

JAN 25 2017

A BILL FOR AN ACT

RELATING TO MOTOR CARRIERS.

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

1 SECTION 1. Chapter 271, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§271-A Tariffs of common carriers by motor vehicles. (a)

5 Every common carrier by motor vehicle shall file with the
6 commission a tariff showing all the services being offered by
7 the common carrier by motor vehicle and the rates, fares, and
8 charges associated with the services being offered.

9 (b) Every common carrier by motor vehicle shall file with
10 the commission:

11 (1) The schedules containing the rates, fares, and charges
12 for any service rendered in the transportation of
13 passengers or property; and

14 (2) The regulations and practices in connection with the
15 rates, fares, and charges.

16 §271-B Tariff requirements; complaints. (a) Every
17 contract carrier by motor vehicle shall file a tariff with the



1 commission as required in section 271-A and shall publish and
2 make the tariff available for public inspection with the
3 information required by section 271-A.

4 (b) Upon receipt of a complaint of an interested person,
5 the commission may, after giving reasonable notice, suspend any
6 change in a tariff or any new tariff for a period not to exceed
7 thirty days and, if the complaint is validated, commence a
8 hearing on the complaint.

9 (c) The complaint shall be in writing stating the facts
10 complained of and the reasons for the complaint as they relate
11 to the:

- 12 (1) Provision of safe and adequate service, equipment, and
13 facilities; and
14 (2) Provision of just and reasonable rates, fares, and
15 charges."

16 SECTION 2. Section 271-4, Hawaii Revised Statutes, is
17 amended by amending the definition of "rates" in paragraph (10)
18 to read as follows:

19 "(10) "Rates" includes rates, fares, tolls, rentals, and
20 charges of whatever kind and nature unless the context
21 indicates otherwise[-] for the transportation by motor



1 vehicle of passengers; provided that where
2 transportation is part of an arrangement made with a
3 tour packager or event organizer and the contract rate
4 includes the provision of transportation, "rates"
5 includes only the charges for the provision of
6 transportation."

7 SECTION 3. Section 271-20, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§271-20 Rates, fares and charges of common carriers by~~
10 ~~motor vehicle. (a) It shall be the duty of every common~~
11 ~~carrier of passengers by motor carrier to provide safe and~~
12 ~~adequate service, equipment, and facilities for the~~
13 ~~transportation of passengers and to establish, observe, and~~
14 ~~enforce just and reasonable rates, fares, and charges, and just~~
15 ~~and reasonable regulations and practices relating thereto, and~~
16 ~~to the issuance, form, and substance of tickets, the carrying of~~
17 ~~personal, sample, and excess baggage, the facilities for~~
18 ~~transportation, and all other matters relating to or connected~~
19 ~~with the transportation of passengers.~~

20 ~~(b) It shall be the duty of every common carrier of~~
21 ~~property by motor vehicle to provide safe and adequate service,~~



1 ~~equipment, and facilities for the transportation of property and~~
2 ~~to establish, observe, and enforce just and reasonable rates,~~
3 ~~charges, and classifications, and just and reasonable~~
4 ~~regulations and practices relating thereto, and to the manner~~
5 ~~and method of presenting, marking, packing, and delivering~~
6 ~~property for transportation, the facilities for transportation,~~
7 ~~and all other matters relating to or connected with the~~
8 ~~transportation of property.~~

9 ~~(c) All charges made for any service rendered by any~~
10 ~~common carrier by motor vehicle in the transportation of~~
11 ~~passengers or property or in connection therewith shall be just~~
12 ~~and reasonable, and every unjust and unreasonable charge for~~
13 ~~such service or any part thereof, is prohibited and declared to~~
14 ~~be unlawful. It shall be unlawful for any common carrier by~~
15 ~~motor vehicle to make, give, or cause any undue or unreasonable~~
16 ~~preference or advantage to any particular person, locality,~~
17 ~~region, district, island, or description of traffic, in any~~
18 ~~respect whatsoever; or to subject any particular person,~~
19 ~~locality, region, district, island, or description of traffic to~~
20 ~~any unjust discrimination or undue or unreasonable prejudice or~~
21 ~~disadvantage in any respect whatsoever; provided that this~~



1 ~~subsection shall not be construed to apply to discrimination,~~
2 ~~prejudice, or disadvantage to the traffic of any other carrier~~
3 ~~of whatever description.~~

