



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

September 15, 2020

**GOV. MSG. NO. 1175**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on September 15, 2020, the following bill was signed into law:

SB3119 SD1 HD2

RELATING TO STATUTORY REVISION:  
AMENDING OR REPEALING VARIOUS  
PROVISIONS OF THE HAWAII REVISED  
STATUTES OR THE SESSION LAWS OF HAWAII  
FOR THE PURPOSES OF CORRECTING  
ERRORS AND REFERENCES, CLARIFYING  
LANGUAGE, OR DELETING OBSOLETE OR  
UNNECESSARY PROVISIONS  
**Act 070 (20)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

Approved by the Governor

on SEP 15 2020

THE SENATE  
THIRTIETH LEGISLATURE, 2020  
STATE OF HAWAII

**ACT 070**  
**S.B. NO.** 3119  
S.D. 1  
H.D. 2

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## A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES OR THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, OR DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

1           SECTION 1. Section 14-24, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "~~§14-24~~ Certificate of election, notice of meeting. Not  
4 later than 4:30 p.m. on the last day in the month of the  
5 election, or as soon as the returns have been received from all  
6 counties in the State, if received before that time, the chief  
7 election officer shall certify to the governor the names of the  
8 presidential electors and alternates of the same political party  
9 or group as the candidates for president and vice president  
10 receiving the highest number of votes as elected as presidential  
11 electors and alternates. Thereupon the governor shall in  
12 accordance with the laws of the United States, communicate by  
13 registered mail under the seal of the State of Hawaii to the  
14 administrator of general services of the United States, the  
15 certificates of persons elected as presidential electors,



1 setting forth the names of the electors and the total number of  
2 votes cast for each elector. The chief election officer shall  
3 thereupon, together with a notice of the time and place of the  
4 meeting of the electors, cause to issue and transmit to each  
5 elector and alternate a certificate of election signed by the  
6 governor in substantially the following form:

7

8

CERTIFICATE OF ELECTION OF

9

PRESIDENTIAL [~~ELECTORS~~] ELECTOR

10

11 I,.....Governor of the State of Hawaii, do hereby  
12 certify that....., a member of the.....party  
13 or group, was on the.....day of.....,  
14 [~~19.....~~] 20....., duly elected a Presidential Elector for the  
15 State of Hawaii for the presidential election of [~~19.....~~]  
16 20.....

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CERTIFICATE OF ELECTION OF  
ALTERNATE PRESIDENTIAL ELECTOR

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I,.....Governor of the State of Hawaii, do hereby  
certify that....., a member of the.....party  
or group, was on the.....day of.....,  
[~~19.....~~] 20....., duly elected.....Alternate  
Presidential Elector for Presidential Elector.....for  
the State of Hawaii for the presidential election of [~~19.....~~]  
20....."

SECTION 2. Section 87A-42, Hawaii Revised Statutes, is  
amended by amending subsection (a) to read as follows:

"(a) Notwithstanding sections 87A-31 and 87A-31.5, the  
board, upon terms and conditions set by the board, shall  
establish and administer a separate trust fund for the purpose  
of receiving employer contributions that will prefund other  
post-employment health and other benefit plan costs for retirees  
and their beneficiaries. The separate trust fund shall meet the  
requirements of the [~~Government~~] Governmental Accounting  
Standards Board regarding other post-employment benefits trusts.  
The board shall establish and maintain a separate account for



1 each public employer within the separate trust fund to accept  
2 and account for each public employer's contributions. Employer  
3 contributions to the separate trust fund shall be irrevocable,  
4 all assets of the fund shall be dedicated exclusively to  
5 providing health and other benefits to retirees and their  
6 beneficiaries, and assets of the fund shall not be subject to  
7 appropriation for any other purpose and shall not be subject to  
8 claims by creditors of the employers or the board or plan  
9 administrator. The board's powers under section 87A-24 shall  
10 also apply to the fund established pursuant to this section."

11 SECTION 3. Section 128B-1, Hawaii Revised Statutes, is  
12 amended by amending subsection (c) to read as follows:

13 "(c) The coordinator shall partner with representatives  
14 from the following entities:

- 15 (1) The Hawaii state fusion center;
- 16 (2) The Hawaii state cyber resiliency center;
- 17 (3) Federal government agencies;
- 18 (4) State government agencies;
- 19 (5) The counties of the State;
- 20 (6) Institutions of higher education; and



1           (7) Other entities within the power, water,  
 2                   communications, transportation, and finance sectors,  
 3                   including public utilities, private telecommunications  
 4                   companies, airlines, financial institutions, and  
 5                   private information technology companies."

6           SECTION 4. Section 201-113, Hawaii Revised Statutes, is  
 7 amended by amending subsection (b) to read as follows:

8           " (b) The fund shall be used by the  
 9                   ~~[(A) The grant shall be used exclusively for eligible~~  
 10                   ~~Hawaii projects,]~~

11 department to provide for:

- 12           (1) A program to provide seed capital for film, media, and  
 13                   creative industries intellectual property development  
 14                   projects for export, as determined by the department;
- 15           (2) Programs that expand the skills of the State's resident  
 16                   workforce in the film, media, and creative industries;  
 17                   and
- 18           (3) Marketing programs that attract business opportunities  
 19                   within the film, media, and creative industries in the  
 20                   State."



1 SECTION 5. Section 235-2.3, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The following Internal Revenue Code subchapters,  
4 parts of subchapters, sections, subsections, and parts of  
5 subsections shall not be operative for the purposes of this  
6 chapter, unless otherwise provided:

7 (1) Subchapter A (sections 1 to 59A) (with respect to  
8 determination of tax liability), except section  
9 1(h)(2) (relating to net capital gain reduced by the  
10 amount taken into account as investment income),  
11 except sections 2(a), 2(b), and 2(c) (with respect to  
12 the definition of "surviving spouse" and "head of  
13 household"), except section 41 (with respect to the  
14 credit for increasing research activities), except  
15 section 42 (with respect to low-income housing  
16 credit), except sections 47 and 48, as amended, as of  
17 December 31, 1984 (with respect to certain depreciable  
18 tangible personal property), and except section  
19 48(d)(3), as amended, as of February 17, 2009 (with  
20 respect to the treatment of United States Department  
21 of Treasury grants made under section 1603 of the



1 American Recovery and Reinvestment Tax Act of 2009).

2 For treatment, see sections 235-110.91, 235-110.7, and

3 235-110.8;

4 (2) Section 78 (with respect to dividends received from

5 certain foreign corporations by domestic corporations

6 choosing foreign tax credit);

7 (3) Section 86 (with respect to social security and tier 1

8 railroad retirement benefits);

9 (4) Section 91 (with respect to certain foreign branch

10 losses transferred to specified 10-percent owned

11 foreign corporations);

12 (5) Section 103 (with respect to interest on state and

13 local bonds). For treatment, see section 235-7(b);

14 (6) Section 114 (with respect to extraterritorial income).

15 For treatment, any transaction as specified in the

16 transitional rule for 2005 and 2006 as specified in

17 the American Jobs Creation Act of 2004 section 101(d)

18 and any transaction that has occurred pursuant to a

19 binding contract as specified in the American Jobs

20 Creation Act of 2004 section 101(f) are inoperative;





- 1 (7) Section 120 (with respect to amounts received under  
2 qualified group legal services plans). For treatment,  
3 see section 235-7(a)(9) to (11);
- 4 (8) Section 122 (with respect to certain reduced uniformed  
5 services retirement pay). For treatment, see section  
6 235-7(a)(3);
- 7 (9) Section 135 (with respect to income from United States  
8 savings bonds used to pay higher education tuition and  
9 fees). For treatment, see section 235-7(a)(1);
- 10 (10) Section 139C (with respect to COBRA premium  
11 assistance);
- 12 (11) Subchapter B (sections 141 to 150) (with respect to  
13 tax exemption requirements for state and local bonds);
- 14 (12) Section 151 (with respect to allowance of deductions  
15 for personal exemptions). For treatment, see section  
16 235-54;
- 17 (13) Section 179B (with respect to expensing of capital  
18 costs incurred in complying with Environmental  
19 Protection Agency sulphur regulations);
- 20 (14) Section 181 (with respect to special rules for certain  
21 film and television productions);



- 1 (15) Section 196 (with respect to deduction for certain  
2 unused investment credits);
- 3 (16) Section 199 (with respect to the U.S. production  
4 activities deduction);
- 5 (17) Section 199A (with respect to qualified business  
6 income);
- 7 (18) Section 222 (with respect to qualified tuition and  
8 related expenses);
- 9 (19) Sections 241 to 247 (with respect to special  
10 deductions for corporations). For treatment, see  
11 section 235-7(c);
- 12 (20) Section 250 (with respect to foreign-derived  
13 intangible income and global intangible low-taxed  
14 income);
- 15 (21) Section 267A (with respect to certain related party  
16 amounts paid or accrued in hybrid transactions or with  
17 hybrid entities);
- 18 (22) Section 280C (with respect to certain expenses for  
19 which credits are allowable). For treatment, see  
20 section 235-110.91;



- 1 (23) Section 291 (with respect to special rules relating to  
2 corporate preference items);
- 3 (24) Section 367 (with respect to foreign corporations);
- 4 (25) Section 501(c)(12), (15), (16) (with respect to exempt  
5 organizations); except that section 501(c)(12) shall  
6 be operative for companies that provide potable water  
7 to residential communities that lack any access to  
8 public utility water services;
- 9 (26) Section 515 (with respect to taxes of foreign  
10 countries and possessions of the United States);
- 11 (27) Subchapter G (sections 531 to 565) (with respect to  
12 corporations used to avoid income tax on  
13 shareholders);
- 14 (28) Subchapter H (sections 581 to 597) (with respect to  
15 banking institutions), except section 584 (with  
16 respect to common trust funds). For treatment, see  
17 chapter 241;
- 18 (29) Section 642(a) and (b) (with respect to special rules  
19 for credits and deductions applicable to trusts). For  
20 treatment, see sections 235-54(b) and 235-55;



- 1 (30) Section 646 (with respect to tax treatment of electing  
2 Alaska Native settlement trusts);
- 3 (31) Section 668 (with respect to interest charge on  
4 accumulation distributions from foreign trusts);
- 5 (32) Subchapter L (sections 801 to 848) (with respect to  
6 insurance companies). For treatment, see sections  
7 431:7-202 and 431:7-204;
- 8 (33) Section 853 (with respect to foreign tax credit  
9 allowed to shareholders). For treatment, see section  
10 235-55;
- 11 (34) Section 853A (with respect to credits from tax credit  
12 bonds allowed to shareholders);
- 13 (35) Subchapter N (sections 861 to 999) (with respect to  
14 tax based on income from sources within or without the  
15 United States), except sections 985 to 989 (with  
16 respect to foreign currency transactions). For  
17 treatment, see sections 235-4, 235-5, and 235-7(b),  
18 and 235-55;
- 19 (36) Section 1042(g) (with respect to sales of stock in  
20 agricultural refiners and processors to eligible farm  
21 cooperatives);



- 1 (37) Section 1055 (with respect to redeemable ground  
2 rents);
- 3 (38) Section 1057 (with respect to election to treat  
4 transfer to foreign trust, etc., as taxable exchange);
- 5 (39) Sections 1291 to 1298 (with respect to treatment of  
6 passive foreign investment companies);
- 7 (40) Subchapter Q (sections 1311 to 1351) (with respect to  
8 readjustment of tax between years and special  
9 limitations);
- 10 (41) Subchapter R (sections 1352 to 1359) (with respect to  
11 election to determine corporate tax on certain  
12 international shipping activities using per ton rate);
- 13 (42) Subchapter U (sections 1391 to [~~1379F~~] 1397F) (with  
14 respect to designation and treatment of empowerment  
15 zones, enterprise communities, and rural development  
16 investment areas). For treatment, see chapter 209E;
- 17 (43) Subchapter W (sections 1400 to 1400C) (with respect to  
18 District of Columbia enterprise zone);
- 19 (44) Section 14000 (with respect to education tax  
20 benefits);
- 21 (45) Section 1400P (with respect to housing tax benefits);



- 1 (46) Section 1400R (with respect to employment relief);  
2 (47) Section 1400T (with respect to special rules for  
3 mortgage revenue bonds);  
4 (48) Section 1400U-1 (with respect to allocation of  
5 recovery zone bonds);  
6 (49) Section 1400U-2 (with respect to recovery zone  
7 economic development bonds); and  
8 (50) Section 1400U-3 (with respect to recovery zone  
9 facility bonds)."

10 SECTION 6. Section 261-12, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§261-12 Rules, standards. (a) Powers to adopt. The  
13 director of transportation may perform [~~such~~] acts, issue and  
14 amend [~~such~~] orders, adopt [~~such~~] reasonable general or special  
15 rules and procedures, and establish [~~such~~] minimum standards,  
16 consistent with this chapter, as the director deems necessary to  
17 carry out this chapter and to perform the duties assigned  
18 thereunder, all commensurate with and for the purpose of  
19 protecting and [~~insuring~~] ensuring the general public interest  
20 and safety, the safety of persons operating, using, or traveling



1 in aircraft, and the safety of persons and property on land or  
2 water, and developing and promoting aeronautics in the State.

3 In furtherance of the duties assigned under this chapter,  
4 the director may adopt rules relating to:

- 5 (1) Safety measures, requirements, and practices in or  
6 about the airport premises;
- 7 (2) The licensing and regulation of persons engaged in  
8 commercial activities in or about the airport  
9 premises;
- 10 (3) The regulation of equipment and motor vehicles  
11 operated in or about the airport operational area;
- 12 (4) Airport security measures or requirements, and  
13 designation of sterile passenger holding areas and  
14 operational areas;
- 15 (5) The regulation of motor vehicles and traffic; and
- 16 (6) Any other matter relating to the health, safety, and  
17 welfare of the general public and persons operating,  
18 using, or traveling in aircraft.

19 (b) [f]Tour aircraft operations.[+] Any other law to the  
20 contrary notwithstanding, no tour aircraft operation shall be  
21 permitted in any airport under the State's control without



1 having a permit. The director shall adopt rules to regulate  
2 tour aircraft operations by permit, which shall include but not  
3 be limited to:

- 4 (1) Identification of the types of aircraft to be  
5 utilized;
- 6 (2) The number of operations daily for each type of  
7 aircraft used and the days and hours of operation;
- 8 (3) Verification that the applicant is in compliance with  
9 all state statutes, including but not limited to this  
10 section;
- 11 (4) Verification that the applicant has the Federal  
12 Aviation Administration certificate 121 or 135;
- 13 (5) A written assessment by the department of the impact  
14 to the surrounding area and to the subject state  
15 airport;
- 16 (6) Revocation of a permit based on the failure to comply  
17 with the information provided by the applicant and the  
18 terms and conditions set forth by the department in  
19 the permit; and any false statement or  
20 misrepresentation made by the applicant;





- 1 (7) Establishment of penalties for revocation and  
2 suspension of a permit for failure to comply with  
3 permit conditions;
- 4 (8) Annual renewal of permits; and
- 5 (9) Any change of operations under the existing permit to  
6 be approved by the director.

7 No permit shall be authorized unless accompanied by a  
8 Hawaii sectional aeronautical chart marked to indicate routes  
9 and altitudes to be used in conducting aerial tours and noise  
10 abatement procedures to be employed in the vicinity of  
11 identified noise sensitive areas.

12 For the purposes of this subsection, "tour aircraft  
13 operations" means any business operation [~~which~~] that offers  
14 aircraft for hire by passengers for the purpose of aerial  
15 observation of landmarks and other manmade or natural sites  
16 within an island of the State[~~7~~] and for the purpose of  
17 transporting passengers for tourist-related activities.

