
A BILL FOR AN ACT

RELATING TO THE MOTOR CARRIER LAW.

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

1 SECTION 1. Although Hawaii's motor carrier law regulates
2 services that transport passengers by a motor vehicle on state
3 highways for compensation or hire by requiring persons providing
4 this type of service to have a certificate or permit issued by
5 the public utilities commission authorizing such activity, the
6 legislature finds that confusion has arisen as to whether
7 ridesharing services are regulated under this law. Ridesharing
8 services offer transportation to persons using new technology,
9 including websites and phone applications, to schedule pick-ups
10 and drop-offs. As such, the legislature finds that statutory
11 language regulating motor carriers transporting passengers for
12 hire or compensation must be amended to address evolving
13 technology and its use in the provision of these services.

14 The purpose of this Act is to regulate the use of
15 ridesharing services under Hawaii's motor carrier law.

16 SECTION 2. Section 271-4, Hawaii Revised Statutes, is
17 amended to read as follows:



1 **"§271-4 Definitions.** As used in this chapter:

2 [~~(1) "Chapter" means the Motor Carrier Law.~~

3 ~~(2) "Commission" means the public utilities commission.~~

4 ~~(3) "Person" or "persons" means any individual, firm,~~
5 ~~copartnership, corporation, company, association, or~~
6 ~~joint stock association, and includes any trustee,~~
7 ~~receiver, assignee, or personal representative~~
8 ~~thereof.~~

9 ~~(4) "Certificate" means a certificate of public~~
10 ~~convenience and necessity issued under this chapter to~~
11 ~~common carriers by motor vehicle.~~

12 ~~(5) "Permit" means a permit issued under this chapter to~~
13 ~~contract carriers by motor vehicle.~~

14 ~~(6) "Transportation of persons" includes every service in~~
15 ~~connection with or incidental to the safety, comfort,~~
16 ~~or convenience of persons transported and the receipt,~~
17 ~~carriage, and delivery of these persons and their~~
18 ~~baggage.~~

19 ~~(7) "Transportation of property" includes every service in~~
20 ~~connection with or incidental to the transportation of~~
21 ~~property, including in particular its receipt,~~



1 ~~delivery, elevation, transfer, carriage, ventilation,~~
2 ~~refrigeration, icing, dunnage, storage in transit,~~
3 ~~handling, and its consolidation for the purposes of~~
4 ~~forwarding within the State.~~

5 ~~(8) "Motor vehicle" means any vehicle, machine, tractor,~~
6 ~~trailer, or semitrailer propelled or drawn by~~
7 ~~mechanical power and used upon the highways in the~~
8 ~~transportation of passengers or property, or any~~
9 ~~combination thereof determined by the commission, but~~
10 ~~does not include any vehicle, locomotive, or car~~
11 ~~operated exclusively on a rail or rails or a trolley~~
12 ~~bus operated by electric power derived from a fixed~~
13 ~~overhead wire, furnishing local passenger~~
14 ~~transportation similar to street railway service.~~

15 ~~(9) "Highway" means the public roads, highways, streets,~~
16 ~~and ways in this State.~~

17 ~~(10) "Rates" includes rates, fares, tolls, rentals, and~~
18 ~~charges of whatever kind and nature unless the context~~
19 ~~indicates otherwise.~~

20 ~~(11) "Common carrier by motor vehicle" means any person~~
21 ~~which holds itself out to the general public to engage~~



1 ~~in the transportation by motor vehicle of passengers~~
2 ~~or property or any class or classes thereof for~~
3 ~~compensation.~~

4 ~~(12) "Contract carrier by motor vehicle" means any person~~
5 ~~which engages in transportation by motor vehicle of~~
6 ~~passengers or property for compensation (other than~~
7 ~~transportation referred to in paragraph (11)) under~~
8 ~~continuing contracts with one person or a limited~~
9 ~~number of persons either (A) for the furnishing of~~
10 ~~transportation services through the assignment of~~
11 ~~motor vehicles for a continuing period of time to the~~
12 ~~exclusive use of each person served, or (B) for the~~
13 ~~furnishing of transportation services designed to meet~~
14 ~~the distinct need of each individual customer.~~

15 ~~(13) "Motor carrier" includes both a common carrier by~~
16 ~~motor vehicle and a contract carrier by motor vehicle.~~