4 ~~(d) Any person, organization, or body politic may make~~
5 ~~complaint in writing to the public utilities commission that any~~
6 ~~such rate, fare, charge, classification, rule, regulation, or~~
7 ~~practice, in effect or proposed to be put into effect, is or~~
8 ~~will be in violation of this section or of section 271-21.~~
9 ~~Whenever, after hearing, upon complaint or an investigation of~~
10 ~~its own initiative, the commission shall be of the opinion that~~
11 ~~any individual rate, fare, or charge, demanded, charged, or~~
12 ~~collected by any common carrier or carriers by motor vehicle for~~
13 ~~transportation, or any classification, rule, regulation, or~~
14 ~~practice whatsoever of the carrier or carriers, affecting such~~
15 ~~rate, fare, or charge or the value of the service thereunder, is~~
16 ~~or will be unjust or unreasonable, or unjustly discriminatory or~~
17 ~~unduly preferential or unduly prejudicial, it shall determine~~
18 ~~and prescribe the lawful rate, fare, or charge or the maximum or~~
19 ~~minimum or maximum and minimum rate, fare, or charge thereafter~~
20 ~~to be observed, or the lawful classification, rule, regulation,~~
21 ~~or practice thereafter to be made effective.~~



1 ~~(e) Whenever there is filed with the commission any~~
2 ~~schedule stating a new rate, fare, charge, or classification for~~
3 ~~the transportation of passengers or property by a common carrier~~
4 ~~or carriers by motor vehicle, or any rule, regulation, or~~
5 ~~practice affecting such rate, fare, or charge, or the value of~~
6 ~~the service thereunder, the commission may upon complaint of any~~
7 ~~interested person or upon its own initiative at once and, if it~~
8 ~~so orders, without answer or other formal pleading by the~~
9 ~~interested carrier or carriers, but upon reasonable notice,~~
10 ~~enter upon a hearing concerning the lawfulness of the rate,~~
11 ~~fare, or charge, or the rule, regulation, or practice, and~~
12 ~~pending the hearing and the decision thereon the commission, by~~
13 ~~filing the schedule and delivering to the carrier or carriers~~
14 ~~affected thereby a statement in writing of its reasons for such~~
15 ~~suspension, may from time to time suspend the operation of the~~
16 ~~schedule and defer the use of the rate, fare, or charge, or the~~
17 ~~rule, regulation, or practice, but not for a longer period than~~
18 ~~five months beyond the time when it would otherwise go into~~
19 ~~effect, and after hearing, whether completed before or after the~~
20 ~~rate, fare, charge, classification, rule, regulation, or~~
21 ~~practice goes into effect, the commission may make such order~~



1 ~~with reference thereto as would be proper in a proceeding~~
2 ~~instituted after it had become effective. If the proceeding has~~
3 ~~not been concluded and an order made within the period of~~
4 ~~suspension, the proposed changed rate, fare, or charge, or~~
5 ~~classification, rule, regulation, or practice, shall go into~~
6 ~~effect at the end of such period; provided that this subsection~~
7 ~~shall not apply to any initial schedule or schedules filed by~~
8 ~~any carrier in bona fide operation when this section takes~~
9 ~~effect. At any hearing involving a change in a rate, fare,~~
10 ~~charge, or classification, or in a rule, regulation, or~~
11 ~~practice, the burden of proof shall be upon the carrier to show~~
12 ~~that the proposed changed rate, fare, charge, classification,~~
13 ~~rule, regulation, or practice, is just and reasonable.~~

14 ~~(f) In any proceeding to determine the justness or~~
15 ~~reasonableness of any rate, fare, or charge of any carrier,~~
16 ~~there shall not be taken into consideration or allowed as~~
17 ~~evidence or elements of value of the property of the carrier,~~
18 ~~either goodwill, earning power, or the certificate under which~~
19 ~~the carrier is operating; and in applying for and receiving a~~
20 ~~certificate under this [chapter] any carrier shall be deemed to~~



1 ~~have agreed to the provisions of this subsection on its own~~
2 ~~behalf and on behalf of all transferees of the certificate.~~