18 (c) [~~Definitions. For the purpose of this section, if not~~  
19 ~~inconsistent with the context.~~

20 "~~Sterile passenger holding area~~" means any portion of a  
21 ~~public airport designated by the director and identified by~~



1 ~~appropriate signs as an area into which access is conditioned~~  
2 ~~upon the prior inspection of persons and property in accordance~~  
3 ~~with the approved Federal Aviation Administration air carrier~~  
4 ~~screening program.~~

5 ~~"Operational area" means any portion of a public airport,~~  
6 ~~from which access by the public is prohibited by fences or~~  
7 ~~appropriate signs, and which is not leased or demised to anyone~~  
8 ~~for exclusive use and includes runways, taxiways, all ramps,~~  
9 ~~cargo ramps and apron areas, aircraft parking and storage areas,~~  
10 ~~fuel storage areas, maintenance areas, and any other area of a~~  
11 ~~public airport used or intended to be used for landing, takeoff~~  
12 ~~or surface maneuvering of aircraft or used for embarkation or~~  
13 ~~debarkation of passengers.]~~

14 Notwithstanding the restriction on access by the public into  
15 operational areas, entry may be authorized for airport  
16 operational area related purposes with the prior permission of  
17 the director or the director's duly authorized representative.

18 (d) Conformity to federal legislation and rules. No  
19 rules, orders, or standards prescribed by the director shall be  
20 inconsistent with, or contrary to, any act of the Congress of



1 the United States or any regulation promulgated or standard  
2 established pursuant thereto.

3 (e) How made. All rules having the force and effect of  
4 law[7] shall be adopted by the director pursuant to chapter 91.

5 (f) Distribution. The director shall provide for the  
6 publication and general distribution of all of [~~its~~] the  
7 department's rules and procedures having general effect.

8 (g) Definitions. For the purpose of this section, if not  
9 inconsistent with the context:

10 "Operational area" means any portion of a public airport  
11 from which access by the public is prohibited by fences or  
12 appropriate signs and that is not leased or demised to anyone  
13 for exclusive use. "Operational area" includes runways,  
14 taxiways, all ramps, cargo ramps and apron areas, aircraft  
15 parking and storage areas, fuel storage areas, maintenance  
16 areas, and any other area of a public airport used or intended  
17 to be used for landing, takeoff, or surface maneuvering of  
18 aircraft or used for embarkation or debarkation of passengers.

19 "Sterile passenger holding area" means any portion of a  
20 public airport designated by the director and identified by  
21 appropriate signs as an area into which access is conditioned



1 upon the prior inspection of persons and property in accordance  
2 with the approved Federal Aviation Administration air carrier  
3 screening program."

4 SECTION 7. Section 261-13, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) Every order of the director of transportation  
7 requiring performance of or desistance from certain acts or  
8 compliance with certain requirements and any denial or  
9 revocation of an approval, certificate, or license or refusal of  
10 a renewal thereof[~~7~~] shall be:

- 11 (1) [~~shall be in such~~] In the form [~~as~~] required by  
12 section 91-12[~~7~~];
- 13 (2) [~~shall be made~~] Made only after reasonable notice and  
14 an opportunity to be heard in conformity with chapter  
15 91[~~7~~]; and
- 16 (3) [~~shall be served~~] Served upon the persons affected  
17 either by registered or certified mail with return  
18 receipt requested or in person."

19 SECTION 8. Section 261-16, Hawaii Revised Statutes, is  
20 amended by amending subsections (a) and (b) to read as follows:



1           "(a) Site approvals. Except as provided in subsection (d)  
2 ~~[of this section]~~, the department of transportation may provide  
3 for the approval of airport sites and the issuance of  
4 certificates of the approvals. No charge shall be made for any  
5 approval. Upon the ~~[promulgation]~~ department's adoption of a  
6 rule ~~[or regulation]~~ providing for ~~[such]~~ the approvals, any  
7 person desiring or planning to construct or establish an airport  
8 may~~[-, before the acquisition of the site or before the~~  
9 ~~construction or establishment of the proposed airport, make~~  
10 ~~application]~~ apply to the department for approval of the  
11 site~~[-]~~; provided that the application is made before the  
12 acquisition of the site or before the construction or  
13 establishment of the proposed airport. The department shall  
14 issue with reasonable dispatch ~~[issue]~~ a certificate granting  
15 approval of a site if it is satisfied that:

- 16           (1) ~~[that the]~~ The site is adequate for the proposed  
17           airport;
- 18           (2) ~~[that the]~~ The proposed airport, if constructed or  
19           established, will conform to minimum standards of  
20           safety; and



1           (3) ~~[that safe]~~ Safe air traffic patterns can be worked  
2                    out for the proposed airport and for all existing  
3                    airports and approved airport sites in its vicinity.

4            An approval of a site may be granted subject to any  
5            reasonable conditions ~~[which]~~ that the department may deem  
6            necessary to effectuate the purposes of this section~~[7]~~ and  
7            shall remain in effect, unless sooner revoked by the department,  
8            until a license for an airport located on the approved site has  
9            been issued pursuant to subsection (b) ~~[of this section]~~. The  
10           department ~~[may]~~, after notice and opportunity for hearing to a  
11           holder of a certificate of approval, may revoke the approval  
12           when it shall reasonably determine ~~[-(1)-]~~ that there has been an  
13           abandonment of the site as an airport site~~[-, or -(2)-]~~i; that there  
14           has been a failure within the time prescribed, or if no time was  
15           prescribed, within a reasonable time, to develop the site as an  
16           airport or to comply with the conditions of the approval~~[7]~~i or  
17           ~~[-(3)-]~~ that because of change of physical or legal conditions or  
18           circumstances the site is no longer usable for the aeronautical  
19           purposes for which the approval was granted.

20           (b) Licenses. Except as provided in subsection (d), the  
21           department may provide for the licensing of airports and the



1 annual renewal of [~~such~~] the licenses. [~~It~~] The department may  
2 charge license fees not exceeding \$100 for each original  
3 license, and not exceeding \$10 for each renewal thereof. Upon  
4 the [~~promulgation~~] adoption of a rule [~~or regulation~~] providing  
5 for the licensing, and upon receipt of an application for an  
6 original license and the payment of the duly required fee  
7 therefor, the department shall issue with reasonable dispatch[~~r~~  
8 ~~upon receipt of an application for an original license and the~~  
9 ~~payment of the duly required fee therefor,~~ issue] an appropriate  
10 license if [~~it~~] the department is satisfied that the airport  
11 conforms to minimum standards of safety and that safe air  
12 traffic patterns can be worked out for the airport and for all  
13 existing airports and approved airport sites in its vicinity.  
14 All licenses shall be renewable annually upon payment of the  
15 fees prescribed. Licenses and renewals thereof may be issued  
16 subject to any reasonable conditions that the department may  
17 deem necessary to effectuate the purposes of this section. The  
18 department [~~may~~], after notice and opportunity for hearing to  
19 the licensee, may revoke any license or renewal thereof, or  
20 refuse to issue a renewal, when [~~it shall~~] the department  
21 reasonably [~~determine~~] determines that:



- 1           (1) ~~[that there]~~ There has been an abandonment of the  
2                   airport as such~~[, or]~~;
- 3           (2) ~~[that there]~~ There has been a failure to comply with  
4                   the conditions of the license or renewal thereof~~[,]~~;  
5                   or
- 6           (3) ~~[that because]~~ Because of change of physical or legal  
7                   conditions or circumstances, the airport has become  
8                   either unsafe or unusable for the aeronautical  
9                   purposes for which the license or renewal was issued.

10           It shall be unlawful for any person to operate an airport  
11           without an appropriate license ~~[for such]~~, as may be duly  
12           required by rule ~~[or regulation issued]~~ adopted pursuant to this  
13           subsection."

14           SECTION 9. Section 261-17.5, Hawaii Revised Statutes, is  
15           amended to read as follows:

16           "~~[§261-17.5]~~ **Arrest or citation.** (a) Except when  
17           required by state law to take immediately before a district  
18           judge a person arrested for a violation of any provision of this  
19           chapter, including any rule ~~[or regulation]~~ adopted ~~[and~~  
20           promulgated] pursuant to this chapter, any person authorized to  
21           enforce the provisions of this chapter, hereinafter referred to





1 as [~~enforcement officer,~~] an "enforcement officer", upon  
2 arresting a person for violation of any provision of this  
3 chapter, including any rule [~~or regulation~~] adopted [~~and~~  
4 ~~promulgated~~] pursuant to this chapter, shall[~~]~~ in the  
5 discretion of the enforcement officer[~~, either~~]:

6 (1) [~~issue~~] Issue to the purported violator a summons or  
7 citation, printed in the form hereinafter described,  
8 warning the purported violator to appear and answer to  
9 the charge against the purported violator at a certain  
10 place and at a time within seven days after [~~such~~] the  
11 arrest[~~]~~; or

12 (2) [~~take~~] Take the purported violator without unnecessary  
13 delay before a district judge.

14 (b) The summons or citation shall be printed in a form  
15 comparable to the form of other summonses and citations used for  
16 arresting offenders and shall be designed to [~~provide for~~  
17 ~~inclusion of~~] include all necessary information. The form and  
18 content of [~~such~~] the summons or citation shall be adopted or  
19 prescribed by the district courts.



1        Summonses and citations shall be consecutively numbered,  
2 and the carbon copy or copies of each shall bear the same  
3 number.

4        (c) The original of a summons or citation shall be given  
5 to the purported violator and the other copy or copies  
6 distributed in the manner prescribed by the district courts;  
7 provided that the district courts may prescribe alternative  
8 methods of distribution for the original and any other copies.

9        ~~[Summonses and citations shall be consecutively numbered~~  
10 ~~and the carbon copy or copies of each shall bear the same~~  
11 ~~number.]~~

12        (d) Any person who fails to appear at the place and within  
13 the time specified in the summons or citation issued to the  
14 person by the enforcement officer, upon the person's arrest for  
15 violation of any provision of this chapter, including any rule  
16 ~~[or regulation promulgated]~~ adopted pursuant to this chapter,  
17 shall be guilty of a misdemeanor and, on conviction, shall be  
18 fined not more than \$1,000, or be imprisoned not more than six  
19 months, or both.

20        ~~[In the event]~~ If any person fails to comply with a summons  
21 or citation issued to ~~[such]~~ the person, or if any person fails



1 or refuses to deposit bail as required, the enforcement officer  
2 shall cause a complaint to be entered against [~~such~~] the person  
3 and secure the issuance of a warrant for the person's arrest."

4 SECTION 10. Section 261-31, Hawaii Revised Statutes, is  
5 amended by amending the definitions of "business" and "person"  
6 to read as follows:

7 "Business" means any lawful activity conducted:

- 8 (1) [~~primarily~~] Primarily for the purchase and resale,  
9 manufacture, processing, or marketing of products,  
10 commodities, or any other personal property;  
11 (2) [~~primarily~~] Primarily for the sale of services to the  
12 public; or  
13 (3) [~~by~~] By a nonprofit organization.

14 "Person" means:

- 15 (1) [~~any~~] Any individual, partnership, corporation, or  
16 association [~~which~~] that is the owner of a business;  
17 (2) [~~any~~] Any owner, part owner, tenant, or sharecropper  
18 operating a farm;  
19 (3) [~~the~~] The head of a family; or  
20 (4) [~~an~~] An individual not a member of a family."



1 SECTION 11. Section 261-32, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Any displaced person who moves or discontinues the  
4 person's business or farm operations [~~who~~] and elects to accept  
5 the payment authorized by this subsection in lieu of the payment  
6 authorized by subsection (a) [~~r~~] may receive a fixed relocation  
7 payment in an amount equal to the average annual net earnings of  
8 the business or farm operation, or \$5,000, whichever is [~~the~~  
9 ~~lesser.~~] less. In the case of a business, no payment shall be  
10 made under this subsection unless the director is satisfied that  
11 the business:

- 12 (1) [~~cannot~~] Cannot be relocated without a substantial  
13 loss of its existing patronage; and  
14 (2) [~~is~~] Is not part of a commercial enterprise having at  
15 least one other establishment [~~r not~~] that is:  
16 (A) Not being acquired by the State [~~which is~~  
17 ~~engaged~~]; and  
18 (B) Engaged in the same or similar business."

19 SECTION 12. Section 261-53, Hawaii Revised Statutes, is  
20 amended to read as follows:



1 " ~~[+]~~§261-53~~[+]~~ Findings and determination for special  
2 facility leases. The department shall not enter into any  
3 special facility lease unless the department at or prior to the  
4 entering into of ~~[such]~~ the special facility lease ~~[shall find]~~  
5 finds and ~~[determine-]~~ determines that:

- 6 (1) ~~[that the]~~ The building, structure, or facility  
7 ~~[which]~~ that is to be the subject of ~~[such]~~ the  
8 special facility lease will not be used to provide  
9 services, commodities, supplies, or facilities ~~[which]~~  
10 that are then adequately being made available through  
11 the airports system of the State;
- 12 (2) ~~[that the]~~ The result of the use or occupancy of  
13 ~~[such]~~ the building, structure, or facility under  
14 ~~[such]~~ the special facility lease would not result in  
15 the reduction of the revenues derived from the  
16 airports system to an amount below the amount required  
17 to be derived therefrom by section 39-61; and
- 18 (3) ~~[that the]~~ The entering into of ~~[such]~~ the special  
19 facility lease would not be in violation of or result  
20 in a breach of any covenant contained in any



1 resolution or certificate authorizing any bonds of the  
2 State then outstanding."

3 SECTION 13. Section 262-11, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§262-11 Acquisition of air rights.** When:

- 6 (1) [~~it~~] It is desired to remove, lower, or otherwise  
7 terminate a nonconforming structure or use; [~~or~~]  
8 (2) [~~the~~] The approach protection necessary [~~cannot~~],  
9 because of constitutional limitations, cannot be  
10 provided by airport zoning regulations under this  
11 chapter; or  
12 (3) [~~it~~] It appears advisable that the necessary approach  
13 protection be provided by acquisition of property  
14 rights rather than by airport zoning regulations,  
15 the director of transportation on behalf of the State may  
16 acquire[~~]~~ by purchase, grant, or condemnation in the manner  
17 provided by chapter 101[~~—such~~] the air right, aviation  
18 easement, or other estate or interest in the property or  
19 nonconforming structure or use in question as may be necessary  
20 or proper to effectuate the purposes of this chapter, including  
21 acquisition of a fee simple estate."



1 SECTION 14. Section 263A-1, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The test or tests shall be administered at the  
4 request of a law enforcement officer having probable cause to  
5 believe the person operating or in actual physical control of an  
6 aircraft is under the influence of intoxicating liquor only  
7 after:

8 (1) [~~a~~] A lawful arrest; and

9 (2) [~~the~~] The officer has informed the person of the  
10 sanctions of section 263A-5."

11 SECTION 15. Section 264-26, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) Any moneys appropriated for the State's share of the  
14 price or any moneys in the state highway fund created by section  
15 248-8, in the discretion of the director, may be drawn upon to  
16 advance the federal share of payments:

17 (1) [~~earned~~] Earned by contractors on federal-aid projects  
18 for completed portions of the work[~~7~~]; or

19 (2) [~~due~~] Due the owners for property conveyed by them,  
20 where the necessary federal-aid moneys are not immediately  
21 forthcoming[~~7~~]; provided that the appropriation or fund [~~to~~], as



1 applicable, shall be reimbursed for the advances when federal-  
2 aid moneys are received."

3 SECTION 16. Section 266-21.4, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall:

6 (1) [~~develop~~] Develop a list of minimum requirements for  
7 the marine inspection of vessels seeking permits to  
8 moor in state commercial harbors[~~7~~];

9 (2) [~~approve~~] Approve qualified marine surveyors to  
10 inspect vessels seeking permits to moor in state  
11 commercial harbors[~~7~~]; and

12 (3) [~~approve~~] Approve a fee schedule for marine surveyors'  
13 inspections."

14 SECTION 17. Section 266-24.1, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§266-24.1 Arrest or citation.** (a) Except when required  
17 by state law to take immediately before a district judge a  
18 person arrested for a violation of any provision of this part,  
19 including any rule [~~or regulation~~] adopted [~~and promulgated~~]  
20 pursuant to this part, any person authorized to enforce the  
21 provisions of this part, hereinafter referred to as [~~enforcement~~





1 ~~officer,~~] an "enforcement officer", upon arresting a person for  
2 violation of any provision of this part, including any rule [~~or~~  
3 ~~regulation~~] adopted [~~and promulgated~~] pursuant to this part,  
4 shall[~~]~~ in the discretion of the enforcement officer[~~, either~~]:

5 (1) [~~issue~~] Issue to the purported violator a summons or  
6 citation, printed in the form hereinafter described,  
7 warning the purported violator to appear and answer to  
8 the charge against the purported violator at a certain  
9 place and at a time within seven days after [~~such~~] the  
10 arrest[~~]~~; or

11 (2) [~~take~~] Take the purported violator without unnecessary  
12 delay before a district judge.