17 ~~(14) "Private carrier of property by motor vehicle" means~~
18 ~~any person not included in the terms "common carrier~~
19 ~~by motor vehicle" or "contract carrier by motor~~
20 ~~vehicle", who or which transports by motor vehicle~~
21 ~~property of which the person is the owner, lessee, or~~



1 ~~bailee, when such transportation is for the purpose of~~
2 ~~sale, lease, rent, or bailment, or in the furtherance~~
3 ~~of any commercial enterprise.~~

4 ~~(15) "Enforcement officer" means any person employed and~~
5 ~~authorized by the commission to investigate any matter~~
6 ~~on behalf of the commission. The term also means a~~
7 ~~motor vehicle safety officer employed and assigned,~~
8 ~~pursuant to section 271 38, by the department of~~
9 ~~transportation to enforce sections 271 8, 271 12, 271-~~
10 ~~13, 271 19, and 271 29 through the assessment of civil~~
11 ~~penalties as provided in section 271 27(h), (i), and~~
12 ~~(j).]~~

13 "Application" or "app" means a type of software that allows
14 access to an online motor carrier service provider.

15 "Certificate" means a certificate of public convenience and
16 necessity issued under this chapter to common carriers by motor
17 vehicle.

18 "Chapter" means the Motor Carrier Law.

19 "Commission" means the public utilities commission.

20 "Common carrier by motor vehicle" means any person that
21 holds itself out to the general public to engage in the



1 transportation by motor vehicle of passengers or property or any
2 class or classes thereof for compensation.

3 "Contract carrier by motor vehicle" means any person that
4 engages in transportation by motor vehicle of passengers or
5 property for compensation (other than transportation referred to
6 in the term "common carrier by motor vehicle") under continuing
7 contracts with one person or a limited number of persons either:

8 (1) For the furnishing of transportation services through
9 the assignment of motor vehicles for a continuing
10 period of time to the exclusive use of each person
11 served; or

12 (2) For the furnishing of transportation services designed
13 to meet the distinct need of each individual customer.

14 "Enforcement officer" means any person employed and
15 authorized by the commission to investigate any matter on behalf
16 of the commission. The term also means a motor vehicle safety
17 officer employed and assigned, pursuant to section 271-38, by
18 the department of transportation to enforce sections 271-8, 271-
19 12, 271-13, 271-19, and 271-29 through the assessment of civil
20 penalties as provided in section 271-27(h), (i), and (j)."



1 "Highway" means the public roads, highways, streets, and
2 ways in this State.

3 "Motor carrier" includes both a common carrier by motor
4 vehicle, a contract carrier by motor vehicle, and a
5 transportation network company.

6 "Motor vehicle" means any vehicle, machine, tractor,
7 trailer, or semitrailer propelled or drawn by mechanical power
8 and used upon the highways in the transportation of passengers
9 or property, or any combination thereof determined by the
10 commission, but does not include any vehicle, locomotive, or car
11 operated exclusively on a rail or rails or a trolley bus
12 operated by electric power derived from a fixed overhead wire,
13 furnishing local passenger transportation similar to street-
14 railway service.

15 "Online motor carrier service provider" means any company,
16 organization, group, or application that holds itself out to the
17 general public to engage in the transportation by motor vehicle
18 of passengers or property or that offers access to a motor
19 carrier for compensation via the Internet.

20 "Permit" means a permit issued under this chapter to
21 contract carriers by motor vehicle.



1 "Person" or "persons" means any individual, firm,
2 copartnership, corporation, company, association, or joint stock
3 association; and includes any trustee, receiver, assignee, or
4 personal representative thereof.

5 "Private carrier of property by motor vehicle" means any
6 person not included in the terms "common carrier by motor
7 vehicle" or "contract carrier by motor vehicle", who or which
8 transports by motor vehicle property of which the person is the
9 owner, lessee, or bailee, when such transportation is for the
10 purpose of sale, lease, rent, or bailment, or in the furtherance
11 of any commercial enterprise.

12 "Rates" includes rates, fares, tolls, rentals, and charges
13 of whatever kind and nature unless the context indicates
14 otherwise.

15 "Transportation network company" means a corporation,
16 organization, group, or sole proprietor, that provides
17 prearranged transportation services for compensation using an
18 application or app to connect passengers with drivers using
19 their personal vehicles.

