
A BILL FOR AN ACT

RELATING TO MOTOR CARRIERS.

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

1 SECTION 1. Section 269-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "enforcement officer" to
3 read as follows:

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

11 SECTION 2. Section 271-4, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding a new definition to be appropriately inserted
14 and to read:

15 ""Department" means the department of transportation."

16 2. By amending the definition of "enforcement officer" to
17 read:



1 ""Enforcement officer" means [~~any~~]:

2 (1) Any person employed and authorized by the [~~commission~~
3 department to investigate any matter on behalf of the
4 ~~[commission. The term also means a]~~ department; and

5 (2) A motor vehicle safety officer employed and assigned,
6 pursuant to section 271-38, by the department [~~of~~
7 ~~transportation]~~ to enforce [~~sections 271-8, 271-12,~~
8 ~~271-13, 271-19, and 271-29 through the assessment of~~
9 ~~civil penalties as provided in section 271-27(h), (i),~~
10 ~~and (j).~~] this chapter."

11 SECTION 3. Section 271-27, Hawaii Revised Statutes, is
12 amended as follows:

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

14 "(c) Any special agent, accountant, or examiner who
15 knowingly and wilfully divulges any fact or information which
16 may come to the special agent's, accountant's, or examiner's
17 knowledge during the course of any examination or inspection
18 made under authority of sections 271-9(a)(4), 271-23, and 271-
19 25, except as the special agent, accountant, or examiner may be
20 directed by the [~~commission~~] department or by a court or judge
21 thereof, shall be guilty of a misdemeanor."

1 2. By amending subsections (f) through (j) to read:
2 "(f) Any motor carrier or any officer, agent, employee, or
3 representative thereof, who wilfully fails or refuses to make a
4 report to the [~~commission~~] department as required by this
5 chapter, or to make specific and full, true, and correct answer
6 to any question within thirty days from the time it is lawfully
7 required by the [~~commission,~~] department, or to keep accounts,
8 records, and memoranda in the form and manner prescribed by the
9 [~~commission,~~] department, or knowingly and wilfully falsifies,
10 destroys, mutilates, or alters any report, account, record, or
11 memorandum or knowingly and wilfully files with the [~~commission~~]
12 department any false report, account, record, or memorandum, or
13 knowingly and wilfully neglects or fails to make full, true, and
14 correct entries in the accounts, records, or memoranda of all
15 facts and transactions appertaining to the business of the
16 carrier, or person required under this chapter to keep the same,
17 or knowingly and wilfully keeps accounts, records, or memoranda
18 contrary to the rules, regulations, or orders of the
19 [~~commission~~] department with respect thereto, shall be deemed
20 guilty of a misdemeanor. As used in this subsection, the words



1 "keep" and "kept" mean made, prepared, or compiled, as well as
2 retained.

3 (g) Except when required by state law to take immediately
4 before a district judge a person arrested for violation of this
5 chapter, including any rule adopted pursuant to this chapter,
6 any enforcement officer, other than a motor vehicle safety
7 officer employed and assigned, pursuant to section 271-38, by
8 the department [~~of transportation~~] to assess civil penalties,
9 upon arresting a person for violation of this chapter, including
10 any rule adopted pursuant to this chapter shall issue to the
11 alleged violator a summons or citation printed in the form
12 hereinafter described, warning the alleged violator to appear
13 and answer to the charge against the alleged violator at a
14 certain place within seven days after the arrest.

15 (1) The summons or citation shall be printed in a form
16 comparable to that of other summonses and citations
17 used for arresting offenders and shall include all
18 necessary information. The form and content shall be
19 adopted or prescribed by the district courts.

20 (2) The original of a summons or citation shall be given
21 to the alleged violator and any other copies



1 distributed in the manner prescribed by the district
2 courts; provided that the district courts may
3 prescribe alternative methods of distribution for the
4 original and any other copies.

5 (3) Summonses and citations shall be consecutively
6 numbered and any other copies of each shall bear the
7 same number.

8 (4) Any person who fails to appear at the place and within
9 the time specified in the summons or citation shall be
10 guilty of a misdemeanor.

11 (5) If any person fails to comply with a summons or
12 citation or fails or refuses to deposit bail as
13 required, the enforcement officer shall cause a
14 complaint to be entered against the person and secure
15 the issuance of a warrant for the person's arrest.

16 (6) When a complaint is made to any prosecuting officer of
17 a violation of this chapter or any rule, the
18 enforcement officer who issued the summons or citation
19 shall subscribe to it under oath administered by
20 another official whose name has been submitted to the



1 prosecuting officer and who has been designated by the
2 [~~commission~~] department to administer the same.

3 (h) Any motor carrier or lessor, or any officer, agent,
4 employee, or representative thereof, who fails or refuses to
5 comply with any provision of this chapter, or any rule,
6 requirement, or order thereunder, and any person located in this
7 State, or any officer, agent, employee, or representative of any
8 [~~such~~] the person, who engages the services of any motor carrier
9 or lessor, or any officer, agent, employee, or representative
10 thereof, who fails or refuses to comply with any provision of
11 this chapter, or any rule, requirement, or order, may be
12 assessed a civil penalty for an amount determined by the
13 [~~commission~~] department subject to this section payable to the
14 State in a sum:

- 15 (1) Up to \$1,000 for each offense;
- 16 (2) In the case of a continuing violation, [~~not~~] no less
17 than \$50 and [~~not~~] no more than \$500 for each
18 additional day during which the failure or refusal
19 continues; and
- 20 (3) Up to \$5,000 for each fourth or subsequent violation
21 within one calendar year.