13 (b) The summons or citation shall be printed in a form  
14 comparable to the form of other summonses and citations used for  
15 arresting offenders and shall be designed to [~~provide for~~  
16 ~~inclusion of~~] include all necessary information. The form and  
17 content of [~~such~~] the summons or citation shall be adopted or  
18 prescribed by the district courts.

19 Summonses and citations shall be consecutively numbered,  
20 and the carbon copy or copies of each shall bear the same  
21 number.



1        (c) The original of a summons or citation shall be given  
2 to the purported violator and the other copy or copies  
3 distributed in the manner prescribed by the district courts;  
4 provided that the district courts may prescribe alternative  
5 methods of distribution for the original and any other copies.

6        [~~Summonses and citations shall be consecutively numbered~~  
7 ~~and the carbon copy or copies of each shall bear the same~~  
8 ~~number.~~]

9        (d) Any person who fails to appear at the place and within  
10 the time specified in the summons or citation issued to the  
11 person by the enforcement officer, upon the person's arrest for  
12 violation of any provision of this part, including any rule [~~or~~  
13 ~~regulation promulgated~~] adopted pursuant to this part, shall be  
14 guilty of a misdemeanor and, on conviction, shall be fined not  
15 more than \$1,000, or be imprisoned not more than six months, or  
16 both.

17        [~~In the event~~] If any person fails to comply with a summons  
18 or citation issued to [~~such~~] the person, or if any person fails  
19 or refuses to deposit bail as required, the enforcement officer  
20 shall cause a complaint to be entered against [~~such~~] the person  
21 and secure the issuance of a warrant for the person's arrest.



1        (e) When a complaint is made to any prosecuting officer of  
2 the violation of any provision of this part, including any rule  
3 [~~or regulation promulgated~~] adopted thereunder, the enforcement  
4 officer who issued the summons or citation shall subscribe to it  
5 under oath administered by another official of the department of  
6 transportation whose [~~names have~~] name has been submitted to the  
7 prosecuting officer and who [~~have~~] has been designated by the  
8 director of transportation to administer the [~~same-~~] oath."

9        SECTION 18. Section 266-51, Hawaii Revised Statutes, is  
10 amended to read as follows:

11        "**§266-51 Definitions.** For the purpose of this part, if  
12 not inconsistent with the context:

13        "Remodeling" includes reconstruction, renovation,  
14 rehabilitation, improvement, betterment, or extension of a  
15 special facility.

16        [{"+1}] "Special facility" means one or more buildings,  
17 structures, or facilities on land owned by the State for  
18 maritime and marine operations, including cargo handling and  
19 control; storage, repair, maintenance, and servicing of marine  
20 and marine-related equipment; processing and canning of fish and  
21 fish products; and offices and accommodations for the personnel



1 and employees of persons engaged in maritime and maritime-  
2 related operations [~~which~~] that are the subject of a special  
3 facility lease.

4 [~~(2)~~] "Special facility lease" includes a contract, lease,  
5 or other agreement, or any combination thereof, the subject  
6 matter of which is the special facility.

7 [~~(3)~~ ~~"Remodeling" includes reconstruction, renovation,~~  
8 ~~rehabilitation, improvement, betterment, or extension~~  
9 ~~of a special facility.]"~~

10 SECTION 19. Section 266-55, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§266-55 Special facility revenue bonds.** All special  
13 facility revenue bonds, including special facility revenue  
14 refunding bonds, authorized to be issued shall be issued  
15 pursuant to part III of chapter 39, except as follows:

16 (1) No [~~such~~] special facility revenue bonds shall be  
17 issued unless at the time of issuance the department  
18 shall have entered into a special facility lease with  
19 respect to the special facility for which [~~such~~] the  
20 revenue bonds are to be issued[~~+~~];



- 1           (2) [~~Such~~] Special facility revenue bonds shall be issued  
2           in the name of the department, and not in the name of  
3           the State[-];
- 4           (3) No further authorization of the legislature shall be  
5           required for the issuance of the special facility  
6           revenue bonds; but the approval of the governor shall  
7           be required for [~~such~~] the issuance[-];
- 8           (4) [~~Such~~] Special facility revenue bonds shall be payable  
9           solely from and secured solely by the revenues derived  
10          by the department from the special facility for which  
11          they are issued, as defined in section [~~266-51(1)-~~]  
12          266-51;
- 13          (5) The final maturity date of [~~such~~] the special facility  
14          revenue bonds shall not be later than either the  
15          estimated life of the special facility for which they  
16          are issued or the initial term of the special facility  
17          lease[-];
- 18          (6) If deemed necessary or advisable by the department, or  
19          to permit the obligations of the other person to the  
20          special facility lease to be registered under the  
21          United States Securities Act of 1933, the department



1 with the approval of the state director of finance may  
2 appoint a national or state bank within or without the  
3 State to serve as trustee for the holders of the  
4 special facility revenue bonds and may enter into a  
5 trust indenture or trust agreement with [~~such~~] the  
6 trustee. The trustee may be authorized by the  
7 department to collect, hold, and administer the  
8 revenues derived from the special facility for which  
9 the special facility revenue bonds are issued and to  
10 apply [~~such~~] the revenues to the payment of the  
11 principal and interest on [~~such~~] the special facility  
12 revenue bonds. [~~In the event that~~] If any [~~such~~]  
13 trustee shall be appointed, any trust indenture or  
14 agreement entered into by the department with the  
15 trustee may contain the covenants and provisions  
16 authorized by part III of chapter 39 to be inserted in  
17 a resolution adopted or certificate issued, as though  
18 the words "resolution" or "certificate" as used in  
19 that part read "trust indenture or agreement". [~~Such~~]  
20 Those covenants and provisions shall not be required  
21 to be included in the resolution or certificate



1 authorizing the issuance of the special facility  
2 revenue bonds if included in the trust indenture or  
3 agreement. Any resolution or certificate, trust  
4 indenture, or trust agreement adopted, issued, or  
5 entered into by the department pursuant to this part  
6 may also contain any provisions required for the  
7 qualification thereof under the United States Trust  
8 Indenture Act of 1939. The department may pledge and  
9 assign to the trustee the special facility lease and  
10 the rights of the department including the revenues  
11 thereunder[-];

- 12 (7) If the department with the approval of the state  
13 director of finance shall have appointed or shall  
14 appoint a trustee for the holders of the special  
15 facility revenue bonds, then notwithstanding the  
16 second sentence of section 39-68, the director of  
17 finance may elect not to serve as fiscal agent for the  
18 payment of the principal and interest, and for the  
19 purchase, registration, transfer, exchange, and  
20 redemption, of the special facility revenue bonds, or  
21 may elect to limit the functions the director shall



1 perform as [such] fiscal agent. The department, with  
2 the approval of the director of finance, may appoint  
3 the trustee to serve as [such] fiscal agent[7] and may  
4 authorize and empower the trustee to perform [such]  
5 any functions with respect to [such] the payment[7] of  
6 the principal and interest and the purchase,  
7 registration, transfer, exchange, and redemption[7] of  
8 the special facility revenue bonds, as the department  
9 may deem necessary, advisable, or expedient,  
10 including, without limitation, the holding of the  
11 special facility revenue bonds and coupons [which]  
12 that have been paid, and the supervision and  
13 destruction thereof in accordance with sections 40-10  
14 and 40-11. Nothing in this paragraph shall be a  
15 limitation upon or be construed as a limitation upon  
16 the powers granted in the preceding paragraph to the  
17 department with the approval of the director of  
18 finance to appoint the trustee, or granted in sections  
19 36-3 and 39-13 and the third sentence of section 39-68  
20 to the director of finance to appoint the trustee or  
21 others, as fiscal agents, paying agents, and





1 registrars for the special facility revenue bonds or  
2 to authorize and empower [~~such~~] fiscal agents, paying  
3 agents, and registrars to perform the functions  
4 referred to in [~~such~~] the preceding paragraph and  
5 sections[~~7~~] 36-3 and 39-13 and the third sentence of  
6 section 39-68, it being the intent of this paragraph  
7 to confirm that the director of finance as aforesaid  
8 may elect not to serve as fiscal agent for the special  
9 facility revenue bonds or may elect to limit the  
10 functions the director shall perform as [~~such~~] fiscal  
11 agent, as the director of finance may deem necessary,  
12 advisable, or expedient[~~7~~];

13 (8) The department may sell [~~such~~] special facility  
14 revenue bonds either at public or private sale[~~7~~];

15 (9) If no trustee shall be appointed to collect, hold, and  
16 administer the revenues derived from the special  
17 facility for which [~~such~~] the special facility revenue  
18 bonds are issued, [~~such~~] the revenues shall be held in  
19 a separate account in the treasury of the State,  
20 separate and apart from the harbor special fund, to be  
21 applied solely to the carrying out of the resolution,



1 certificate, trust indenture, or trust agreement  
2 authorizing or securing [~~such~~] the special facility  
3 revenue bonds[~~-~~];

4 (10) If the resolution, certificate, trust indenture, or  
5 trust agreement shall provide that no special facility  
6 revenue bonds issued thereunder shall be valid or  
7 obligatory for any purpose unless certified or  
8 authenticated by the trustee for the holders of [~~such~~]  
9 the special facility revenue bonds, signatures of the  
10 officers of the State upon [~~such~~] the bonds and the  
11 coupons thereof as required by section 39-56 may be  
12 evidenced by their facsimile signatures[~~-~~];

13 (11) The proceeds of [~~such~~] special facility revenue bonds  
14 may be used and applied by the department to reimburse  
15 the other person to the special facility lease for all  
16 preliminary costs and expenses, including  
17 architectural and legal costs[~~-~~]; and

18 (12) If the special facility lease shall require the other  
19 person to operate, maintain, and repair the special  
20 facility [~~which~~] that is the subject of [~~such~~] the  
21 lease, at the other person's expense, [~~such~~] the



1 requirement shall constitute compliance by the  
2 department with section 39-61(a)(2), and none of the  
3 revenues derived by the department from [~~such~~] the  
4 special facility shall be required to be applied to  
5 the purposes of section 39-62(2). Sections 39-62(4),  
6 39-62(5), and 39-62(6) shall not be applicable to the  
7 revenues derived from a special facility lease."

8 SECTION 20. Section 269-54, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10 "(d) Whenever it appears to the consumer advocate that:

11 (1) [~~any~~] Any public utility has violated or failed to  
12 comply with any provision of this part or of any state  
13 or federal law;

14 (2) [~~any~~] Any public utility has failed to comply with any  
15 rule, regulation, or other requirement of the public  
16 utilities commission or of any other state or federal  
17 agency;

18 (3) [~~any~~] Any public utility has failed to comply with any  
19 provision of its charter or franchise;

20 (4) [~~changes,~~] Changes, additions, extensions, or repairs  
21 to the plant or service of any public utility are



1           necessary to meet the reasonable convenience or  
2           necessity of the public; or  
3           (5) [~~the~~] The rates, fares, classifications, charges, or  
4           rules of any public utility are unreasonable or  
5           unreasonably discriminatory,  
6           the consumer advocate may institute proceedings for appropriate  
7           relief before the public utilities commission. The consumer  
8           advocate may appeal any final decision and order in any  
9           proceeding to which the consumer advocate is a party in the  
10          manner provided by law."

11          SECTION 21. Section 271-4, Hawaii Revised Statutes, is  
12          amended to read as follows:

13          "**§271-4 Definitions.** As used in this chapter:

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

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

18          [~~(2)~~] "Commission" means the public utilities commission.

19          "Common carrier by motor vehicle" means any person that  
20          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 definition of "common carrier by motor vehicle") under  
7 continuing contracts with one person or a limited number of  
8 persons for the furnishing of transportation services:

- 9 (1) Through the assignment of motor vehicles for a  
10 continuing period of time to the exclusive use of each  
11 person served; or  
12 (2) Designed to meet the distinct need of each individual  
13 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,  
19 271-12, 271-13, 271-19, and 271-29 through the assessment of  
20 civil 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 and a contract carrier by motor vehicle.

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

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

16       [~~3~~] "Person" or "persons" means any individual, firm,  
17 copartnership, corporation, company, association, or joint stock  
18 association; and includes any trustee, receiver, assignee, or  
19 personal representative thereof.



1       ~~[(4) "Certificate" means a certificate of public~~  
2           ~~convenience and necessity issued under this chapter to~~  
3           ~~common carriers by motor vehicle.~~

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

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

13       "Rates" includes rates, fares, tolls, rentals, and charges  
14       of whatever kind and nature unless the context indicates  
15       otherwise; provided that for transportation by motor vehicle of  
16       passengers, where the provision of transportation is part of a  
17       package that may include air fare, meals, attractions, and other  
18       services, "rates" shall only include the charges for the  
19       provision of transportation by motor vehicle.

20       ~~[(6)]~~ "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       ~~(7)~~ "Transportation of property" includes every service  
4 in connection with or incidental to the transportation of  
5 property, including in particular its receipt, delivery,  
6 elevation, transfer, carriage, ventilation, refrigeration,  
7 icing, dunnage, storage in transit, handling, and ~~its~~  
8 consolidation for the purposes of forwarding within the State.

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

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





- 1       ~~(10) "Rates" includes rates, fares, tolls, rentals, and~~  
2       ~~charges of whatever kind and nature unless the context~~  
3       ~~indicates otherwise, provided that for transportation~~  
4       ~~by motor vehicle of passengers, where the provision of~~  
5       ~~transportation is part of a package that may include~~  
6       ~~air fare, meals, attractions, and other services,~~  
7       ~~"rates" shall only include the charges for the~~  
8       ~~provision of transportation by motor vehicle.~~
- 9       ~~(11) "Common carrier by motor vehicle" means any person~~  
10       ~~that holds itself out to the general public to engage~~  
11       ~~in the transportation by motor vehicle of passengers~~  
12       ~~or property or any class or classes thereof for~~  
13       ~~compensation.~~
- 14       ~~(12) "Contract carrier by motor vehicle" means any person~~  
15       ~~that engages in transportation by motor vehicle of~~  
16       ~~passengers or property for compensation (other than~~  
17       ~~transportation referred to in paragraph (11)) under~~  
18       ~~continuing contracts with one person or a limited~~  
19       ~~number of persons either: for the furnishing of~~  
20       ~~transportation services through the assignment of~~  
21       ~~motor vehicles for a continuing period of time to the~~



1 ~~exclusive use of each person served; or for the~~  
2 ~~furnishing of transportation services designed to meet~~  
3 ~~the distinct need of each individual customer.~~

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

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

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



1 ~~penalties as provided in section 271-27(h), (i), and~~  
2 ~~(j).]~~"

3 SECTION 22. Section 271G-5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§271G-5 Definitions. As used in this chapter:

6 "Certificate" means a certificate of public convenience and  
7 necessity issued under this chapter to common carriers by water.

8 ~~[(1)]~~ "Chapter" means this Water Carrier Law.

9 ~~[(2)]~~ "Commission" means the public utilities commission.

10 "Enforcement officer" means any person employed and  
11 authorized by the commission to investigate any matter on behalf  
12 of the commission.

13 ~~[(3)]~~ "Person" or "persons" means any individual, firm,  
14 copartnership, corporation, company, association, or joint stock  
15 association; and includes any trustee, receiver, assignee, or  
16 personal representative thereof.

17 ~~[(4)]~~ ~~"Certificate" means a certificate of public~~  
18 ~~convenience and necessity issued under this chapter to~~  
19 ~~common carriers by water.]~~



1 "Rates" includes rates, fares, tolls, rentals, and charges  
2 of whatever kind and nature unless the context indicates  
3 otherwise.

4 "Related companies" means companies or persons that  
5 directly, or indirectly through one or more intermediaries,  
6 control, or are controlled by, or are under common control with,  
7 the water carrier. The term "control", in reference to a  
8 relationship between any person or persons and another person or  
9 persons, includes actual as well as legal control, and indirect  
10 as well as direct control.

11 [~~5~~] "Transportation of persons" includes every service in  
12 connection with or incidental to the safety, comfort, or  
13 convenience of persons transported and the receipt, carriage,  
14 and delivery of these persons and their baggage.

