekly  
5 or monthly settlement, and to prevent unjust discrimination or  
6 undue preference or prejudice; provided that this section shall  
7 not be construed to prohibit any carrier from extending credit  
8 in connection with rates and charges on freight transported for  
9 the United States, for any department, bureau, or agency  
10 thereof, or for any state or political subdivision thereof.

11 (b) A person who uses the services of a common carrier by  
12 motor vehicle operating in violation of section 271-8 may bring  
13 an action in any court of competent jurisdiction to recover all  
14 compensation paid by the person to that carrier."

15 SECTION 3. Section 271-28.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) In addition to the lien provided by section 490:7-  
18 307, a carrier in compliance with section 271-8 has a lien on  
19 freight in its possession for the total amount owed the carrier  
20 by the shipper for freightage, charges for services and advances  
21 due on freight previously delivered upon the promise of the



1 shipper to pay freightage, charges and advances, as provided in  
2 this section."

3 SECTION 4. Section 490:7-307, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) [~~A carrier~~] Only a carrier in compliance with section  
6 271-8 has a lien on the goods covered by a bill of lading or on  
7 the proceeds thereof in its possession for charges after the  
8 date of the carrier's receipt of the goods for storage or  
9 transportation, including demurrage and terminal charges, and  
10 for expenses necessary for preservation of the goods incident to  
11 their transportation or reasonably incurred in their sale  
12 pursuant to law. However, against a purchaser for value of a  
13 negotiable bill of lading, a carrier's lien is limited to  
14 charges stated in the bill or the applicable tariffs or, if no  
15 charges are stated, a reasonable charge."

16 SECTION 5. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.  
19

INTRODUCED BY:

Inderkumar

Ryan  
De

De  
Stal



# H.B. NO. 1101

**Report Title:**

Motor Carriers; Collections; Liens; Permit Required

**Description:**

Prohibits unlicensed motor carriers from recovering undercharges or holding freight and carrier liens. Authorizes customers of unlicensed motor carriers to recover all compensation paid to that carrier.

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



TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON TRANSPORTATION

FEBRUARY 6, 2013  
9:30 a.m.

**MEASURE:** H.B. No. 1101  
**TITLE:** Relating to Motor Carriers

Chair Yamane and Members of the Committee:

**DESCRIPTION:**

This bill proposes to prohibit motor vehicle carriers operating without a certificate of authorization from the Public Utilities Commission ("Commission") from enforcing undercharge recoveries pursuant to Section 271-24, Hawaii Revised Statutes ("HRS"). In addition, H.B. No. 1101 would authorize any person using an uncertified motor vehicle carrier to bring judicial action to recover "all compensation" paid to the carrier. Finally, this measure clarifies that only carriers in compliance with HRS § 271-8 shall have a statutory lien for goods transported as provided under HRS § 271-28.5 and HRS § 490:7-307.

**POSITION:**

The Commission would like to offer the following comments for the Committee's consideration.

**COMMENTS:**

To assist a person seeking judicial action, the Commission recommends that the Committee consider that the person first be required to file a complaint with the Commission. This step would notify the Commission of the uncertified carrier and verify the motor carrier's status. Should the complaint involve a certified motor carrier, the Commission can investigate and resolve the issue through its outlined proceedings. Should the motor carrier be uncertified, the Commission can verify the motor carrier's uncertified status and the complainant can then proceed to the courts concerning a claim to recover all compensation paid to the carrier. This process will also give the Commission the opportunity to bring the uncertified carrier into compliance.

Thank you for the opportunity to testify on this measure.