
A BILL FOR AN ACT

RELATING TO MOTOR CARRIERS.

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

1 SECTION 1. Section 271-4, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding a new definition to be appropriately inserted
4 and to read:

5 "Department" means the department of transportation."

6 2. By amending the definition of "enforcement officer" to
7 read:

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

16 SECTION 2. Section 271-27, Hawaii Revised Statutes, is
17 amended as follows:



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

2 "(c) Any special agent, accountant, or examiner who
3 knowingly and wilfully divulges any fact or information which
4 may come to the special agent's, accountant's, or examiner's
5 knowledge during the course of any examination or inspection
6 made under authority of sections 271-9(a)(4), 271-23, and 271-
7 25, except as the special agent, accountant, or examiner may be
8 directed by the [~~commission~~] department or by a court or judge
9 thereof, shall be guilty of a misdemeanor."

10 2. By amending subsections (f) through (j) to read:

11 "(f) Any motor carrier or any officer, agent, employee, or
12 representative thereof, who wilfully fails or refuses to make a
13 report to the [~~commission~~] department as required by this
14 chapter, or to make specific and full, true, and correct answer
15 to any question within thirty days from the time it is lawfully
16 required by the [~~commission,~~] department, or to keep accounts,
17 records, and memoranda in the form and manner prescribed by the
18 [~~commission,~~] department, or knowingly and wilfully falsifies,
19 destroys, mutilates, or alters any report, account, record, or
20 memorandum or knowingly and wilfully files with the [~~commission~~]
21 department any false report, account, record, or memorandum, or



1 knowingly and wilfully neglects or fails to make full, true, and
2 correct entries in the accounts, records, or memoranda of all
3 facts and transactions appertaining to the business of the
4 carrier, or person required under this chapter to keep the same,
5 or knowingly and wilfully keeps accounts, records, or memoranda
6 contrary to the rules, regulations, or orders of the
7 [~~commission~~] department with respect thereto, shall be deemed
8 guilty of a misdemeanor. As used in this subsection, the words
9 "keep" and "kept" mean made, prepared, or compiled, as well as
10 retained.

11 (g) Except when required by state law to take immediately
12 before a district judge a person arrested for violation of this
13 chapter, including any rule adopted pursuant to this chapter,
14 any enforcement officer, other than a motor vehicle safety
15 officer employed and assigned, pursuant to section 271-38, by
16 the department [~~of transportation~~] to assess civil penalties,
17 upon arresting a person for violation of this chapter, including
18 any rule adopted pursuant to this chapter shall issue to the
19 alleged violator a summons or citation printed in the form
20 hereinafter described, warning the alleged violator to appear



1 and answer to the charge against the alleged violator at a
2 certain place within seven days after the arrest.

3 (1) The summons or citation shall be printed in a form
4 comparable to that of other summonses and citations
5 used for arresting offenders and shall include all
6 necessary information. The form and content shall be
7 adopted or prescribed by the district courts.

8 (2) The original of a summons or citation shall be given
9 to the alleged violator and any other copies
10 distributed in the manner prescribed by the district
11 courts; provided that the district courts may
12 prescribe alternative methods of distribution for the
13 original and any other copies.

14 (3) Summonses and citations shall be consecutively
15 numbered and any other copies of each shall bear the
16 same number.

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

20 (5) If any person fails to comply with a summons or
21 citation or fails or refuses to deposit bail as



1 required, the enforcement officer shall cause a
2 complaint to be entered against the person and secure
3 the issuance of a warrant for the person's arrest.

4 (6) When a complaint is made to any prosecuting officer of
5 a violation of this chapter or any rule, the
6 enforcement officer who issued the summons or citation
7 shall subscribe to it under oath administered by
8 another official whose name has been submitted to the
9 prosecuting officer and who has been designated by the
10 [~~commission~~] department to administer the same.