15 [~~6~~] "Transportation of property" includes every service  
16 in connection with or incidental to the transportation of  
17 property, including in particular its receipt, and delivery,  
18 carriage, preservation, and all incidental services affecting  
19 these activities.

20 "Vessel" means any watercraft or other artificial  
21 contrivance of whatever description that is used, or capable of



1 being used, or intended to be used, as a means of transportation  
2 by water.

3       ~~[(7)]~~ "Water carrier" or "common carrier by water" means  
4 any person who holds oneself out to the general public as  
5 engaging in the transportation by water of passengers or  
6 property for compensation within the State or between points  
7 within the State.

8       ~~[(8)]~~ "~~Vessel~~" means ~~any watercraft or other artificial~~  
9 ~~contrivance of whatever description which is used, or~~  
10 ~~capable of being used, or intended to be used, as a~~  
11 ~~means of transportation by water.~~

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

15       ~~(10)~~ "~~Related companies~~" means ~~companies or persons that~~  
16 ~~directly, or indirectly through one or more~~  
17 ~~intermediaries, control, or are controlled by, or are~~  
18 ~~under common control with, the water carrier. The~~  
19 ~~term "control", in reference to a relationship between~~  
20 ~~any person or persons and another person or persons,~~



1 ~~includes actual as well as legal control, and indirect~~  
2 ~~as well as direct control.~~

3 ~~(11) "Enforcement officer" means any person employed and~~  
4 ~~authorized by the commission to investigate any matter~~  
5 ~~on behalf of the commission.]"~~

6 SECTION 23. Section 271G-6, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 " [H]§271G-6[H] **Exemptions, generally.** Notwithstanding any  
9 other provisions of this chapter, its contents shall not apply  
10 to:

- 11 (1) Persons transporting their own property where the  
12 transportation is in furtherance of a primary business  
13 purpose or enterprise of that person except where the  
14 transportation is undertaken by a water carrier to  
15 evade the regulatory purposes of this chapter;
- 16 (2) Nonprofit agricultural cooperative associations to the  
17 extent that they engage in the transportation of their  
18 own property or the property of their members;
- 19 (3) Persons engaged in the transportation over water of  
20 passengers or property for compensation, other than  
21 transportation referred to in the definition of "water



1           carrier" or "common carrier by water" in section  
2           ~~[271G-5(7)]~~ 271G-5 under continuing contracts with one  
3           person or a limited number of persons ~~[either (A)]~~ for  
4           the furnishing of transportation services ~~[through]~~:

5           (A) Through the assignment of vessels for a  
6           continuing period of time to the exclusive use of  
7           each person served~~[r]~~; or

8           ~~(B) [for the furnishing of transportation services~~  
9           ~~designed]~~ Designed to meet the distinct need of  
10           each individual customer;

11           (4) Persons transporting their own property or employees  
12           where the transportation is in furtherance of a  
13           business or enterprise of fishing or taking of fish  
14           for profit or gain as a means of livelihood; or

15           (5) Persons engaged in the business of transporting  
16           persons for sightseeing and other recreational  
17           activities."

18           SECTION 24. Section 273-3, Hawaii Revised Statutes, is  
19           amended to read as follows:

20           "**§273-3. Special powers.** For the purposes and subject to  
21           the provisions and restrictions of this chapter, the corporation



1 [may], from time to time, may exercise any of the following  
2 powers:

3 (1) It may enter upon any lands [~~which~~] that may adjoin  
4 upon the line of any railway [~~which~~] that may be  
5 authorized by charter to be made, and may bore, dig,  
6 cut, trench, embank, and drain, and may remove or lay,  
7 take, carry away, and use any earth, gravel, stone,  
8 timber, or other things dug or obtained therein or  
9 otherwise in the execution of any powers hereafter in  
10 this chapter given, and [~~which~~] that may be proper for  
11 the making, maintaining, altering, repairing, or using  
12 of any railway lawfully authorized, or [~~which~~] that  
13 may obstruct the making, maintaining, altering,  
14 repairing, or using of the same;

15 (2) It may make, in, upon, across, under, or over any such  
16 lands, or any street, roads, ways, railroads,  
17 tramways, hills, valleys, rivers, canals,  
18 watercourses, or waters, [~~such~~] any temporary or  
19 permanent inclined planes, tunnels, cuttings,  
20 embankments, aqueducts, bridges, roads, ways,  
21 passages, conduits, drains, piers, arches, fences, and





1 other work and conveniences as [~~it~~] the corporation  
2 thinks proper;

3 (3) It may alter the course of any rivers not navigable,  
4 canals, brooks, streams, or watercourses during [~~such~~]  
5 any times as is necessary for constructing or  
6 maintaining tunnels, bridges, or other works over,  
7 under, or affecting the same; and may temporarily or  
8 permanently alter the course of any rivers or streams,  
9 or raise or sink the level of any rivers or streams,  
10 streets, roads, or ways, to carry more conveniently  
11 the same over or under or by the side of any railway;

12 (4) It may make drains or conduits into, through, or under  
13 any lands adjoining the railway for the purpose of  
14 conveying water from or to the railway, and upon the  
15 railway, or any lands adjoining or near thereto;

16 (5) It may make [~~such~~] piers, jetties, stations, sidings,  
17 wharves, warehouses, tollhouses, and other houses,  
18 yards, engines, machinery, signal posts, and other  
19 apparatus, works, and conveniences whatsoever  
20 connected with the railway as the corporation may  
21 think proper, and may from time to time alter, repair,



- 1 or discontinue any [~~such~~] apparatus, works, and  
2 conveniences, and substitute others in their stead;
- 3 (6) It may fell or remove any timber or other trees being  
4 within two hundred feet from either side of the  
5 railway [~~which,~~] that, by their liability to fall or  
6 otherwise, might obstruct or injure the railway;
- 7 (7) It may also fell or cut down and remove any trees or  
8 wood, whether timber or other trees, or scrub or  
9 underwood, [~~which,~~] that, by reason of the line making  
10 a curve or otherwise, may obstruct or impede a view of  
11 any signal post from any portion of the line [~~which~~  
12 ~~shall be~~] within one mile in a right line from any  
13 [~~such~~] signal post;
- 14 (8) It may enter upon and use any existing private road,  
15 being a road graveled or formed with stones or other  
16 hard material, and not being an avenue or approach to  
17 any dwelling house;
- 18 (9) It may enter upon and take, purchase, and hold all  
19 [~~such~~] lands, tenements, and hereditaments as may be  
20 required for the purposes of the railway and works  
21 connected therewith; and



1        (10) It may do all other things necessary or convenient for  
2                making, maintaining, altering, or repairing and using  
3                the railway.

4        [~~But nothing~~] Nothing in this chapter shall be construed to  
5 authorize any corporation to enter upon or take any tidewaters,  
6 nor in any way to hinder, obstruct, or interfere with navigation  
7 in or upon any public navigable waters, nor to erect, build, or  
8 maintain any pier, jetty, or wharf in, upon, or over any harbor,  
9 bay, or river beyond high watermark."

10        SECTION 25. Section 281-42, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12        "(a) It shall be unlawful for any person holding a  
13 manufacturer's license or a wholesale dealer's license to induce  
14 the purchases of a retail licensee by:

15        (1) Acquiring or holding any interest in any license of a  
16                retail licensee;

17        (2) Acquiring any interest in the real or personal  
18                property owned, occupied, or used by a retail licensee  
19                in the conduct of its business, unless the holding of  
20                [~~such~~] the interest is permitted under the regulations  
21                of the liquor commission or a statement thereof has



1           been filed with the commission and has not been  
2           disapproved by ~~[it,]~~ the commission;

3           (3)   Furnishing, giving, renting, lending, or selling to a  
4           retail licensee any equipment, fixtures, signs,  
5           supplies, money, services, or other thing of value,  
6           subject to the exceptions contained in ~~[Subpart]~~  
7           subpart D of the "tied house" regulations of the  
8           Bureau of Alcohol, Tobacco and Firearms of the United  
9           States Treasury Department, 27 Code of Federal  
10          Regulations ~~[Part]~~ part 6 (1988), as [the same] may  
11          ~~[change from time to time,]~~ be amended;

12          (4)   Paying or crediting a retail licensee for any  
13          advertising, display, or distribution service, whether  
14          or not the advertising, display, or distribution  
15          service received is commensurate with the amount paid  
16          by the retail licensee; provided that this paragraph  
17          shall not prohibit representatives of manufacturers  
18          and wholesalers from creating and maintaining displays  
19          and point of purchase sales materials, or from  
20          stocking shelves and cold boxes;



- 1 (5) Guaranteeing any loan or the repayment of any  
2 financial obligation of a retail licensee;
- 3 (6) Extending credit to the retail licensee for a period  
4 of time in excess of thirty days from the date of  
5 invoice;
- 6 (7) Requiring a retail licensee to take and dispose of any  
7 quota of liquor; or
- 8 (8) Requiring a retail licensee to purchase one product in  
9 order to purchase another product. This includes  
10 combination sales if one or more products may be  
11 purchased only in combination with other products and  
12 not individually~~[7]~~; provided that a manufacturer or  
13 wholesale dealer ~~[is]~~ shall not be prohibited from  
14 selling at a special combination price, two or more  
15 kinds or brands of products to a retail licensee~~[7]~~  
16 if:
- 17 (A) ~~[the]~~ The retail licensee has an option of  
18 purchasing either product at the usual price~~[7]~~;  
19 and
- 20 (B) ~~[the]~~ The retail licensee is not required to  
21 purchase any product it does not want."



1 SECTION 26. Section 281-104, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§281-104 Investigators, employees, counsel for. Whenever  
4 any investigator or other employee of the liquor commission  
5 shall be prosecuted for any crime or sued in any civil cause for  
6 acts done in the performance of the investigator's or employee's  
7 duty as [~~such~~] an investigator or employee, the investigator or  
8 employee shall be represented and defended in:

9 (1) [~~in any such~~] The criminal proceeding by an attorney  
10 to be employed and paid by the commission; and

11 (2) [~~in any such~~] The civil cause by the corporation  
12 counsel or county attorney[~~7~~] of the county in which  
13 the investigator or employee is serving or, if  
14 permitted under the appropriate county charter, by an  
15 outside attorney to be employed and paid for by the  
16 commission."

17 SECTION 27. Section 281-111, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§281-111 Condemnation of property or liquor; disposition.  
20 Any still, plant, or other equipment shown to have been used for  
21 the manufacture of liquor in violation of this chapter and any



1 liquor manufactured or sold in violation of this chapter shall  
2 be subject to summary seizure as herein provided or to  
3 subsequent seizure, and may be condemned and adjudged forfeited  
4 to the State, in addition to any penalty separately provided for  
5 the violation, the same to be enforced by appropriate legal  
6 proceedings in the name of the State. All [~~sueh~~] property and  
7 liquor [~~se~~] condemned and forfeited pursuant to this section may  
8 be ordered by the court having jurisdiction [~~+1~~] to be wholly  
9 or partially destroyed[~~7~~] or [~~+2~~] to be sold, wholly or  
10 partially, for the account of the county wherein the same were  
11 seized; provided that the court may order any [~~sueh~~] of the  
12 liquor, if suitable, to be delivered to the department of health  
13 for distribution to any public institution for use therein for  
14 medicinal purposes. The order of the court with respect to  
15 [~~sueh~~] property or liquor condemned and forfeited pursuant to  
16 this section shall be effectively executed by the sheriff or the  
17 sheriff's deputy, or by the chief of police or the chief of  
18 police's deputy, or by any police officer, or by the  
19 commission's administrator, or by any investigator, within  
20 [~~sueh~~] the time as may be fixed in the order but not exceeding  
21 sixty days. If any person, whether or not an officer or



1 employee of the State or any county, takes, disposes of, or  
2 uses, in any manner or to any extent, any of [~~sueh~~] the property  
3 or liquor otherwise than as [~~herein~~] provided[~~7~~] in this  
4 section, the person shall be guilty of a misdemeanor and upon  
5 conviction thereof shall be punished as provided in section 281-  
6 102."

7 SECTION 28. Section 286-2, Hawaii Revised Statutes, is  
8 amended by amending the definition of "alcohol concentration" to  
9 read as follows:

10 "Alcohol concentration" means the concentration of alcohol  
11 in a person's blood or breath. When expressed as a percentage,  
12 [~~it~~] the term means:

- 13 (1) [~~the~~] The number of grams of alcohol per 100  
14 milliliters of blood; or  
15 (2) [~~the~~] The number of grams of alcohol per 210 liters of  
16 breath."

17 SECTION 29. Section 286-47.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (c) to read as follows:

19 "(c) For the purposes of this section, the following terms  
20 shall have the following meanings:





1       "Individual owners" excludes corporate owners of motor  
2 vehicles.

3       [~~(1)~~] "Registered owner" includes an applicant for  
4 registration of a motor vehicle the processing of whose  
5 application has not been completed by the issuance of a  
6 certificate of registration and a certificate of ownership.

7       [~~(2)~~] "~~Individual owners" excludes corporate owners of motor~~  
8       ~~vehicles.]"~~

9       SECTION 30. Section 286-53, Hawaii Revised Statutes, is  
10 amended by amending subsection (i) to read as follows:

11       "(i) For the purposes of this section:

12       "New motor vehicle dealer" means a dealer licensed under  
13 chapter 437 to engage in the business of selling new motor  
14 vehicles or used motor vehicles at wholesale or retail or both.

15       [~~(1)~~] "New motor vehicles" means motor vehicles of the  
16 current model year, immediate past model year, or the next model  
17 year [~~which~~] that have not been sold or registered by the  
18 manufacturer or dealer[~~+~~].

19       [~~(2)~~] "~~New motor vehicle dealer" means a dealer licensed~~  
20       ~~under chapter 437 to engage in the business of selling~~



1           ~~at wholesale or retail or both, new motor vehicles or~~  
2           ~~used motor vehicles;~~]

3           [~~(3)~~] "Permanent number plate" means a number plate  
4 furnished to a manufacturer or dealer under subsection (c)(1)  
5 for a motor vehicle [~~which~~] that is similar to the number plate  
6 issued under section 249-7 and [~~which~~] that allows the motor  
7 vehicle to be operated on the public highways[ ~~and~~].

8           [~~(4)~~] "Temporary number plate" means the number plate  
9 furnished to a new motor vehicle dealer under subsection  
10 (c)(2)."

11           SECTION 31. Section 286-203, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§286-203 Enforcement.** For purposes of the enforcement of  
14 this part, the director of transportation shall have [~~such~~] any  
15 powers of enforcement as may be necessary to implement this  
16 part. The director may delegate the enforcement of this part to  
17 county executive officers. For the purpose of the safety,  
18 welfare, and health of the general public, and the safe  
19 transportation of hazardous materials and waste on any public  
20 highway, and the enforcement of this part and of all rules  
21 adopted pursuant to this part, the director, persons appointed



1 by the director, and the county executive officers to whom  
2 powers of enforcement are delegated[7] may:

3 (1) [~~inspect~~] Inspect lands, buildings, freight, and  
4 equipment of motor carriers[7];

5 (2) [~~stop~~] Stop and inspect freight and equipment of motor  
6 carriers and the military on any public highway[7];  
7 and

8 (3) [~~inspect~~] Inspect shipping papers and hazardous waste  
9 manifests of motor carriers and persons subject to  
10 this part.

11 Every state and county officer charged with enforcement of laws  
12 and ordinances shall assist in the enforcement of this part and  
13 of all rules adopted pursuant to this part and issue citations  
14 for violations as appropriate."