1 (i) Notwithstanding subsection (h), a motor carrier who
2 fails to file, within the prescribed time, a financial report
3 with the [~~commission~~] department pursuant to its rules may be
4 assessed a civil penalty payable to the State up to the sum of
5 one-sixteenth of one per cent of the gross revenues from the
6 motor carrier's business during the preceding calendar year, if
7 the failure is for [~~not~~] no more than one month, with an
8 additional one-sixteenth of one per cent for each additional
9 month or fraction thereof during which the failure continues,
10 but in no event shall the total civil penalty be less than the
11 sum of \$50.

12 (j) In addition to any other remedy available, the
13 [~~commission~~] department or its enforcement officer, including a
14 motor vehicle safety officer employed and assigned by the
15 department [~~of transportation~~] pursuant to section 271-38, may
16 issue citations to persons acting in the capacity of or engaging
17 in the business of a motor carrier within this State, without
18 having a certificate of public convenience and necessity or
19 other authority previously obtained under and in compliance with
20 this chapter and rules adopted, or to any shipper or consignee
21 located in this State, or any officer, employee, agent, or



1 representative thereof who engages the services of those
2 persons.

3 (1) The citation may contain an order of abatement and an
4 assessment of civil penalties as provided in
5 subsection (h). All penalties collected under this
6 subsection shall be deposited in the treasury of the
7 State. Service of a citation issued under this
8 subsection shall be made by personal service whenever
9 possible or by certified mail, restricted delivery,
10 sent to the last known business or residence address
11 of the person cited.

12 (2) Any person served with a citation under this
13 subsection may submit a written request to the
14 [~~commission~~] department for a hearing within twenty
15 days from the receipt of the citation, with respect to
16 the violations alleged, the scope of the order of
17 abatement, and the amount of civil penalties assessed.
18 If the person cited under this subsection notifies the
19 [~~commission~~] department of the request for a hearing
20 in time, the [~~commission~~] department shall afford the
21 person an opportunity for a hearing under chapter 91.



1 The hearing shall be conducted by the [~~commission~~]
2 department, or the [~~commission~~] department may
3 designate a hearings officer to hold the hearing.

4 (3) If the person cited under this subsection does not
5 submit a written request to the [~~commission~~]
6 department for a hearing in time, the citation shall
7 be deemed a final order of the [~~commission~~]
8 department. The [~~commission~~] department may apply to
9 the appropriate court for a judgment to enforce the
10 provisions of any final order issued by the
11 [~~commission~~] department or designated hearings officer
12 pursuant to this subsection, including the provisions
13 for abatement and civil penalties imposed. In any
14 proceeding to enforce the final order, the
15 [~~commission~~] department need only produce a certified
16 copy of the final order and show that the notice was
17 given and that a hearing was held or the time granted
18 for requesting the hearing has run without a request.

19 (4) If any party is aggrieved by the decision of the
20 [~~commission~~] department or the designated hearings
21 officer, the party may appeal, subject to chapter 602,



1 in the manner provided for civil appeals from the
 2 circuit courts; provided that the operation of an
 3 abatement order shall not be stayed on appeal unless
 4 specifically ordered by a court of competent
 5 jurisdiction after applying the stay criteria
 6 enumerated in section 91-14(c). The sanctions and
 7 disposition authorized under this subsection shall be
 8 separate and in addition to all other remedies either
 9 civil or criminal provided by law. The [~~commission~~
 10 department] may adopt any rules under chapter 91 that
 11 may be necessary to fully effectuate this subsection."

12 SECTION 4. Section 271-37, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "[~~+~~]**\$271-37[+]** **Attorney general; aid in enforcement.** Upon
 15 written request of the [~~public utilities commission,~~
 16 department], the attorney general shall prosecute all violations
 17 on behalf of the [~~commission~~] department for the enforcement of
 18 the provisions of this chapter."

19 SECTION 5. Section 271-38, Hawaii Revised Statutes, is
 20 amended to read as follows:



1 "~~§271-38~~ **Enforcement.** [~~At the request of the public~~
2 ~~utilities commission, the department of transportation]~~ The
3 department shall assign a motor vehicle safety officer employed
4 by the department [~~of transportation]~~ to assist in the
5 enforcement of [~~sections 271-8, 271-12, 271-13, 271-19, and 271-~~
6 ~~29, through the assessment of civil penalties as provided in~~
7 ~~section 271-27(h), (i), and (j).~~] this chapter."

8 SECTION 6. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$ or so
10 much thereof as may be necessary for fiscal year 2024-2025 for
11 the transfer of functions related to the motor carrier law to
12 the department of transportation.

13 The sum appropriated shall be expended by the department of
14 transportation for the purposes of this Act.

15 SECTION 7. In accordance with section 9 of article VII of
16 the Hawaii State Constitution and sections 37-91 and 37-93,
17 Hawaii Revised Statutes, the legislature has determined that the
18 appropriations contained in Act 164, Regular Session of 2023,
19 and this Act will cause the state general fund expenditure
20 ceiling for fiscal year 2024-2025 to be exceeded by
21 \$ or per cent. This current declaration takes



1 into account general fund appropriations authorized for fiscal
2 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
3 only. The reasons for exceeding the general fund expenditure
4 ceiling are that:

5 (1) The appropriation made in this Act is necessary to
6 serve the public interest; and

7 (2) The appropriation made in this Act meets the needs
8 addressed by this Act.

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on January 1, 2050.



Report Title:

PUC; DOT; Motor Carrier Law; Enforcement; Transfer;
Appropriation; Expenditure Ceiling

Description:

Transfers the jurisdiction of enforcement of the Motor Carrier Law from the Public Utilities Commission to the Department of Transportation. Makes conforming amendments. Appropriates funds. Effective 1/1/2050. (HD1)

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