3 ~~(g) In the exercise of its power to prescribe just and~~
4 ~~reasonable rates, fares, and charges for the transportation of~~
5 ~~passengers or property by common carriers by motor vehicle, and~~
6 ~~classifications, regulations, and practices relating thereto,~~
7 ~~the commission shall give due consideration, among other~~
8 ~~factors, to the effect of rates upon the movement of traffic by~~
9 ~~the carrier or carriers for which the rates are prescribed, to~~
10 ~~the need, in the public interest, of adequate and efficient~~
11 ~~transportation service by the carriers at the lowest cost~~
12 ~~consistent with the furnishing of the service, and to the need~~
13 ~~of revenues sufficient to enable the carriers, under honest,~~
14 ~~economical, and efficient management, to provide the service.~~

15 ~~(h) Nothing in this section shall be held to extinguish~~
16 ~~any remedy or right of action not inconsistent herewith."]~~

17 SECTION 4. Section 271-21, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§271-21 Tariffs of common carriers by motor vehicle.~~

20 ~~(a) Every common carrier by motor vehicle shall file with the~~
21 ~~public utilities commission, and print, and keep open to public~~



1 ~~inspection, tariffs showing all the rates, fares, and charges~~
2 ~~for transportation, and all services in connection therewith, of~~
3 ~~passengers or property. The rates, fares, and charges shall be~~
4 ~~stated in terms of lawful money of the United States. The~~
5 ~~tariffs required by this section shall be published, filed, and~~
6 ~~posted in such form and manner, and shall contain such~~
7 ~~information as the commission by regulations shall prescribe,~~
8 ~~and the commission may reject any tariff filed with it which is~~
9 ~~not in consonance with this section and with the regulations.~~
10 ~~Any tariff so rejected by the commission shall be void and its~~
11 ~~use shall be unlawful.~~

12 ~~(b) No common carrier by motor vehicle shall charge or~~
13 ~~demand or collect or receive a greater or less or different~~
14 ~~compensation for transportation or for any service in connection~~
15 ~~therewith between the points enumerated in the tariff than the~~
16 ~~rates, fares, and charges specified in the tariffs in effect at~~
17 ~~the time, and no carrier shall refund or remit in any manner or~~
18 ~~by any device, directly or indirectly, or through any agent, or~~
19 ~~otherwise, any portion of the rates, fares, or charges so~~
20 ~~specified, or extend to any person any privileges or facilities~~
21 ~~for transportation except such as are specified in its tariffs.~~



1 ~~(c) No change shall be made in any rate, fare, charge, or~~
2 ~~classification, or any rule, regulation, or practice affecting~~
3 ~~the rate, fare, charge, or classification, or the value of the~~
4 ~~service thereunder, specified in any effective tariff of a~~
5 ~~common carrier by motor vehicle, except after thirty days'~~
6 ~~notice of the proposed change filed and posted in accordance~~
7 ~~with subsection (a) of this section. The notice shall plainly~~
8 ~~state the change proposed to be made and the time when it will~~
9 ~~take effect. The commission may in its discretion and for good~~
10 ~~cause shown allow the change upon notice less than that herein~~
11 ~~specified or modify the requirements of this section with~~
12 ~~respect to posting and filing of tariffs either in particular~~
13 ~~instances or by general order applicable to special or peculiar~~
14 ~~circumstances or conditions.~~

15 ~~(d) No common carrier by motor vehicle shall engage in the~~
16 ~~transportation of passengers or property unless the rates,~~
17 ~~fares, and charges upon which the same are transported by the~~
18 ~~carrier have been filed and published in accordance with this~~
19 ~~chapter."]~~

20 SECTION 5. In codifying the new sections added by section
21 1 of this Act, the revisor of statutes shall substitute



S.B. NO. 864

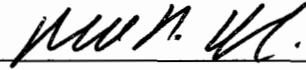
1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

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

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

6

INTRODUCED BY: _____



By Request



S.B. NO. 864

Report Title:

Motor Carriers; Tariffs

Description:

Simplifies the process for filing of tariffs by common carriers by motor vehicle and contract carriers by motor vehicle with the public utilities commission. Requires every contract carrier by motor vehicle to publish the tariff for public inspection. Amends the definition of "rates" to only include the transportation component of an agreement with a tour packager or event organizer when transportation is included in that agreement. Repeals existing provisions relating to tariff filing by common carriers by motor vehicles and contract carriers by motor vehicles.

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