15 SECTION 32. Section 286-236, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) No person shall be issued a commercial driver's  
18 license unless that person [~~meets~~]:

19 (1) Meets the qualification standards of title 49 Code of  
20 Federal Regulations, part 391, subparts B and E[7]  
21 ~~has~~];



- 1        (2)    Has passed a knowledge and driving skills test for  
2                    driving a commercial motor vehicle that complies with  
3                    minimum federal standards established by federal  
4                    regulation enumerated in title 49 Code of Federal  
5                    Regulations, part 383, subparts G and H~~[7-18]~~;  
6        (3)    Is domiciled in this State as defined in title 49 Code  
7                    of Federal Regulations, part 383.5~~[7]~~; and ~~[has]~~  
8        (4)    Has satisfied all other requirements of the Commercial  
9                    Motor Vehicle Safety Act of 1986, Public Law 99-570,  
10                   title XII, in addition to other requirements imposed  
11                   by state law or federal regulation.
- 12    The tests shall be prescribed by the director and administered  
13    by the respective county examiner of drivers.    The test  
14    examiners shall communicate with the applicant only in English  
15    during the skills test.    As of January 30, 2012, the examiner of  
16    drivers shall verify that the medical certification status of a  
17    driver who self-certified according to title 49 Code of Federal  
18    Regulations section ~~[383.71(a)(1)(ii)(A),]~~ 383.71(b)(1)(i), non-  
19    excepted interstate, is certified.    If a driver submits a  
20    current medical examiner's certificate, the examiner of drivers  
21    shall date-stamp the certificate and post all required



1 information to the commercial driver's license information  
2 system pursuant to title 49 Code of Federal Regulations section  
3 [~~383.73(a)(5)~~] 383.73(b)(5) and in accordance with title 49 Code  
4 of Federal Regulations section [~~383.73(j)~~] 383.73(o). A person  
5 who is not physically qualified to drive under title 49 Code of  
6 Federal Regulations section 391.41(b)(1), (2), or (3) and who is  
7 otherwise qualified to drive a motor vehicle may be granted an  
8 intrastate waiver by the director. The process for granting  
9 intrastate waivers shall be the same as that for interstate  
10 waivers in title 49 Code of Federal Regulations section 391.49,  
11 except that the intrastate waiver requests shall be submitted to  
12 the director; provided that the director shall adopt rules under  
13 chapter 91 to establish a screening process, including approval  
14 by a licensed physician, for granting an intrastate waiver to  
15 persons who are not physically qualified under title 49 Code of  
16 Federal Regulations section 391.41(b)(3)."

17 SECTION 33. Section 286-240, Hawaii Revised Statutes, is  
18 amended by amending subsection (k) to read as follows:

19 "(k) Beginning January 30, 2014, if a driver fails to  
20 provide the examiner of drivers with the certification required  
21 under title 49 Code of Federal Regulations section



1 ~~[383.71(a)(1)(ii)]~~ 383.71(b)(1) or a current medical examiner's  
2 certificate if the driver self-certifies according to title 49  
3 Code of Federal Regulations section ~~[383.71(a)(1)(ii)(A)]~~  
4 383.71(b)(1)(i) that the driver is operating in non-excepted  
5 interstate commerce as required by title 49 Code of Federal  
6 Regulations section 383.71(h), the examiner of drivers shall  
7 mark the commercial driver's license information system driver  
8 record as not-certified and initiate a commercial driver's  
9 license downgrade."

10 SECTION 34. Section 286-241, Hawaii Revised Statutes, is  
11 amended by amending subsection (e) to read as follows:

12 "(e) Beginning January 30, 2014, if a driver fails to  
13 provide the examiner of drivers with the certification required  
14 by title 49 Code of Federal Regulations section  
15 ~~[383.71(a)(1)(ii)]~~ 383.71(b)(1) or a current medical examiner's  
16 certificate if the driver self-certifies according to title 49  
17 Code of Federal Regulations section ~~[383.71(a)(1)(ii)(A)]~~  
18 383.71(b)(1)(i) that the driver is operating in non-excepted  
19 interstate commerce as required by title 49 Code of Federal  
20 Regulations section 383.71(h), the examiner of drivers shall  
21 mark the commercial driver's license information system driver



1 record as not-certified and initiate a commercial driver's  
2 license downgrade."

3 SECTION 35. Section 287-9, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~§287-9~~ **Duration of suspension.** The license and permit  
6 suspended as provided in section 287-6 shall remain [~~se~~]  
7 suspended and shall not be renewed nor shall any new license or  
8 permit be issued to [~~any of such persons~~] the person whose  
9 license or permit is suspended until:

- 10 (1) The person whose license or permit is suspended  
11 deposits or there is deposited on the person's behalf  
12 the security required under section 287-6; [~~or~~]
- 13 (2) Two years have elapsed following the date of the  
14 suspension and evidence satisfactory to the  
15 administrator has been filed with the administrator  
16 that during [~~such~~] that period no action for damages  
17 arising out of the accident has been commenced; or
- 18 (3) [~~Evidence~~] Pursuant to section 287-8(5), evidence  
19 satisfactory to the administrator has been filed with  
20 the administrator of a release of the driver from  
21 liability, or a final adjudication of nonliability of



1 the driver, or a duly acknowledged written agreement[~~7~~  
2 ~~in accordance with section 287-8(5)~~]; provided[~~7~~, ~~in~~  
3 ~~the event~~] that if there is any default in the payment  
4 of any installment under any duly acknowledged written  
5 agreement, then upon notice of the default, the  
6 administrator shall [~~forthwith~~] immediately suspend  
7 the license of the person defaulting [~~thereunder~~  
8 ~~which~~] on the agreement, and the license shall not be  
9 restored [~~unless and~~] until:

- 10 (A) [~~the~~] The person deposits and thereafter  
11 maintains security as required under section 287-  
12 6 in [~~such~~] an amount as the administrator may  
13 then determine[~~7~~]; or
- 14 (B) [~~two~~] Two years have elapsed following the date  
15 when [~~such~~] the security was required and during  
16 [~~such~~] that period no action [~~upon the agreement~~]  
17 has been instituted for enforcement [~~thereof.~~] of  
18 the agreement."

19 SECTION 36. Section 287-12, Hawaii Revised Statutes, is  
20 amended to read as follows:





1           "§287-12 Custody, disposition, and return of security.  
2 Security deposited in compliance with the requirements of this  
3 chapter shall be placed by the administrator in the custody of  
4 the county treasurer or director of finance and shall be  
5 applicable only to the payment of a judgment or judgments  
6 rendered against the person or persons on whose behalf the  
7 deposit was made, for damages arising out of the accident in  
8 question in an action, begun not later than one year after the  
9 date of the accident or within one year after the date of  
10 deposit of any security under [~~paragraph (3) of~~] section [~~287-~~  
11 ~~9~~] 287-9(3), and [~~such~~] the deposit or any balance thereof shall  
12 be returned to the depositor or the depositor's personal  
13 representative when [~~evidence~~]:

14           (1) Pursuant to section 287-8(5), evidence satisfactory to  
15           the administrator has been filed with the  
16           administrator that there has been a release from  
17           liability, or a final adjudication of nonliability, or  
18           the execution of a duly acknowledged written  
19           agreement [~~, in accordance with paragraph (4) of~~  
20           ~~section 287-8 has been filed,~~]; or [~~whenever after~~]



1        (2) After the expiration of one year [~~+1~~] from the date  
2                    of the accident[~~7~~] or [~~+2~~] from the date of deposit  
3                    of any security under [~~paragraph (3) of~~] section  
4                    [~~287-97~~] 287-9(3), the administrator is given  
5                    reasonable evidence that there is no pending action  
6                    and no judgment rendered in the action left unpaid.  
7        The security deposited shall not be subject to any attachment or  
8        execution unless the attachment or execution arises out of a  
9        suit for damages as [~~aforsaid.~~] described in this section."

10        SECTION 37. Section 287-40, Hawaii Revised Statutes, is  
11        amended to read as follows:

12        "**§287-40 Duration of proof; when proof may be canceled or**  
13        **returned.** [~~The~~] (a) Upon request; the administrator shall  
14        [~~upon request~~] consent to the immediate cancellation of any bond  
15        or certificate of insurance, [~~or the administrator shall~~] return  
16        to the person entitled thereto any money or bonds deposited  
17        pursuant to this chapter as proof of financial responsibility,  
18        or [~~the administrator shall~~] waive the requirement of filing  
19        proof, in any of the following events:

20            (1) At any time after three years from the date the proof  
21                    was required when, during the three-year period



1 preceding the request, the administrator has not  
2 received record of a conviction [~~which~~] that would  
3 require or permit the suspension or revocation of the  
4 license or nonresident's operating privilege of the  
5 person by or for whom the proof was furnished;

6 (2) In the event of the death of the person on whose  
7 behalf the proof was filed or the permanent incapacity  
8 of the person to operate a motor vehicle; and

9 [~~In the event~~] If the person who has given proof  
10 surrenders the person's license to the  
11 administrator[+].

12 [~~Provided, that~~] (b) Notwithstanding subsection (a), the  
13 administrator shall not consent to the cancellation of any bond  
14 or the return of any money or bonds [~~in the event~~] if any action  
15 for damages upon a liability covered by the proof is then  
16 pending or any judgment upon any such liability is then  
17 unsatisfied, or [~~in the event~~] if within one year immediately  
18 preceding the request the person who has filed the bond or  
19 deposited the money or bonds[+] has[~~, within one year~~  
20 ~~immediately preceding the request~~] been involved as a driver or  
21 owner in any motor vehicle accident resulting in injury or



1 damage to the person or property of others. An affidavit of the  
2 applicant as to the nonexistence of such facts, or that the  
3 applicant has been released from all of the applicant's  
4 liability, or has been finally adjudicated not to be liable, for  
5 ~~[such]~~ the injury or damage, shall be sufficient evidence  
6 thereof in the absence of evidence to the contrary in the  
7 records of the administrator.

8 (c) Whenever any person whose proof has been canceled or  
9 returned under ~~[paragraph (3) of this section]~~ subsection (a)(3)  
10 applies for a license or registration within a period of three  
11 years from the date proof was originally required, ~~[any such]~~  
12 the application shall be refused unless the applicant  
13 reestablishes the proof for the remainder of the three-year  
14 period."

15 SECTION 38. Section 291-11.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (f) to read as follows:

17 "(f) As used in this section:

18 "Commercial vehicle" means any motor vehicle that is being  
19 used for the transportation of persons for hire, compensation,  
20 or profit.



1 "Emergency vehicle", "mass transit vehicle", "restrained",  
2 and "seat belt assembly" shall have the same meaning as provided  
3 in section 291-11.6.

4 [~~"Commercial vehicle" shall be defined as any motor vehicle~~  
5 ~~that is being used for the transportation of persons for hire,~~  
6 ~~compensation, or profit.] "~~

7 SECTION 39. Section 291-11.6, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§291-11.6 Mandatory use of seat belts, when, penalty.

10 (a) Except as otherwise provided by law, no person shall  
11 operate a motor vehicle upon any public highway unless the  
12 person is restrained by a seat belt assembly and all passengers  
13 in the front or back seat of the motor vehicle are restrained by  
14 a seat belt assembly or are restrained pursuant to section  
15 291-11.5 if they are under eight years of age.

16 [~~As used in this section:~~

17 "~~Restrained" means that the seat belt assembly is worn as~~  
18 ~~it was designed and intended to be worn.~~

19 "~~Seat belt assembly" means the seat belt assembly that is~~  
20 ~~required to be in the motor vehicle under any federal motor~~  
21 ~~vehicle safety standard issued pursuant to Public Law 89-563,~~



1 ~~the National Traffic and Motor Vehicle Safety Act of 1966, as~~  
2 ~~amended, unless original replacement seat belt assemblies are~~  
3 ~~not readily available. If replacement assemblies are not~~  
4 ~~readily available, seat belts of federally approved materials~~  
5 ~~with similar protective characteristics may be used. Such~~  
6 ~~replacement seat belt assemblies shall be permanently marked by~~  
7 ~~the belt manufacturer indicating compliance with all applicable~~  
8 ~~federal standards.]~~

9 (b) The passengers of the following motor vehicles shall  
10 be exempt from the requirements of this section: emergency and  
11 mass transit vehicles. Further exemptions from this section may  
12 be established by rules adopted by the department of  
13 transportation pursuant to chapter 91.

14 ~~[As used in this section, unless the context otherwise~~  
15 ~~requires:~~

16 ~~"Emergency vehicle" means an ambulance, a firefighting or~~  
17 ~~rescue vehicle, or a police vehicle while on duty.~~

18 ~~"Mass transit vehicle" means a bus, including a school bus~~  
19 ~~(but excluding a charter or sightseeing service bus) with a~~  
20 ~~gross vehicle weight rating that is over 10,000 pounds, whether~~  
21 ~~publicly or privately owned, which provides service to the~~



1 ~~general public or provides special service on a regular or~~  
2 ~~continuing basis.]~~

3 (c) No person shall be guilty of violating this section  
4 if:

- 5 (1) The person is in a motor vehicle that is not required  
6 to be equipped with a seat belt assembly under any  
7 federal motor vehicle safety standard unless the  
8 vehicle is in fact equipped with a seat belt assembly;
- 9 (2) The person not restrained by a seat belt assembly is  
10 in a vehicle in which the number of persons exceeds  
11 the number of seat belt assemblies available in the  
12 vehicle or the number of seat belt assemblies  
13 originally installed in the vehicle, whichever is  
14 greater; provided that all available seat belt  
15 assemblies are being used to restrain passengers;
- 16 (3) The person not restrained by a seat belt assembly has  
17 a condition that prevents appropriate restraint by the  
18 seat belt assembly; provided that the condition is  
19 duly certified by a physician, a physician assistant,  
20 or an advanced practice registered nurse who shall



1 state the nature of the condition[~~, as well as~~] and  
2 the reason the restraint is inappropriate;

3 (4) The person not restrained by a seat belt assembly is  
4 operating a taxicab or other motor vehicle used in  
5 performing a bona fide metered taxicab service [~~which~~]  
6 that is regulated under chapter 269 or by county  
7 ordinance and is carrying passengers in the vehicle in  
8 the course of performing taxicab services; or

9 (5) Otherwise exempted by rules adopted by the department  
10 of transportation pursuant to chapter 91.

11 (d) This section shall not be deemed to change existing  
12 laws, rules, or procedures pertaining to a trial of a civil  
13 action for damages for personal injuries or death sustained in a  
14 motor vehicle accident.

15 (e) A person who fails to comply with the requirements of  
16 this section [~~shall~~]:

17 (1) Shall be subject to [a]:

18 (A) A fine of \$45 for each violation[~~, a~~]; and

19 (B) A surcharge of \$10 [~~which~~] that shall be  
20 deposited into the neurotrauma special fund[~~7~~];

21 and [~~may~~]





1        (2) May be subject to a surcharge of up to \$10 [~~which~~]  
2                that shall be deposited into the trauma system special  
3                fund.

4        (f) As used in this section:

5                "Emergency vehicle" means an ambulance, a firefighting or  
6 rescue vehicle, or a police vehicle while on duty.

7                "Mass transit vehicle" means a bus, including a school bus  
8 (but excluding a charter or sightseeing service bus) with a  
9 gross vehicle weight rating that is over 10,000 pounds, whether  
10 publicly or privately owned, that provides service to the  
11 general public or provides special service on a regular or  
12 continuing basis.

13                "Restrained" means that the seat belt assembly is worn as  
14 it was designed and intended to be worn.

15                "Seat belt assembly" means the seat belt assembly that is  
16 required to be in the motor vehicle under any federal motor  
17 vehicle safety standard issued pursuant to Public Law 89-563,  
18 the National Traffic and Motor Vehicle Safety Act of 1966, as  
19 amended, unless original replacement seat belt assemblies are  
20 not readily available. If replacement assemblies are not  
21 readily available, seat belts of federally approved materials



1 with similar protective characteristics may be used.  
2 Replacement seat belt assemblies shall be permanently marked by  
3 the belt manufacturer indicating compliance with all applicable  
4 federal standards."

5 SECTION 40. Section 291-33, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§291-33 Projections on face of wheels prohibited. (a)  
8 There shall not be operated or moved upon any public road,  
9 street, or highway within the State, any vehicle, motor vehicle,  
10 or other power vehicle the face of the wheels of which are  
11 fitted or equipped with flanges, ribs, clamps, cleats, lugs,  
12 chains, spikes or other projections, other than rubber blocks,  
13 destructive to the road surfaces. This provision applies to all  
14 rings or flanges upon guiding or steering wheels of such  
15 vehicles[7] but [~~it~~] shall not be [~~so~~] construed [~~as~~] to prevent  
16 [~~it~~] the use of [~~ordinary~~]:

- 17 (1) Ordinary detachable tire or skid chains[7]; or  
18 (2) [~~the use of studded~~] Studded snow tires on either the  
19 Mauna Kea access road above Hale Pohaku or on any  
20 other road within the Mauna Kea Science Reserve leased  
21 to the University of Hawaii.



