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January 27, 2022
9:30 A.M.
State Capitol, Teleconference

S.B. 1211, S.D. 1
RELATING TO MOTOR CARRIERS

Senate Committee on Judiciary

The Department of Transportation (DOT) **strongly supports** S.B. 1211, S.D.1, which repeals the law relating to exemption for vehicles designated as vehicle used by farmers as set forth in Section 286-206, Hawaii Revised Statutes (HRS).

The current state law as set forth in 286-208, HRS, is outdated and superseded by the Federal regulatory requirements as set forth in 49 Code of Federal Regulations 390.39, adopted by the State of Hawaii via Hawaii Administrative Rule 19-141, defining and implementing the vehicle exemption category called "covered farm vehicle." Allowing the current statute to stand will result in a conflict in this area of the law, and given that the State of Hawaii must enact the "covered farm vehicle exemption" as required under Public Law 112-141 (Moving Ahead for Progress in the 21st Century Act), it is prudent for the State of Hawaii to repeal.

The Federal Motor Carrier Safety Administration (FMSCA) conducted a review of Hawaii's motor carrier program and found that Hawaii does not meet the federal requirements of this bill. Failure to implement this change could potentially disqualify Hawaii from receiving these vital Motor Carrier Safety Assistance Program (MCSAP) funds. Currently, DOT receives \$1.2 million annually in MCSAP funds and has the potential for millions of dollars in other FMSCA funds. The MCSAP funds provide financial assistance to the State in carrying out its commercial motor vehicle safety program to promote safety on Hawaii's roadways.

There will be no significant negative impact following repeal of HRS 286-208 as farmers who operate vehicles that meet the definition of a "covered farm vehicle" per 49 CFR §390.5. There will be no cost to the farmers, as well as they will be eligible for relief from specific parts of the Federal Motor Carrier Safety Regulations. DOT will work with those members of the public who currently have farm exemptions as set forth under 286-208, HRS, to assist them in transitioning to the new exemption process form. Time and effort to do so will be the same as the current farm exemption program under the Motor Vehicle Safety Office.

Thank you for the opportunity to provide testimony.



LATE

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January 27, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY

TESTIMONY ON SB 1211, SD1
RELATING TO MOTOR CARRIERS

Via Videoconference
9:30 AM

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

Hawaii Farm Bureau supports with amendments SB 1211, SD1, which repeals the existing HDOT farm vehicle exemption.

HFB recognizes the need to align Hawaii State law with Federal law. Provisions in Section 32934 of the Moving Ahead for Progress in the 21ST Century Act.

Consequence of Repeal

The Justification Sheet attached with the previously introduced measure (SB 1071, 2017) states:

“Those members of the public who currently have farm exemptions as set forth under section 286-208, HRS, will need to work with HDOT to obtain new exemptions for “covered farm” vehicles.

Federal Law requires:

... a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel;

To our knowledge, HDOT does not have a license plate or other designation process in place now. Unless HDOT adopts rules to fulfill the federal requirement, farmers may be illegal during the interim period. Washington State law includes provisions for the decal in State Law. We suggest including the provision in Hawaii law to address the Federal requirement.

The following is the Washington State statute:

RCW 46.16A.420

Farm vehicles—Farm exempt decal—Fee—Rules.

(1) A farmer shall apply to the department, county auditor or other agent, or subagent appointed by the director for a farm exempt decal for a farm vehicle if the farm vehicle is exempt under RCW 46.16A.080(3). The farm exempt decal:

- (a) Allows the farm vehicle to be operated on public highways as identified under RCW 46.16A.080(3);
- (b) Must be displayed on the farm vehicle so that it is clearly visible from outside of the farm vehicle;
- (c) Must identify that the farm vehicle is exempt from the registration requirements of this chapter; and
- (d) Must be visible from the rear of the farm vehicle. This requirement for a farm exempt decal to be visible from the rear of the vehicle applies only to farm exempt decals issued after July 28, 2013.

(2) A farmer or the farmer's representative must apply for a farm exempt decal on a form furnished or approved by the department. The application must show:

- (a) The name and address of the person who is the owner of the vehicle;
- (b) A full description of the vehicle, including its make, model, year, the motor number or the vehicle identification number if the vehicle is a motor vehicle, or the serial number if the vehicle is a trailer;
- (c) The purpose for which the vehicle is principally used;
- (d) The place where the farm vehicle is principally used or garaged; and
- (e) Other information as required by the department upon application.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under RCW 46.17.325 when issuing a farm exempt decal.

(4) A farm exempt decal may not be renewed. The status as an exempt vehicle continues until suspended or revoked for misuse, or when the vehicle is no longer used as a farm vehicle.

(5) The department may adopt rules to implement this section.

[2013 c 299 § 1. Prior: 2010 c 161 § 409; 2010 c 8 § 9010; 1979 c 158 § 139; 1967 c 202 § 3. Formerly RCW 46.16.025.]

Attached are the application forms from Washington State.

HRS 286-41 defines the requirements for registration. Section (f) defines exempted vehicles. Including farm vehicles in this section should clarify its' exemption status.

(4) Farm vehicles operated within a radius of xxx miles of the farm where it is principally used or garaged for the purposes of traveling between farms or other locations to engage in activities that support farming operations as defined in HRS 165-2,

Definition of Farm:

Raising of crops and livestock have traditionally defined agriculture. Agriculture in Hawaii has evolved and includes aquaponics, apiaries, fish farms and other non-traditional industries. We strongly recommend that farming operations be clarified to be as defined in HRS 165-2.

HFB understands and supports the need for consistency between Federal and State law. We **respectfully request amendments as suggested to avoid unintended consequences associated with this measure.**

Thank you for this opportunity to provide comment on this important subject.

Attachment 1: Washington State application

Farm Exempt Decal Affidavit

Farmers use this form to apply for a farm exempt decal for a farm vehicle. See [RCW 46.16A.080\(3\)](#) for exempt vehicles.

Vehicle information

Plate/Tag/Decal number	Motor serial number/Vehicle Identification Number (VIN)	Vehicle type
Model year	Make	Model

Affidavit

I, _____
Name of vehicle owner

of _____
Address

do hereby certify that (I am/we are) the owner/lessee of the vehicle described above and that the described vehicle is **principally** used/garaged at:

Address

This vehicle will be used **primarily** on farms. It may also be used on highways within 25 miles of the farm where it is principally used/garaged to travel between farms or other locations to engage in activities that support farming operations.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Date and place (city or county) signed	X Registered owner signature
	Title if signing for a business

Anyone who knowingly makes a false statement may be guilty of a felony under state law and upon conviction shall be punished by a fine, imprisonment, or both.