11 (h) Any motor carrier or lessor, or any officer, agent,
12 employee, or representative thereof, who fails or refuses to
13 comply with any provision of this chapter, or any rule,
14 requirement, or order thereunder, and any person located in this
15 State, or any officer, agent, employee, or representative of any
16 [~~such~~] the person, who engages the services of any motor carrier
17 or lessor, or any officer, agent, employee, or representative
18 thereof, who fails or refuses to comply with any provision of
19 this chapter, or any rule, requirement, or order, may be
20 assessed a civil penalty for an amount determined by the



1 [~~commission~~] department subject to this section payable to the
2 State in a sum:

3 (1) Up to \$1,000 for each offense;

4 (2) In the case of a continuing violation, not less than
5 \$50 and not more than \$500 for each additional day
6 during which the failure or refusal continues; and

7 (3) Up to \$5,000 for each fourth or subsequent violation
8 within one calendar year.

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

19 (j) In addition to any other remedy available, the
20 [~~commission~~] department or its enforcement officer, including a
21 motor vehicle safety officer employed and assigned by the



1 department [~~of transportation~~] pursuant to section 271-38, may
2 issue citations to persons acting in the capacity of or engaging
3 in the business of a motor carrier within this State, without
4 having a certificate of public convenience and necessity or
5 other authority previously obtained under and in compliance with
6 this chapter and rules adopted, or to any shipper or consignee
7 located in this State, or any officer, employee, agent, or
8 representative thereof who engages the services of those
9 persons.

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

19 (2) Any person served with a citation under this
20 subsection may submit a written request to the
21 [~~commission~~] department for a hearing within twenty



1 days from the receipt of the citation, with respect to
2 the violations alleged, the scope of the order of
3 abatement, and the amount of civil penalties assessed.

4 If the person cited under this subsection notifies the
5 ~~[commission]~~ department of the request for a hearing
6 in time, the ~~[commission]~~ department shall afford the
7 person an opportunity for a hearing under chapter 91.

8 The hearing shall be conducted by the ~~[commission,]~~
9 department, or the ~~[commission]~~ department may
10 designate a hearings officer to hold the hearing.

11 (3) If the person cited under this subsection does not
12 submit a written request to the ~~[commission]~~
13 department for a hearing in time, the citation shall
14 be deemed a final order of the ~~[commission.]~~
15 department. The ~~[commission]~~ department may apply to
16 the appropriate court for a judgment to enforce the
17 provisions of any final order issued by the
18 ~~[commission]~~ department or designated hearings officer
19 pursuant to this subsection, including the provisions
20 for abatement and civil penalties imposed. In any
21 proceeding to enforce the final order, the



1 ~~[commission]~~ department need only produce a certified
2 copy of the final order and show that the notice was
3 given and that a hearing was held or the time granted
4 for requesting the hearing has run without a request.

5 (4) If any party is aggrieved by the decision of the
6 ~~[commission]~~ department or the designated hearings
7 officer, the party may appeal, subject to chapter 602,
8 in the manner provided for civil appeals from the
9 circuit courts; provided that the operation of an
10 abatement order shall not be stayed on appeal unless
11 specifically ordered by a court of competent
12 jurisdiction after applying the stay criteria
13 enumerated in section 91-14(c). The sanctions and
14 disposition authorized under this subsection shall be
15 separate and in addition to all other remedies either
16 civil or criminal provided by law. The ~~[commission]~~
17 department may adopt any rules under chapter 91 that
18 may be necessary to fully effectuate this subsection."

19 SECTION 3. Section 271-37, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~{}~~§271-37~~{}~~ **Attorney general; aid in enforcement.** Upon
2 written request of the [~~public utilities commission,~~
3 department, the attorney general shall prosecute all violations
4 on behalf of the commission for the enforcement of the
5 provisions of this chapter."

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

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

15 SECTION 5. 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 6. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2024-2025 for
12 the transfer of functions related to the motor carrier law to
13 the department of transportation.

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

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on January 1, 2050.



Report Title:

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

Description:

Transfers the jurisdiction of enforcement of the Motor Carrier Law from the Public Utilities Commission to the Department of Transportation. Makes conforming amendments. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation. Takes effect 1/1/2050. (SD2)

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