1        (b) This section shall not apply to traction engines,  
2 tractors, or other vehicles of the tracklaying type when the  
3 portions of the movable tracks in contact with the roadway  
4 surface present plane surfaces of sufficient area to prevent  
5 damage thereto."

6        SECTION 41. Section 291-35, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "**§291-35 Gross weight, axle, and wheel loads.** No motor  
9 vehicle or other power vehicle or combination of [~~such~~] those  
10 vehicles equipped wholly with pneumatic tires [~~, which~~] shall be  
11 operated or moved upon any public road, street, or highway  
12 within the State if the vehicle or combination of vehicles has a  
13 total gross weight[~~]~~ (including vehicle and load[~~]~~), an axle  
14 load, or a wheel load in excess of the limits set forth in this  
15 section [~~shall be operated or moved upon any public road,~~  
16 ~~street, or highway within the State~~]; provided that the maximum  
17 gross weight, axle loads, and wheel loads allowed under this  
18 section shall be inapplicable when its application would  
19 adversely affect the receipt of federal funds for highway  
20 purposes; and provided further that no vehicle or combination of  
21 vehicles shall be operated on or moved over any bridge or other



1 highway structure if the total gross weight, including vehicle  
2 and load, exceeds the posted maximum gross load limitation for  
3 the bridge or other highway structure.

4 (1) The total gross weight, in pounds, imposed on any  
5 public road, street, or highway within the State by  
6 any group of two or more consecutive axles, on a  
7 vehicle or combination of vehicles shall not exceed  
8 the following when the distance between the first and  
9 last axles of the group under consideration is:

10 (A) Forty inches or less, the weight imposed shall  
11 not exceed twenty-two thousand five hundred  
12 pounds[-]; and

13 (B) More than forty inches but not more than eight  
14 feet, the weight imposed shall not exceed thirty-  
15 four thousand pounds. This grouping of two  
16 consecutive axles shall be known as tandem axle.

17 (2) The total gross weight, in pounds, imposed on  
18 interstate highways within the State by any group of  
19 two or more consecutive axles, on a vehicle or  
20 combination of vehicles shall not exceed that  
21 resulting from application of the formula:



1                     $W = 500 (LN/(N-1) + 12N + 36)$   
2                    when the distance between the first and last axles of  
3                    the group under consideration is over eight feet and  
4                    where  $W$  = maximum weight in pounds carried on any  
5                    group of two or more axles computed to the nearest  
6                    [~~500~~] five hundred pounds,

7                     $L$  = Distance in feet between the extremes of any  
8                    group of two or more consecutive axles, to  
9                    the nearest foot, and

10                     $N$  = Number of axles in group under consideration;  
11                    provided that two consecutive sets of tandem axles may  
12                    carry a gross load of [~~34,000~~] thirty-four thousand  
13                    pounds each providing the overall distance between the  
14                    first and last axles of such consecutive sets of  
15                    tandem axles is thirty-six feet or more and provided  
16                    also that the overall gross weight does not exceed  
17                    [~~80,000~~] eighty thousand pounds.

18                    (3) The total gross weight, in pounds, imposed on any  
19                    public road, street, or highway, other than interstate  
20                    highways, within the State by a vehicle or combination



1 of vehicles shall not exceed that determined by the  
2 formula:

$$3 \quad W = 900 (L + 40)$$

4 when the distance between the first and last axles of  
5 the group under consideration is over eight feet and  
6 where W = maximum weight in pounds carried on any  
7 group of two or more axles computed to the nearest  
8 ~~[500]~~ five hundred pounds and

9 L = Distance in feet between the extremes of any  
10 group of two or more consecutive axles, to  
11 the nearest foot;

12 provided also that the overall gross weight does not  
13 exceed ~~[88,000]~~ eighty-eight thousand pounds.

14 (4) No vehicle or combination of vehicles shall be used or  
15 operated on any public road, street, or highway within  
16 the State:

17 (A) ~~[with]~~ With a load upon any single or tandem axle  
18 or combination of axles ~~[which]~~ that exceeds the  
19 carrying capacity of the axles specified by the  
20 manufacturer~~[7]~~; or



- 1 (B) [~~with~~] With a total weight in excess of its  
2 designed capacity as indicated by its designed  
3 gross vehicle weights or gross combination  
4 weights.
- 5 (5) The total gross weight imposed upon the public road,  
6 street, or highway by any single axle shall not exceed  
7 twenty-two thousand five hundred pounds. For the  
8 purpose of this section, axles placed in the same  
9 transverse plane and [~~are~~] spaced forty inches or less  
10 apart[~~7~~] shall be considered as one axle.
- 11 (6) The total gross weight imposed upon the public road,  
12 street, or highway by any one wheel, either single or  
13 dual mounting, shall not exceed [~~eleven thousand two~~  
14 ~~hundred and fifty~~] 11,250 pounds.
- 15 (7) The director of transportation, in the case of state  
16 highways, or the county engineer, in the case of  
17 county roads and streets, may place and maintain signs  
18 to limit the gross weight of a vehicle or combination  
19 of vehicles traveling over a bridge or other highway  
20 structure in the interest of public safety when it is  
21 determined through engineering investigation and



1 analysis that the theoretical load carrying capacity  
2 of the bridge or structure is less than the maximum  
3 gross vehicular weight allowed by this chapter. In  
4 determining the weight limits and in posting the  
5 weight limit signs, the director or the county  
6 engineer need not comply with rulemaking provisions of  
7 chapter 91; provided that if any person objects to the  
8 weight limits, the person may object to the rule as  
9 provided in chapter 91."

10 SECTION 42. Section 291C-1, Hawaii Revised Statutes, is  
11 amended by amending the definition of "substantial bodily  
12 injury" to read as follows:

13 "Substantial bodily injury" means bodily injury [~~which~~]  
14 that causes:

- 15 (1) [a] A major avulsion, laceration, or penetration of  
16 the skin;
- 17 (2) [a] A chemical, electrical, friction, or scalding burn  
18 of second degree severity;
- 19 (3) [a] A bone fracture;
- 20 (4) [a] A serious concussion; or





1 (5) [a] A tearing, rupture, or corrosive damage to the  
2 esophagus, viscera, or other internal organs."

3 SECTION 43. Section 291C-103, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§291C-103 Racing on highways.** (a) Except as provided in  
6 section 291C-149, no person shall drive any vehicle in any race,  
7 speed competition or contest, drag race or acceleration contest,  
8 test of physical endurance, exhibition of speed or acceleration,  
9 or for the purpose of making a speed record, and no person shall  
10 in any manner participate in any race, competition, contest,  
11 test, or exhibition prohibited by this section.

12 [~~(b) "Drag race" means the operation of two or more~~  
13 ~~vehicles from a point side by side at accelerating speeds in a~~  
14 ~~competitive attempt to outdistance each other, or the operation~~  
15 ~~of one or more vehicles over a common selected course, from the~~  
16 ~~same point to the same point, for the purpose of comparing the~~  
17 ~~relative speeds or power of acceleration of the vehicle or~~  
18 ~~vehicles within a certain distance or time limit.~~

19 [~~(c) "Racing" means the use of one or more vehicles in an~~  
20 ~~attempt to outgain, outdistance, or prevent another vehicle from~~  
21 ~~passing, to arrive at a given destination ahead of another~~



1 ~~vehicle or vehicles, or to test the physical stamina or~~  
2 ~~endurance of drivers over long distance driving routes.~~

3 ~~(d) "Exhibition of speed or acceleration" means the sudden~~  
4 ~~acceleration of a vehicle resulting in the screeching of the~~  
5 ~~vehicle's tires which is done to intentionally draw the~~  
6 ~~attention of persons present toward the vehicle.~~

7 ~~(e)]~~ (b) Any person who violates this section, except  
8 ~~[subsection (d),]~~ in the case of an exhibition of speed or  
9 acceleration, shall be fined not more than \$500 or imprisoned  
10 not more than six months, or both. Any person who violates  
11 ~~[subsection (d)]~~ this section by way of an exhibition of speed  
12 or acceleration shall be fined not more than \$500 or be  
13 sentenced to perform community service, or both.

14 ~~(f)]~~ (c) Any person who violates this section while  
15 operating a vehicle at a speed exceeding the posted speed limit  
16 by thirty miles per hour or more shall be subject to a fine of  
17 not more than \$2,000, a term of imprisonment of not more than  
18 one year, or both; provided that the following additional  
19 penalties shall also apply:

20 (1) For an offense that occurs within five years of a  
21 prior conviction, a one-year license suspension;



1 (2) For an offense that occurs within five years of two  
2 prior convictions:

3 (A) A three-year license suspension; and

4 (B) A vehicle owned by the defendant and used in the  
5 commission of the offense which has been used in  
6 at least two prior offenses that resulted in  
7 convictions may be ordered by the court to be  
8 subject to forfeiture under chapter 712A; and

9 (3) For all offenses under this section, a surcharge of up  
10 to \$100 may be deposited in the trauma system special  
11 fund if the court so orders.

12 (d) As used in this section:

13 "Drag race" means the operation of two or more vehicles  
14 from a point side by side at accelerating speeds in a  
15 competitive attempt to outdistance each other, or the operation  
16 of one or more vehicles over a common selected course, from the  
17 same point to the same point, for the purpose of comparing the  
18 relative speeds or power of acceleration of the vehicle or  
19 vehicles within a certain distance or time limit.

20 "Exhibition of speed or acceleration" means the sudden  
21 acceleration of a vehicle resulting in the screeching of the



1 vehicle's tires that is done to intentionally draw the attention  
2 of persons present toward the vehicle.

3 "Racing" means the use of one or more vehicles in an  
4 attempt to outgain, outdistance, or prevent another vehicle from  
5 passing, to arrive at a given destination ahead of another  
6 vehicle or vehicles, or to test the physical stamina or  
7 endurance of drivers over long distance driving routes."

8 SECTION 44. Section 291E-61.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§291E-61.5 Habitually operating a vehicle under the  
11 influence of an intoxicant. (a) A person commits the offense  
12 of habitually operating a vehicle under the influence of an  
13 intoxicant if:

14 (1) The person is a habitual operator of a vehicle while  
15 under the influence of an intoxicant; and

16 (2) The person operates or assumes actual physical control  
17 of a vehicle:

18 (A) While under the influence of alcohol in an amount  
19 sufficient to impair the person's normal mental  
20 faculties or ability to care for the person and  
21 guard against casualty;



- 1 (B) While under the influence of any drug that
- 2 impairs the person's ability to operate the
- 3 vehicle in a careful and prudent manner;
- 4 (C) With .08 or more grams of alcohol per two hundred
- 5 ten liters of breath; or
- 6 (D) With .08 or more grams of alcohol per one hundred
- 7 milliliters or cubic centimeters of blood.

8 ~~[(b) For the purposes of this section:~~

9 ~~(1) "Convicted two or more times for offenses of operating~~  
10 ~~a vehicle under the influence" means that, at the time~~  
11 ~~of the behavior for which the person is charged under~~  
12 ~~this section, the person had two or more times within~~  
13 ~~ten years of the instant offense.~~

14 ~~(A) A judgment on a verdict or a finding of guilty,~~  
15 ~~or a plea of guilty or nolo contendere, for a~~  
16 ~~violation of section 291-4, 291-4.4, or 291-7 as~~  
17 ~~those sections were in effect on December 31,~~  
18 ~~2001, or section 291E-61 or 707-702.5;~~

19 ~~(B) A judgment on a verdict or a finding of guilty,~~  
20 ~~or a plea of guilty or nolo contendere, for an~~  
21 ~~offense that is comparable to section 291-4,~~



1           ~~291 4.4, or 291 7 as these sections were in~~  
2           ~~effect on December 31, 2001, or section 291E 61~~  
3           ~~or 707 702.5; or~~  
4           ~~(C) An adjudication of a minor for a law or probation~~  
5           ~~violation that, if committed by an adult, would~~  
6           ~~constitute a violation of section 291 4, 291 4.4,~~  
7           ~~or 291 7 as these sections were in effect on~~  
8           ~~December 31, 2001, or section 291E 61 or~~  
9           ~~707 702.5,~~  
10          ~~that, at the time of the instant offense, had not been~~  
11          ~~expunged by pardon, reversed, or set aside. All~~  
12          ~~convictions that have been expunged by pardon,~~  
13          ~~reversed, or set aside before the instant offense~~  
14          ~~shall not be deemed prior convictions for the purposes~~  
15          ~~of proving that the person is a habitual operator of a~~  
16          ~~vehicle while under the influence of an intoxicant.~~  
17          ~~(2) "Convicted one or more times for offenses of~~  
18          ~~habitually operating a vehicle under the influence"~~  
19          ~~means that, at the time of the behavior for which the~~  
20          ~~person is charged under this section, the person had~~



1 ~~one or more times within ten years of the instant~~  
2 ~~offense.~~

3 ~~(A) A judgment on a verdict or a finding of guilty,~~  
4 ~~or a plea of guilty or nolo contendere, for a~~  
5 ~~violation of this section or section 291 4.4 as~~  
6 ~~that section was in effect on December 31, 2001,~~

7 ~~(B) A judgment on a verdict or a finding of guilty,~~  
8 ~~or a plea of guilty or nolo contendere, for an~~  
9 ~~offense that is comparable to this section or~~  
10 ~~section 291 4.4 as that section was in effect on~~  
11 ~~December 31, 2001; or~~

12 ~~(C) An adjudication of a minor for a law or probation~~  
13 ~~violation that, if committed by an adult, would~~  
14 ~~constitute a violation of this section or section~~  
15 ~~291 4.4 as that section was in effect on~~  
16 ~~December 31, 2001,~~

17 ~~that, at the time of the instant offense, had not been~~  
18 ~~expunged by pardon, reversed, or set aside. All~~  
19 ~~convictions that have been expunged by pardon,~~  
20 ~~reversed, or set aside before the instant offense~~  
21 ~~shall not be deemed prior convictions for the purposes~~



1 ~~of proving the person's status as a habitual operator~~  
2 ~~of a vehicle while under the influence of an~~  
3 ~~intoxicant.~~

4 ~~(3) "Habitual operator of a vehicle while under the~~  
5 ~~influence of an intoxicant" means that the person:~~

6 ~~(A) Was convicted two or more times for offenses of~~  
7 ~~operating a vehicle under the influence; or~~

8 ~~(B) Was convicted one or more times for offenses of~~  
9 ~~habitually operating a vehicle under the~~  
10 ~~influence.]~~

11 [~~e~~] (b) Habitually operating a vehicle while under the  
12 influence of an intoxicant is a class C felony.

13 [~~d~~] (c) For a conviction under this section, the  
14 sentence shall be either:

15 (1) An indeterminate term of imprisonment of five years;  
16 or

17 (2) A term of probation of five years, with conditions to  
18 include:

19 (A) Mandatory revocation of license and privilege to  
20 operate a vehicle for a period no less than three  
21 years but no more than five years;





- 1 (B) No less than ten days imprisonment, of which at  
2 least forty-eight hours shall be served  
3 consecutively;
- 4 (C) A fine of no less than \$2,000 but no more than  
5 \$5,000;
- 6 (D) Referral to a certified substance abuse counselor  
7 as provided in [~~section 291E-61(d)~~], subsection  
8 (d);
- 9 (E) A surcharge of \$25 to be deposited into the  
10 neurotrauma special fund; and
- 11 (F) May be charged a surcharge of up to \$50 to be  
12 deposited into the trauma system special fund if  
13 the court so orders.

14 In addition to the foregoing, any vehicle owned and operated by  
15 the person committing the offense shall be subject to forfeiture  
16 pursuant to chapter 712A; provided that the department of  
17 transportation shall provide storage for vehicles forfeited  
18 under this subsection.

19 [~~(e)~~] (d) Whenever a court sentences a person under this  
20 section, it shall also require that the offender be referred to  
21 the driver's education program for an assessment, by a certified



1 substance abuse counselor, of the offender's substance abuse or  
2 dependence and the need for appropriate treatment. The  
3 counselor shall submit a report with recommendations to the  
4 court. The court shall require the offender to obtain  
5 appropriate treatment if the counselor's assessment establishes  
6 the offender's substance abuse or dependence. All costs for  
7 assessment and treatment shall be borne by the offender.