20 "Transportation of persons" includes every service in
21 connection with or incidental to the safety, comfort, or



1 convenience of persons transported and the receipt, carriage,
2 and delivery of these persons and their baggage.

3 "Transportation of property" includes every service in
4 connection with or incidental to the transportation of property,
5 including in particular its receipt, delivery, elevation,
6 transfer, carriage, ventilation, refrigeration, icing, dunnage,
7 storage in transit, handling, and its consolidation for the
8 purposes of forwarding within the State."

9 SECTION 2. Section 271-8.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§271-8.5 Advertising.** (a) It shall be a misdemeanor for
12 any person, including a person who is exempt under section 271-
13 5, to advertise as a motor carrier of passengers or property,
14 unless the person holds a valid certificate or permit required
15 by this chapter as to the classification so advertised. The
16 term "advertise", as used in this section, includes: [~~the~~]

17 (1) The issuance of any card, sign, or device to any
18 person[~~, or the~~];

19 (2) The causing, permitting, or allowing of any sign or
20 marking on or in any building or motor vehicle[~~, or~~
21 ~~the~~]; or



1 (3) The advertising in any newspaper, magazine, or
2 advertising other than in-column listings in any
3 directory, or the commercial broadcasting by airwave
4 transmission, or any and all communications media[-],
5 including offering motor carrier service through the
6 Internet via an application or app.

7 (b) A licensee [~~may advertise in print or broadcast medium~~
8 ~~as described in subsection (a) only if the licensee includes in~~
9 ~~the advertisement]~~ shall include in any form of advertising, the
10 licensee's applicable and current certificate or permit number
11 [~~and provides proof of the number's validity to the publisher or~~
12 ~~producer of the advertising medium]~~. The publisher or producer
13 of a print or broadcast advertising medium or an online motor
14 carrier service provider shall not publish or broadcast an
15 advertisement or provide access for a licensee who does not
16 provide proof of a current certificate or permit or who does not
17 include a currently valid certificate or permit number in the
18 advertisement.

19 (c) Upon notice from the public utilities commission of
20 the entry of a final order of the commission pursuant to chapter
21 91 or a judgment by a court of competent jurisdiction, that a



1 person has advertised in violation of either subsection (a) or
2 section 271-8, the public utility furnishing the
3 telecommunications service or an online motor carrier service
4 provider shall disconnect that person's access to the
5 application, telephone number, or telecommunications service
6 number contained in the advertisement or listing. A public
7 utility or online motor carrier service provider complying with
8 a notice to disconnect is immune from liability for damages
9 resulting from its compliance.

10 (d) The publisher or producer of a print or broadcast
11 advertising medium, or online motor carrier service provider,
12 shall not be liable in any suit, action, or claim arising from
13 its refusal to list or accept advertisements pursuant to
14 subsection (b)."

15 SECTION 4. Section 271-38, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§271-38 Enforcement.** (a) At the request of the public
18 utilities commission, the department of transportation shall
19 assign a motor vehicle safety officer employed by the department
20 of transportation to assist in the enforcement of sections 271-



1 8, 271-12, 271-13, 271-19, and 271-29, through the assessment of
2 civil penalties as provided in section 271-27(h), (i), and (j).

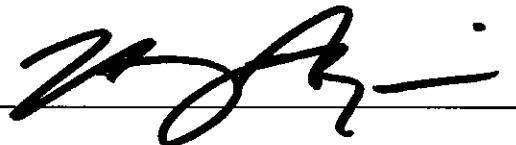
3 (b) The commission may contract with qualified persons
4 including investigators who shall be exempt from chapter 76 to
5 enforce this chapter. The investigators of the commission shall
6 have the power to serve and execute warrants or issue citations
7 to enforce the provisions of this chapter. Whenever the
8 existence of an illegal operation is discovered, the inspector
9 may make a complaint to the district judge in whose circuit the
10 operation is located, and the district judge shall allow a writ
11 of injunction to abate and prevent the continuance of the
12 illegal operation."

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

16

INTRODUCED BY:



JAN 29 2015



H.B. NO. 1357

Report Title:

Motor Carrier Law; Ridesharing

Description:

Regulates ridesharing services under Hawaii's motor carrier law.

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