8 ~~[(f)]~~ (e) Notwithstanding any other law to the contrary,  
9 whenever a court revokes a person's driver's license pursuant to  
10 this section, the examiner of drivers shall not grant to the  
11 person a new driver's license until expiration of the period of  
12 revocation determined by the court. After the period of  
13 revocation is complete, the person may apply for and the  
14 examiner of drivers may grant to the person a new driver's  
15 license.

16 ~~[(g)]~~ (f) Any person sentenced under this section may be  
17 ordered to reimburse the county for the cost of any blood or  
18 urine tests conducted pursuant to section 291E-11. The court  
19 shall order the person to make restitution in a lump sum, or in  
20 a series of prorated installments, to the police department or  
21 other agency incurring the expense of the blood or urine test.



1       ~~[(h)]~~ (g) As used in this section~~[, the term "examiner of~~  
2 ~~drivers" has the same meaning as provided in section 286-2.]~~:

3       "Convicted one or more times for offenses of habitually  
4 operating a vehicle under the influence" means that, at the time  
5 of the behavior for which the person is charged under this  
6 section, the person had one or more times within ten years of  
7 the instant offense:

8       (1) A judgment on a verdict or a finding of guilty, or a  
9       plea of guilty or nolo contendere, for a violation of  
10       this section or section 291-4.4 as that section was in  
11       effect on December 31, 2001;

12       (2) A judgment on a verdict or a finding of guilty, or a  
13       plea of guilty or nolo contendere, for an offense that  
14       is comparable to this section or section 291-4.4 as  
15       that section was in effect on December 31, 2001; or

16       (3) An adjudication of a minor for a law or probation  
17       violation that, if committed by an adult, would  
18       constitute a violation of this section or section  
19       291-4.4 as that section was in effect on December 31,  
20       2001,



1 that, at the time of the instant offense, had not been expunged  
2 by pardon, reversed, or set aside. All convictions that have  
3 been expunged by pardon, reversed, or set aside before the  
4 instant offense shall not be deemed prior convictions for the  
5 purposes of proving the person's status as a habitual operator  
6 of a vehicle while under the influence of an intoxicant.

7 "Convicted two or more times for offenses of operating a  
8 vehicle under the influence" means that, at the time of the  
9 behavior for which the person is charged under this section, the  
10 person had two or more times within ten years of the instant  
11 offense:

12 (1) A judgment on a verdict or a finding of guilty, or a  
13 plea of guilty or nolo contendere, for a violation of  
14 section 291-4, 291-4.4, or 291-7 as those sections  
15 were in effect on December 31, 2001, or section  
16 291E-61 or 707-702.5;

17 (2) A judgment on a verdict or a finding of guilty, or a  
18 plea of guilty or nolo contendere, for an offense that  
19 is comparable to section 291-4, 291-4.4, or 291-7 as  
20 those sections were in effect on December 31, 2001, or  
21 section 291E-61 or 707-702.5; or



1       (3) An adjudication of a minor for a law or probation  
2       violation that, if committed by an adult, would  
3       constitute a violation of section 291-4, 291-4.4, or  
4       291-7 as those sections were in effect on December 31,  
5       2001, or section 291E-61 or 707-702.5,  
6       that, at the time of the instant offense, had not been expunged  
7       by pardon, reversed, or set aside. All convictions that have  
8       been expunged by pardon, reversed, or set aside before the  
9       instant offense shall not be deemed prior convictions for the  
10       purposes of proving that the person is a habitual operator of a  
11       vehicle while under the influence of an intoxicant.

12       "Examiner of drivers" has the same meaning as provided in  
13       section 286-2.

14       "Habitual operator of a vehicle while under the influence  
15       of an intoxicant" means that the person was convicted:

16       (1) Two or more times for offenses of operating a vehicle  
17       under the influence; or

18       (2) One or more times for offenses of habitually operating  
19       a vehicle under the influence."

20       SECTION 45. Section 302A-450, Hawaii Revised Statutes, is  
21       amended by amending its title to read as follows:



1 "[+]§302A-450[+] Public prekindergarten classrooms; annual  
2 report to the legislature."

3 SECTION 46. Section 302L-7, Hawaii Revised Statutes, is  
4 amended by amending subsection (n) to read as follows:

5 "(n) To promote the development of a cohesive,  
6 comprehensive, and sustainable early learning system, the office  
7 shall partner with the schools participating in the program to  
8 collaborate with:

9 (1) Other early learning providers, including those  
10 providing the programs and services specified in  
11 section [+]302L-2(2)(A)[+], to promote alignment  
12 between prekindergarten and elementary school programs  
13 and to support children and their families in making  
14 successful transitions from prekindergarten into  
15 kindergarten; and

16 (2) Early intervention programs."

17 SECTION 47. Section 321-14.5, Hawaii Revised Statutes, is  
18 amended as follows:

19 1. By amending subsection (c) to read:

20 "(c) The rules may provide that accreditation by [the  
21 ~~joint commission on accreditation of healthcare organizations]~~



1 The Joint Commission demonstrates a hospital's compliance with  
2 all licensing inspections required by the State. The rules may  
3 exempt a hospital from a licensing inspection on a continuing  
4 basis throughout the term of the accreditation under the  
5 following conditions:

- 6 (1) The hospital provides the department with a certified  
7 copy of the hospital's official [~~joint commission on~~  
8 ~~accreditation of healthcare organizations~~]  
9 accreditation report [~~to the department;~~] from The  
10 Joint Commission;
- 11 (2) The hospital continuously holds full accreditation by  
12 [~~the joint commission on accreditation of healthcare~~  
13 ~~organizations;~~] The Joint Commission; and
- 14 (3) The hospital holds a current and valid state license."

15 2. By amending subsection (e) to read:

16 "(e) Information contained in reports of survey and  
17 official accreditation letters made by [~~the joint commission on~~  
18 ~~accreditation of healthcare organizations~~] The Joint Commission  
19 used in determining compliance with licensing requirements shall  
20 be public information."



1 SECTION 48. Section 329-14, Hawaii Revised Statutes, is  
2 amended by amending subsection (g) to read as follows:

3 "(g) Any of the following cannabinoids, their salts,  
4 isomers, and salts of isomers, unless specifically excepted,  
5 whenever the existence of these salts, isomers, and salts of  
6 isomers is possible within the specific chemical designation:

7 (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols  
8 naturally contained in a plant of the genus Cannabis  
9 (cannabis plant), as well as synthetic equivalents of  
10 the substances contained in the plant, or in the  
11 resinous extractives of Cannabis, sp. or synthetic  
12 substances, derivatives, and their isomers with  
13 similar chemical structure and pharmacological  
14 activity to those substances contained in the plant,  
15 such as the following: Delta 1 cis or trans  
16 tetrahydrocannabinol, and their optical isomers; Delta  
17 6 cis or trans tetrahydrocannabinol, and their optical  
18 isomers; and Delta 3,4 cis or trans-  
19 tetrahydrocannabinol, and its optical isomers (since  
20 nomenclature of these substances is not  
21 internationally standardized, compounds of these





- 1 structures, regardless of numerical designation of  
2 atomic positions, are covered);
- 3 (2) Naphthoylindoles; meaning any compound containing a  
4 3-(1-naphthoyl)indole structure with substitution at  
5 the nitrogen atom of the indole ring by a alkyl,  
6 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
7 1-(N-methyl-2-piperidinyl)methyl or  
8 2-(4-morpholinyl)ethyl group, whether or not further  
9 substituted in the indole ring to any extent and  
10 whether or not substituted in the naphthyl ring to any  
11 extent;
- 12 (3) Naphthylmethylindoles; meaning any compound containing  
13 a 1H-indol-3-yl-(1-naphthyl) methane structure with  
14 substitution at the nitrogen atom of the indole ring  
15 by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
16 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or  
17 2-(4-morpholinyl) ethyl group whether or not further  
18 substituted in the indole ring to any extent and  
19 whether or not substituted in the naphthyl ring to any  
20 extent;



- 1 (4) Naphthoylpyrroles; meaning any compound containing a  
2 3-(1-naphthoyl)pyrrole structure with substitution at  
3 the nitrogen atom of the pyrrole ring by a alkyl,  
4 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
5 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)  
6 ethyl group whether or not further substituted in the  
7 pyrrole ring to any extent, whether or not substituted  
8 in the naphthyl ring to any extent;
- 9 (5) Naphthylmethylenes; meaning any compound containing  
10 a naphthylideneindene structure with substitution at  
11 the 3-position of the indene ring by a alkyl,  
12 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
13 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)  
14 ethyl group whether or not further substituted in the  
15 indene ring to any extent, whether or not substituted  
16 in the naphthyl ring to any extent;
- 17 (6) Phenylacetylindoles; meaning any compound containing a  
18 3-phenylacetylindole structure with substitution at  
19 the nitrogen atom of the indole ring by a alkyl,  
20 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
21 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)



- 1 ethyl group whether or not further substituted in the  
2 indole ring to any extent, whether or not substituted  
3 in the phenyl ring to any extent;
- 4 (7) Cyclohexylphenols; meaning any compound containing a  
5 2-(3-hydroxycyclohexyl) phenol structure with  
6 substitution at the 5-position of the phenolic ring by  
7 a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
8 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or  
9 2-(4-morpholinyl) ethyl group whether or not  
10 substituted in the cyclohexyl ring to any extent;
- 11 (8) Benzoylindoles; meaning any compound containing a  
12 3-(benzoyl) indole structure with substitution at the  
13 nitrogen atom of the indole ring by a alkyl,  
14 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
15 1-(N-methyl-2-piperidinyl) methyl, or  
16 2-(4-morpholinyl) ethyl group whether or not further  
17 substituted in the indole ring to any extent and  
18 whether or not substituted in the phenyl ring to any  
19 extent;
- 20 (9) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)  
21 pyrrolo[1,2,3-de]-1, [4-benzoxazin-6-yl]-1-



- 1            ~~naphthalenylmethanone]~~ 4-benzoxazin-6-yl]-1-  
2            naphthalenylmethanone (another trade name is WIN  
3            55,212-2);
- 4            (10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-  
5            methyloctan-2-yl)-6a,7,10,10a-  
6            tetrahydrobenzo[c]chromen-1-ol (Other trade names are:  
7            HU-210/HU-211);
- 8            (11) Tetramethylcyclopropanoylindoles; meaning any compound  
9            containing a 3-tetramethylcyclopropanoylindole  
10           structure with substitution at the nitrogen atom of  
11           the indole ring by an alkyl, haloalkyl, cyanoalkyl,  
12           alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-  
13           methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,  
14           1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-  
15           morpholinyl)methyl, or tetrahydropyranylmethyl group,  
16           whether or not further substituted in the indole ring  
17           to any extent and whether or not substituted in the  
18           tetramethylcyclopropyl ring to any extent;
- 19           (12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide,  
20           its optical, positional, and geometric isomers, salts,  
21           and salts of isomers (Other names: APINACA, AKB48);



- 1 (13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its  
2 optical, positional, and geometric isomers, salts, and  
3 salts of isomers (Other names: PB-22; QUPIC);
- 4 (14) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-  
5 carboxylate, its optical, positional, and geometric  
6 isomers, salts, and salts of isomers (Other names: 5-  
7 fluoro-PB-22; 5F-PB-22);
- 8 (15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-  
9 fluorobenzyl)-1H-indazole-3-carboxamide, its optical,  
10 positional, and geometric isomers, salts, and salts of  
11 isomers (Other names: AB-FUBINACA);
- 12 (16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-  
13 indazole-3-carboxamide, its optical, positional, and  
14 geometric isomers, salts, and salts of isomers (Other  
15 names: ADB-PINACA);
- 16 (17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-  
17 (cyclohexylmethyl)-1H-indazole-3-carboxamide, its  
18 optical, positional, and geometric isomers, salts, and  
19 salts of isomers (Other names: AB-CHMINACA);



- 1 (18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-  
2 indazole-3-carboxamide, and geometric isomers, salts,  
3 and salts of isomers (Other names: AB-PINACA);
- 4 (19) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-  
5 yl)methanone, and geometric isomers, salts, and salts  
6 of isomers (Other names: THJ-2201);
- 7 (20) Methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)-L-  
8 valinate, and geometric isomers, salts, and salts of  
9 isomers (Other names: FUB-AMB);
- 10 (21) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-  
11 carboxamido)-3-methylbutanoate, and geometric isomers,  
12 salts, and salts of isomers (Other names: 5-fluoro-  
13 AMB, 5-fluoro-AMP);
- 14 (22) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-  
15 indazole-3-carboxamide, and geometric isomers, salts,  
16 and salts of isomers (Other names: AKB48 N-(5-  
17 fluoropentyl) analog, 5F-AKB48, APINACA 5-fluoropentyl  
18 analog, 5F-APINACA);
- 19 (23) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and  
20 geometric isomers, salts, and salts of isomers (Other  
21 names: STS-135, 5F-APICA; 5-fluoro-APICA);



- 1 (24) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-  
2 carboxylate, and geometric isomers, salts, and salts  
3 of isomers (Other names: NM2201);
- 4 (25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-  
5 (cyclohexylmethyl)-1H-indazole-3-carboxamide, and  
6 geometric isomers, salts, and salts of isomers (Other  
7 names: MAB-CHMINACA and ADB-CHMINACA);
- 8 (26) Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-  
9 carboxamido]-3,3-dimethylbutanoate (Other names: 5F-  
10 ADB, 5-flouro-ADB, and 5F-MDMB-PINACA), its optical,  
11 positional, and geometric isomers, salts, and salts of  
12 isomers; and
- 13 (27) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-  
14 carboxamide (CUMYL-4CN-BINACA), its optical,  
15 positional, and geometric isomers, salts, and salts of  
16 isomers; also known as SGT-78, 4-CN-CUMYL-BINACA;  
17 CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-  
18 BUTINACA. "

19 SECTION 49. Section 329D-22, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:

21 " (b) As used in this section:



1 "Playground" means any public outdoor facility, including  
2 any parking lot appurtenant thereto, that is intended for  
3 recreation, with any portion thereof containing three or more  
4 separate apparatus intended for the recreation of children,  
5 including but not limited to sliding boards, swing sets, and  
6 teeterboards.

7 ~~["Public housing project or complex" means a housing  
8 project directly controlled, owned, developed, or managed by the  
9 Hawaii public housing authority pursuant to the federal or state  
10 low rent public housing program.]~~

11 "School" means any public or private preschool,  
12 kindergarten, elementary, intermediate, middle, secondary, or  
13 high school."

14 SECTION 50. Section 393-7, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16 "(c) Subject to the provisions of subsections (a) and (b)  
17 without limiting the development of medically more desirable  
18 combinations and the inclusion of new types of benefits, a  
19 prepaid health care plan qualifying under this chapter shall  
20 include at least the following benefit types:

21 (1) Hospital benefits:





- 1 (A) In-patient care for a period of at least one  
2 hundred twenty days of confinement in each  
3 calendar year covering:  
4 (i) Room accommodations;  
5 (ii) Regular and special diets;  
6 (iii) General nursing services;  
7 (iv) Use of operating room, surgical supplies,  
8 anesthesia services, and supplies; and  
9 (v) Drugs, dressings, oxygen, antibiotics, and  
10 blood transfusion services; and  
11 (B) Out-patient care:  
12 (i) Covering use of out-patient hospital; and  
13 (ii) Facilities for surgical procedures or  
14 medical care of an emergency and urgent  
15 nature[-];  
16 (2) Surgical benefits:  
17 (A) Surgical services performed by a licensed  
18 physician, as determined by plans meeting the  
19 standards of subsections (a) and (b);  
20 (B) After-care visits for a reasonable period; and  
21 (C) Anesthesiologist services[-];



- 1       (3) Medical benefits:
  - 2           (A) Necessary home, office, and hospital visits by a
  - 3                licensed physician;
  - 4           (B) Intensive medical care while hospitalized; and
  - 5           (C) Medical or surgical consultations while
  - 6                confined[-];
- 7       (4) Diagnostic laboratory services, x-ray films, and
- 8           radio-therapeutic services, necessary for diagnosis or
- 9           treatment of injuries or diseases[-];
- 10       (5) Maternity benefits, at least if the employee has been
- 11           covered by the prepaid health care plan for nine
- 12           consecutive months prior to the delivery[-]; and
- 13       (6) Substance abuse benefits:
  - 14           (A) Alcoholism and drug addiction are illnesses and
  - 15                shall receive benefits as such. In-patient and
  - 16                out-patient benefits for the diagnosis and
  - 17                treatment of substance abuse, including but not
  - 18                limited to alcoholism and drug addiction, shall
  - 19                be specifically stated and shall not be less than
  - 20                the benefits for any other illness, except as
  - 21                provided in this subsection. Medical treatment



1 of substance abuse shall not be limited or  
2 reduced by restricting coverage to the mental  
3 health or psychiatric benefits of a plan.  
4 However, any psychiatric services received as a  
5 result of the treatment of substance abuse may be  
6 limited to the psychiatric benefits of the plan;  
7 (B) Out-patient benefits provided by a physician,  
8 psychiatrist, or psychologist, without  
9 restriction as to place of service; provided that  
10 health plans of the type specified in section  
11 393-12(a) shall retain for the contractor the  
12 option of:  
13 (i) Providing the benefits in its own facility  
14 and utilizing its own staff;  
15 (ii) Contracting for the provision of these  
16 benefits; or  
17 (iii) Authorizing the patient to utilize outside  
18 services and defraying or reimbursing the  
19 expenses at a rate not to exceed that for  
20 provision of services utilizing the health  
21 contractor's own facilities and staff;



- 1 (C) Detoxification and acute care benefits in a  
2 hospital or any other public or private treatment  
3 facility, or portion thereof, providing services  
4 especially for the detoxification of intoxicated  
5 persons or drug addicts, which is appropriately  
6 licensed, certified, or approved by the  
7 department of health in accordance with the  
8 standards prescribed by [~~the~~] The Joint  
9 Commission [~~on Accreditation of Hospitals~~]. In-  
10 patient benefits for detoxification and acute  
11 care shall be limited in the case of alcohol  
12 abuse to three admissions per calendar year, not  
13 to exceed seven days per admission, and shall be  
14 limited in the case of other substance abuse to  
15 three admissions per calendar year, not to exceed  
16 twenty-one days per admission; and
- 17 (D) Prepaid health plans shall not be required to  
18 make reimbursements for care furnished by  
19 government agencies and available at no cost to a  
20 patient, or for which no charge would have been  
21 made if there were no health plan coverage."



1 SECTION 51. Section 431:2-201.5, Hawaii Revised Statutes,  
2 is amended by amending subsection (b) to read as follows:

3 "(b) The following definitions shall be used when applying  
4 title 42 United States Code section 300gg, et seq.:

5 "Employee" means an employee who works on a full-time basis  
6 with a normal workweek of twenty hours or more.

7 "Group health issuer" means all persons offering health  
8 insurance coverage to any group or association, but shall not  
9 include those persons offering benefits exempted from title I of  
10 the Health Insurance Portability and Accountability Act of 1996,  
11 P.L. 104-191, under sections 732(c) and 733(c) of title I of the  
12 Employee Retirement Income Security Act of 1974 and sections  
13 [~~2747~~] 2763 and 2791(c) of the Public Health Service Act.

14 "Small employer" means, in connection with a group health  
15 plan with respect to a calendar year and a plan year, an  
16 employer who employed an average of at least one but no more  
17 than fifty employees on business days during the preceding  
18 calendar year and who employs at least one employee on the first  
19 day of the plan year."



1 SECTION 52. Section 431:3-401, Hawaii Revised Statutes, is  
2 amended by amending the definition of "adjusted risk-based  
3 capital report" to read as follows:

4 "Adjusted risk-based capital report" means a risk-based  
5 capital report [~~which~~] that has been adjusted by the  
6 commissioner in accordance with section [~~431:3-402(e).~~] 431:3-  
7 402(f)."

8 SECTION 53. Section 431:6-602, Hawaii Revised Statutes, is  
9 amended by amending subsection (f) to read as follows:

10 "(f) Cash received in a transaction under this section  
11 shall be invested in accordance with section 431:6-601[~~7~~] and in  
12 a manner that recognizes the liquidity needs of the transaction  
13 or used by the insurer for its general corporate purposes. For  
14 so long as the transaction remains outstanding, the insurer, its  
15 agent, or custodian shall maintain acceptable collateral  
16 received in a transaction under this section, either physically  
17 or through the book entry systems of the Federal Reserve,  
18 Depository Trust Company, [~~Participants Trust Company,~~] or other  
19 securities depositories approved by the commissioner."



1 SECTION 54. Section 431:10A-115.5, Hawaii Revised  
2 Statutes, is amended by amending subsections (b) and (c) to read  
3 as follows:

4 "(b) Child health supervision services shall include  
5 twelve visits at approximately the following intervals: birth;  
6 two months; four months; six months; nine months; twelve months;  
7 fifteen months; eighteen months; two years; three years; four  
8 years; and five years. Services to be covered at each visit  
9 shall include a history, physical examination, developmental  
10 assessment, anticipatory guidance, immunizations, and laboratory  
11 tests, in keeping with prevailing medical standards. For  
12 purposes of this subsection, the term "prevailing medical  
13 standards" means the recommendations of the [~~Immunizations~~  
14 Advisory Committee on Immunization Practices [~~Advisory~~  
15 ~~Committee~~] of the United States Department of Health and Human  
16 Services and the American Academy of Pediatrics; provided that  
17 [~~in the event that~~] if the recommendations of the committee and  
18 the academy differ, the department of health shall determine  
19 which recommendations shall apply.

20 (c) Minimum benefits may be limited to one visit payable  
21 to one provider for all of the services provided at each visit



1 cited in this section, except that the limitations authorized by  
2 this subsection shall not apply to immunizations recommended by  
3 the [~~Immunizations~~] Advisory Committee on Immunization Practices  
4 [~~Advisory Committee~~] of the United States Department of Health  
5 and Human Services and the American Academy of Pediatrics;  
6 provided that [~~in the event~~] if that the recommendations of the  
7 committee and the academy differ, the department of health shall  
8 determine which recommendations shall apply."

9 SECTION 55. Section 431:10A-206.5, Hawaii Revised  
10 Statutes, is amended by amending subsections (b) and (c) to read  
11 as follows:

12 "(b) Child health supervision services shall include  
13 twelve visits at approximately the following intervals: birth;  
14 two months; four months; six months; nine months; twelve months;  
15 fifteen months; eighteen months; two years; three years; four  
16 years; and five years. Services to be covered at each visit  
17 shall include a history, physical examination, developmental  
18 assessment, anticipatory guidance, immunizations, and laboratory  
19 tests, in keeping with prevailing medical standards. For  
20 purposes of this subsection, the term "prevailing medical  
21 standards" means the recommendations of the [~~Immunizations~~]





1 Advisory Committee on Immunization Practices [~~Advisory~~  
2 ~~Committee~~] of the United States Department of Health and Human  
3 Services and the American Academy of Pediatrics; provided that  
4 [~~in the event that~~] if the recommendations of the committee and  
5 the academy differ, the department of health shall determine  
6 which recommendations shall apply.

7 (c) Minimum benefits may be limited to one visit payable  
8 to one provider for all of the services provided at each visit  
9 cited in this section, except that the limitations authorized by  
10 this subsection shall not apply to immunizations recommended by  
11 the [~~Immunizations~~] Advisory Committee on Immunization Practices  
12 [~~Advisory Committee~~] of the United States Department of Health  
13 and Human Services and the American Academy of Pediatrics;  
14 provided that [~~in the event that~~] if the recommendations of the  
15 committee and the academy differ, the department of health shall  
16 determine which recommendations shall apply."

17 SECTION 56. Section 431:10B-108, Hawaii Revised Statutes,  
18 is amended by amending subsection (j) to read as follows:

19 "(j) If a group policy of credit life insurance or credit  
20 disability insurance[~~-(1)-Has~~] has been delivered in this State  
21 before July 1, 1969, or [~~-(2)-Has~~] has been or is delivered in



1 another state before or after July 1, 1969, the insurer shall be  
2 required to file only the group certificate and notice of  
3 proposed insurance delivered or issued for delivery in this  
4 State as specified in [~~subsections (b) and (e) of~~] section  
5 [~~431:10B-107.~~] 431:10B-107(b) and (e). The forms shall be  
6 approved by the commissioner if:

7 [~~(i)~~] (1) They conform with the requirements specified in  
8 those subsections;

9 [~~(ii)~~] (2) They are accompanied by a certification in a form  
10 satisfactory to the commissioner that the substance of  
11 the forms are in substantial conformity with the  
12 master policy; and

13 [~~(iii)~~] (3) The schedules of premium rates applicable to the  
14 insurance evidenced by the certificate or notice are  
15 not in excess of the insurer's schedules of premium  
16 rates filed with and approved by the commissioner;  
17 provided that the premium rate in effect on existing group  
18 policies may be continued until the first policy anniversary  
19 date following July 1, 1969."

20 SECTION 57. Section 431M-1, Hawaii Revised Statutes, is  
21 amended by amending the definitions of "hospital", "mental



1 health outpatient facility", and "nonhospital facility" to read  
2 as follows:

3 "Hospital" means a facility licensed as a hospital by the  
4 department of health and accredited by [~~the~~] The Joint  
5 Commission [~~on Accreditation of Health Care Organizations~~].

6 "Mental health outpatient facility" means a mental health  
7 establishment, clinic, institution, center, or community mental  
8 health center[~~7~~] that provides for the diagnosis, treatment,  
9 care, or rehabilitation of mentally ill persons[~~7, that~~] and has  
10 been accredited by [~~the~~] The Joint Commission [~~on Accreditation~~  
11 ~~of Healthcare Organizations~~] or the Commission on Accreditation  
12 of Rehabilitation Facilities or certified by the department of  
13 health.

14 "Nonhospital facility" means a facility for the care or  
15 treatment of alcohol dependent, drug dependent, or mentally ill  
16 persons[~~7, which~~] that has been accredited by [~~the~~] The Joint  
17 Commission [~~on Accreditation of Health Care Organizations~~] or  
18 the Commission on Accreditation of Rehabilitation Facilities or  
19 certified by the department of health and, if residential, has  
20 been licensed as a special treatment facility by the department  
21 of health."



1 SECTION 58. Section 432:1-602.5, Hawaii Revised Statutes,  
2 is amended by amending subsections (b) and (c) to read as  
3 follows:

4 "(b) Child health supervision services shall include  
5 twelve visits at approximately the following intervals: birth;  
6 two months; four months; six months; nine months; twelve months;  
7 fifteen months; eighteen months; two years; three years; four  
8 years; and five years. Services to be covered at each visit  
9 shall include a history, physical examination, developmental  
10 assessment, anticipatory guidance, immunizations, and laboratory  
11 tests, in keeping with prevailing medical standards. For  
12 purposes of this subsection, the term "prevailing medical  
13 standards" means the recommendations of the [Immunizations]  
14 Advisory Committee on Immunization Practices [~~Advisory~~  
15 ~~Committee~~] of the United States Department of Health and Human  
16 Services and the American Academy of Pediatrics; provided that  
17 [~~in the event that~~] if the recommendations of the committee and  
18 the academy differ, the department of health shall determine  
19 which recommendations shall apply.

20 (c) Minimum benefits may be limited to one visit payable  
21 to one provider for all of the services provided at each visit



1 cited in this section, except that the limitations authorized by  
2 this subsection shall not apply to immunizations recommended by  
3 the [~~Immunizations~~] Advisory Committee on Immunization Practices  
4 [~~Advisory Committee~~] of the United States Department of Health  
5 and Human Services and the American Academy of Pediatrics;  
6 provided that [~~in the event that~~] if the recommendations of the  
7 committee and the academy differ, the department of health shall  
8 determine which recommendations shall apply."

9 SECTION 59. Section 467B-11.5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§467B-11.5 Charitable organizations exempted from**  
12 **registration and financial disclosure requirements.** The  
13 following charitable organizations shall not be subject to  
14 sections 467B-2.1 and 467B-6.5[7] if the organization submits an  
15 application for an exemption to the department and the  
16 department approves the organization's application:

17 (1) Any duly organized religious corporation, institution,  
18 or society that is exempt from filing Form 990 with  
19 the Internal Revenue Service pursuant to section  
20 6033(a)(3)(A)(i) and (iii) and (C)(i) of the Internal  
21 Revenue Code, as amended;



- 1 (2) Parent-teacher associations;
- 2 (3) Any educational institution that is licensed or
- 3 accredited by any of the following licensing or
- 4 accrediting organizations or their successor
- 5 organizations:
- 6 (A) Hawaii Association of Independent Schools;
- 7 (B) Western Association of Schools and Colleges;
- 8 (C) Middle States Association of Colleges and
- 9 Schools;
- 10 (D) New England Association of Schools and Colleges;
- 11 (E) Higher Learning Commission;
- 12 (F) Northwest Commission on Colleges and
- 13 Universities;
- 14 (G) Southern Association of Colleges and Schools;
- 15 (H) The National Association for the Education of
- 16 Young Children; or
- 17 (I) [~~Advanced~~] Cognia;
- 18 (4) Any organization exempt from taxation under section
- 19 501(c)(3) of the Internal Revenue Code expressly
- 20 authorized by, and having an established identity
- 21 with, an education institution accredited by one of



1 the accrediting agencies as provided in paragraph (3);  
2 provided that the organization's solicitation of  
3 contributions is primarily directed to the students,  
4 alumni, faculty, and trustees of the institutions and  
5 their respective families;

6 (5) Any nonprofit hospital licensed by the State or any  
7 similar provision of the laws of any other state;

8 (6) Any corporation established by an act of the United  
9 States Congress that is required by federal law to  
10 submit to Congress annual reports, fully audited by  
11 the United States Department of Defense, of its  
12 activities, including itemized accounts of all  
13 receipts and expenditures;

14 (7) Any agency of this State, another state, or the  
15 federal government; and

16 (8) Any charitable organization that normally receives  
17 less than \$25,000 in contributions annually, if the  
18 organization does not employ or compensate a  
19 professional solicitor or professional fundraising  
20 counsel. For purposes of this paragraph, an  
21 organization normally receives less than \$25,000 in



1 contributions annually if, during the immediately  
2 preceding three fiscal years, it received, on average,  
3 less than \$25,000 in contributions.

4 The attorney general may require the application for exemption  
5 to be filed electronically with the department and may require  
6 the use of electronic signatures."

7 SECTION 60. Section 514B-146.5, Hawaii Revised Statutes,  
8 is amended by amending subsection (c) to read as follows:

9 "(c) The association's power of sale provided in section  
10 514B-146(a) may not be exercised against:

11 (1) Any lien that arises solely from fines, penalties,  
12 legal fees, or late fees, and the foreclosure of any  
13 such lien shall be filed in court pursuant to part IA  
14 of chapter 667;

15 (2) Any unit owned by a person who is on military  
16 deployment outside of the State of Hawaii as a result  
17 of active duty military status with any branch of the  
18 United States military[~~The~~], and the foreclosure of  
19 any such lien shall be filed in court pursuant to part  
20 IA of chapter 667[~~this subsection~~]; provided that  
21 this paragraph shall not apply if the lien of the





1 association has been outstanding for a period of one  
2 year or longer; or

3 (3) Any unit while the nonjudicial or power of sale  
4 foreclosure has been stayed pursuant to section  
5 667-92(c)."

6 SECTION 61. Section 587D-1, Hawaii Revised Statutes, is  
7 amended by amending the definition of "hospital" to read as  
8 follows:

9 "Hospital" means a facility licensed as a hospital by the  
10 department of health and accredited by ~~[the]~~ The Joint  
11 Commission [on Accreditation of Healthcare Organizations]."

12 SECTION 62. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 63. This Act shall take effect upon its approval.

APPROVED this 15 day of SEP, 2020




GOVERNOR OF THE STATE OF HAWAII

**THE SENATE OF THE STATE OF HAWAI'I**

Date: July 10, 2020  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2020.

  
President of the Senate

  
Clerk of the Senate

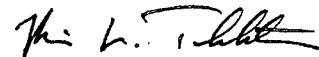
THE HOUSE OF REPRESENTATIVES OF THE  
STATE OF HAWAII

Date: July 6, 2020  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2020.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives