

JAN 24 2024

A BILL FOR AN ACT

RELATING TO MOTOR CARRIERS.

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

- 1 SECTION 1. Section 239-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "gross income" to read as
3 follows:
- 4 ""Gross income" means the gross income from public service
5 company business as follows:
- 6 (1) Gross income from the production, conveyance,
7 transmission, delivery, or furnishing of light, power,
8 heat, cold, water, gas, or oil;
- 9 (2) Gross income from the transportation of passengers or
10 freight, or the conveyance or transmission of
11 telephone or telegraph messages other than mobile
12 telecommunications services, or the furnishing of
13 facilities for the transmission of intelligence by
14 electricity, by land or water or air:
- 15 (A) Originating and terminating within this State;
- 16 (B) By means of vessels or aircraft having their home
17 port in the State and operating between ports or



1 airports in the State, with respect to the
2 transportation so effected; or

3 (C) By means of plant or equipment located in the
4 State, between points in the State;

5 (3) Gross income from the transportation of freight by
6 motor carriers (other than as stated in paragraph
7 (2)), or the conveyance or transmission of messages or
8 intelligence through wires or cables located or partly
9 located in the State (other than as stated in
10 paragraph (2) or (5));

11 (4) Gross income from the operation of a private sewer
12 company or private sewer facility; or

13 (5) With respect to a home service provider of mobile
14 telecommunications services, "gross income" includes
15 charges billed for mobile telecommunications services
16 provided by a home service provider to a customer with
17 a place of primary use in this State when the mobile
18 telecommunications services originate and terminate
19 within the same state; provided that all ~~such~~ the
20 charges for mobile telecommunications services that
21 are billed by or for the home service provider are



1 deemed to be provided by the home service provider at
2 the customer's place of primary use, regardless of
3 where the mobile telecommunications services
4 originate, terminate, or pass through. "Gross income"
5 shall not include:

6 (A) Any charges for or receipts from mobile
7 telecommunications services provided to customers
8 of the home service provider whose place of
9 primary use is outside [~~this~~] the State;

10 (B) Any receipts of a home service provider acting as
11 a serving carrier providing mobile
12 telecommunications services to another home
13 service provider's customer; and

14 (C) Any receipts specifically from interstate or
15 foreign mobile telecommunications services
16 taxable under section 237-13(6)(D), as determined
17 by the home service provider's books and records
18 kept in the ordinary course of business.

19 For the purposes of this paragraph, "customer", "home
20 service provider", "mobile telecommunications



1 services", "place of primary use", and "serving
2 carrier" have the same meaning as in section 239-22.

3 The words "gross income" and "gross income from public
4 service company business" shall not be construed to include
5 dividends (as defined [~~by~~] in section 235-1) paid by one member
6 of an affiliated public service company group to another member
7 of the same group; or gross income from the sale or transfer of
8 materials or supplies, interest on loans, or the provision of
9 engineering, construction, maintenance, or managerial services
10 by one member of an affiliated public service company group to
11 another member of the same group. "Affiliated public service
12 company group" means an affiliated group of domestic
13 corporations within the meaning of chapter 235, all of the
14 members of which are public service companies. "Member of an
15 affiliated public service company group" means a corporation
16 (including the parent corporation) that is included within an
17 affiliated public service company group.

18 Where the transportation of passengers or property is
19 furnished through arrangements between motor carriers, and the
20 gross income is divided between the motor carriers, any tax
21 imposed by this chapter shall apply to each motor carrier with



1 respect to each motor carrier's respective portion of the
2 proceeds.

3 Where tourism related services are furnished through
4 arrangements made by a travel agency or tour packager and the
5 gross income is divided between the provider of the services on
6 the one hand and the travel agency or tour packager on the other
7 hand, any tax imposed by this chapter shall apply to each person
8 with respect to each person's respective portion of the
9 proceeds.

10 Accounts found to be worthless and actually charged off for
11 income tax purposes, at corresponding periods, may be deducted
12 from gross income as specified under this chapter so far as the
13 accounts reflect taxable sales, but shall be added to gross
14 income when and if subsequently collected.

15 As used in this paragraph, "tourism related services" means
16 motor carriers of passengers regulated by the [~~public utilities~~
17 ~~commission.~~] department of transportation."

18 SECTION 2. Section 271-4, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§271-4 Definitions.** As used in this chapter:



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

4 "Chapter" means the Motor Carrier Law.

5 ~~["Commission" means the public utilities commission.]~~

6 "Common carrier by motor vehicle" means any person that
7 holds itself out to the general public to engage in the
8 transportation by motor vehicle of passengers or property or any
9 class or classes thereof for compensation.

10 "Contract carrier by motor vehicle" means any person that
11 engages in transportation by motor vehicle of passengers or
12 property for compensation (other than transportation referred to
13 in the definition of "common carrier by motor vehicle") under
14 continuing contracts with one person or a limited number of
15 persons for the furnishing of transportation services:

16 (1) Through the assignment of motor vehicles for a
17 continuing period of time to the exclusive use of each
18 person served; or

19 (2) Designed to meet the distinct need of each individual
20 customer.

21 "Department" means the department of transportation.



1 "Document" includes any application, complaint, pleading,
2 brief, answer, motion, memorandum, declaration, exhibit,
3 certificate of service, and other papers filed by or with the
4 [~~commission~~] department.

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

13 "Highway" means the public roads, highways, streets, and
14 ways in this State.

15 "Motor carrier" includes both a common carrier by motor
16 vehicle and a contract carrier by motor vehicle.

17 "Motor vehicle" means any vehicle, machine, tractor,
18 trailer, or semitrailer propelled or drawn by mechanical power
19 and used upon the highways in the transportation of passengers
20 or property, or any combination thereof determined by the
21 [~~commission~~] department, but does not include any vehicle,



1 locomotive, or car operated exclusively on a rail or rails or a
2 trolley bus operated by electric power derived from a fixed
3 overhead wire, furnishing local passenger transportation similar
4 to street-railway service.

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

7 "Person" or "persons" means any individual, firm,
8 copartnership, corporation, company, association, or joint stock
9 association; and includes any trustee, receiver, assignee, or
10 personal representative thereof.

11 "Private carrier of property by motor vehicle" means any
12 person not included in the terms "common carrier by motor
13 vehicle" or "contract carrier by motor vehicle", who or that
14 transports by motor vehicle property [~~of which~~] where the person
15 is the owner, lessee, or bailee, when the transportation is for
16 the purpose of sale, lease, rent, or bailment or in the
17 furtherance of any commercial enterprise.

18 "Rates" includes rates, fares, tolls, rentals, and charges
19 of whatever kind and nature unless the context indicates
20 otherwise; provided that for transportation by motor vehicle of
21 passengers, where the provision of transportation is part of a



1 package that may include air fare, meals, attractions, and other
2 services, "rates" shall only include the charges for the
3 provision of transportation by motor vehicle.

4 "Transportation of persons" includes every service in
5 connection with or incidental to the safety, comfort, or
6 convenience of persons transported and the receipt, carriage,
7 and delivery of these persons and their baggage.

8 "Transportation of property" includes every service in
9 connection with or incidental to the transportation of property,
10 including in particular its receipt, delivery, elevation,
11 transfer, carriage, ventilation, refrigeration, icing, dunnage,
12 storage in transit, handling, and consolidation for the purposes
13 of forwarding within the State."

14 SECTION 3. Section 271-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§271-5 Exemptions, generally.** Notwithstanding any other
17 provisions of this chapter, its contents shall not apply to:

18 (1) Persons transporting their own property where the
19 transportation is in furtherance of a primary business
20 purpose or enterprise of that person, except where the



1 transportation is undertaken by a motor carrier to
2 evade the regulatory purposes of this chapter;
3 (2) Persons operating motor vehicles when engaged in the
4 transportation of school children and teachers to and
5 from school, and to and from school functions;
6 provided that these persons may engage in providing
7 transportation at special rates for groups of persons
8 belonging to an eleemosynary or benevolent
9 organization or association domiciled in this State
10 where the organization or association sponsors or is
11 conducting a nonregular excursion; provided that
12 whenever the persons engage in the transportation of
13 persons other than those exempted in this paragraph,
14 that portion of their operation shall not be exempt
15 from this chapter. Nothing in this paragraph shall be
16 construed to authorize any person to engage in the
17 transportation of persons, other than the
18 transportation of persons exempted by the terms of
19 this paragraph, without a permit or certificate issued
20 by the [~~commission~~] department authorizing [~~such~~] the
21 transportation;



1 (3) Persons operating taxicabs or other motor vehicles
2 utilized in performing a bona fide taxicab service.

3 "Taxicab" includes:

4 (A) Any motor vehicle used in the movement of
5 passengers on the public highways under the
6 following circumstances, namely the passenger
7 hires the vehicle on call or at a fixed stand,
8 with or without baggage for transportation, and
9 controls the vehicle to the passenger's
10 destination;

11 (B) Any motor vehicle for hire having seating
12 accommodations for eight or fewer passengers used
13 in the movement of passengers on the public
14 highways that may, as part of a continuous trip,
15 pick up or discharge passengers from various
16 unrelated locations; provided that they shall be
17 regulated by the counties in accordance with
18 section 46-16.5(c); [~~and~~] provided further that
19 this subparagraph shall not apply to any
20 exclusive rights granted by the department [of



1 ~~transportation]~~ for taxicab services at
2 facilities under the department's control; and
3 (C) Any motor vehicle having seating accommodations
4 for eight or fewer passengers used in the
5 movement of passengers on the public highways
6 between a terminal, i.e., a fixed stand, in the
7 Honolulu district, as defined in section 4-1 and
8 a terminal in a geographical district outside the
9 limits of the Honolulu district, and vice versa,
10 without picking up passengers other than at the
11 terminals or fixed stands; provided that the
12 passengers may be picked up by telephone call
13 from their homes in the rural area or may be
14 unloaded at any point between the fixed stands or
15 may be delivered to their homes in the rural
16 area;
17 (4) Persons operating motor vehicles in the transportation
18 of persons pursuant to a franchise from the
19 legislature and whose operations are presently
20 regulated under chapter 269;



- 1 (5) Nonprofit agricultural cooperative associations to the
2 extent that they engage in the transportation of their
3 own property or the property of their members;
- 4 (6) Persons operating motor vehicles specially constructed
5 for the towing of disabled or wrecked vehicles but not
6 otherwise used in the transportation of property for
7 compensation or hire;
- 8 (7) Persons operating motor vehicles in the transportation
9 of mail, newspapers, periodicals, magazines, messages,
10 documents, letters, or blueprints;
- 11 (8) Persons operating funeral cars or ambulances;
- 12 (9) Persons operating motor vehicles in the transportation
13 of garbage or refuse;
- 14 (10) Persons operating the type of passenger carrying motor
15 vehicles known as "sampan buses" within the radius of
16 twenty miles from the city of Hilo, Hawaii;
- 17 (11) Persons transporting unprocessed pineapple to a
18 cannery, seed corn to a processing facility, or
19 returning any containers used in [~~such~~] transportation
20 to the fields;



- 1 (12) Sugar plantations transporting sugarcane, raw sugar,
2 molasses, sugar by-products, and farming supplies for
3 neighboring farmers pursuant to contracts administered
4 by the United States Department of Agriculture;
- 5 (13) Persons engaged in the ranching or meat or feed
6 business who transport cattle to slaughterhouses for
7 hire where [~~such~~] the transportation is their sole
8 transportation for hire and where their earnings from
9 the transportation constitute less than fifty per cent
10 of their gross income from their business and the
11 transportation for hire;
- 12 (14) Persons transporting unprocessed raw milk to
13 processing plants and returning any containers used in
14 [~~such~~] the transportation to dairy farms for
15 reloading;
- 16 (15) Persons transporting animal feeds to animal husbandry
17 farmers and farming supplies directly to animal
18 husbandry farmers and returning any containers used in
19 [~~such~~] the transportation to these sources of [~~such~~]
20 feeds and supplies for reloading;



1 (16) Persons engaged in transporting not more than fifteen
2 passengers between their places of abode, or termini
3 near [~~such~~] places, and their places of employment in
4 a single daily round trip where the driver is also on
5 the driver's way to or from the driver's place of
6 employment;

7 (17) Persons transporting passengers without charge in
8 motor vehicles owned or operated by [~~such~~] the person,
9 where [~~such~~] transportation is provided in conjunction
10 with and in furtherance of a related primary business
11 purpose or enterprise of that person, and [~~such~~] the
12 transportation is provided only directly to and from
13 the place of business of [~~such~~] the person, except
14 that this exemption shall not apply to persons making
15 any contract, agreement, or arrangement to provide,
16 procure, furnish, or arrange for transportation as a
17 travel agent or broker or a person engaged in tour or
18 sightseeing activities, nor shall this exemption apply
19 where the transportation is undertaken by a person to
20 evade the regulatory purposes of this chapter; and



1 (18) Persons conducting the type of county-regulated
2 passenger carrying operation known as "jitney
3 services". For the purposes of this paragraph,
4 "jitney services" means public transportation services
5 utilizing motor vehicles that have seating
6 accommodations for six to twenty-five passengers,
7 operate along specific routes during defined service
8 hours, and levy a flat fare schedule."

9 SECTION 4. Section 271-27, Hawaii Revised Statutes, is
10 amended as follows:

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

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

20 2. By amending subsection (f) though (j) to read:



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



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

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

18 (2) The original of a summons or citation shall be given
19 to the alleged violator and any other copies
20 distributed in the manner prescribed by the district
21 courts; provided that the district courts may



1 prescribe alternative methods of distribution for the
2 original and any other copies.

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

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

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

14 (6) When a complaint is made to any prosecuting officer of
15 a violation of this chapter or any rule, the
16 enforcement officer who issued the summons or citation
17 shall subscribe to it under oath administered by
18 another official whose name has been submitted to the
19 prosecuting officer and who has been designated by the
20 [~~commission~~] department to administer the same.



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

- 13 (1) Up to \$1,000 for each offense;
14 (2) In the case of a continuing violation, not less than
15 \$50 and not more than \$500 for each additional day
16 during which the failure or refusal continues; and
17 (3) Up to \$5,000 for each fourth or subsequent violation
18 within one calendar year.

19 (i) Notwithstanding subsection (h), a motor carrier who
20 fails to file, within the prescribed time, a financial report
21 with the ~~[commission]~~ department pursuant to its rules may be



1 assessed a civil penalty payable to the State up to the sum of
2 one-sixteenth of one per cent of the gross revenues from the
3 motor carrier's business during the preceding calendar year, if
4 the failure is for not more than one month, with an additional
5 one-sixteenth of one per cent for each additional month or
6 fraction thereof during which the failure continues, but in no
7 event shall the total civil penalty be less than the sum of \$50.

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

20 (1) The citation may contain an order of abatement and an
21 assessment of civil penalties as provided in



1 subsection (h). All penalties collected under this
2 subsection shall be deposited in the treasury of the
3 State. Service of a citation issued under this
4 subsection shall be made by personal service whenever
5 possible or by certified mail, restricted delivery,
6 sent to the last known business or residence address
7 of the person cited.

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



- 1 (3) If the person cited under this subsection does not
2 submit a written request to the [~~commission~~]
3 department for a hearing in time, the citation shall
4 be deemed a final order of the [~~commission.~~]
5 department. The [~~commission~~] department may apply to
6 the appropriate court for a judgment to enforce the
7 provisions of any final order issued by the
8 [~~commission~~] department or designated hearings officer
9 pursuant to this subsection, including the provisions
10 for abatement and civil penalties imposed. In any
11 proceeding to enforce the final order, the
12 [~~commission~~] department need only produce a certified
13 copy of the final order and show that the notice was
14 given and that a hearing was held or the time granted
15 for requesting the hearing has run without a request.
- 16 (4) If any party is aggrieved by the decision of the
17 [~~commission~~] department or the designated hearings
18 officer, the party may appeal, subject to chapter 602,
19 in the manner provided for civil appeals from the
20 circuit courts; provided that the operation of an
21 abatement order shall not be stayed on appeal unless



1 specifically ordered by a court of competent
2 jurisdiction after applying the stay criteria
3 enumerated in section 91-14(c). The sanctions and
4 disposition authorized under this subsection shall be
5 separate and in addition to all other remedies either
6 civil or criminal provided by law. The [~~commission~~
7 department] may adopt any rules under chapter 91 that
8 may be necessary to fully effectuate this subsection."

9 SECTION 5. Section 271-36, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§271-36 Fees and charges.** (a) Every common carrier by
12 motor vehicle and every contract carrier by motor vehicle shall
13 pay to the [~~commission,~~] department, in April of each year, a
14 fee equal to one-fourth of one per cent of the gross revenues
15 from the carrier's business during the preceding calendar year,
16 or the sum of \$20, whichever is greater. Gross revenues include
17 all revenues received from services connected with or incidental
18 to the transportation of persons or the transportation of
19 property, as defined under section 271-4.

20 (b) Every common carrier by motor vehicle and every
21 contract carrier by motor vehicle paying a fee under subsection



1 (a) may impose a surcharge to recover the amount paid above one-
2 eighth of one per cent of gross income. The surcharge imposed
3 shall not be subject to the notice, hearing, and approval
4 requirements of this chapter; provided that the surcharge may be
5 imposed by the utility only after thirty days' notice to the
6 [~~public utilities commission.~~] department. Unless ordered by
7 the [~~public utilities commission,~~] department, the surcharge
8 shall be imposed only until the conclusion of the carrier's next
9 rate case; provided that the surcharge shall be subject to
10 refund with interest at the public utility's authorized rate of
11 return on rate base if the utility collects more money from the
12 surcharge than actually paid due to the increase in the fee to
13 one-fourth of one per cent.

14 (c) The [~~commission~~] department shall establish fair and
15 reasonable fees for the following applications:

16 (1) Applications for certificates and permits as provided
17 by sections 271-12 and 271-13;

18 (2) Applications for extensions of certificates as
19 provided by section 271-12(d);

20 (3) Applications for temporary certificates and permits as
21 provided by section 271-16; and



1 (4) Applications for authority to convey property
2 necessary or useful in the performance of duties to
3 the public or to transfer certificates or permits or
4 to purchase motor carrier stock, as provided in
5 section 271-18.

6 The fees charged pursuant to this subsection shall be paid to
7 the [~~commission~~] department at the time of submission of the
8 application.

9 (d) The [~~commission~~] department may charge an amount it
10 deems necessary and reasonable to defray the cost of supplying
11 to the carriers and the public the application forms and other
12 forms, schedules, tariffs, copies of rules, and other pamphlets
13 and materials it provides by individual copy or in bulk.

14 (e) All of the fees and charges collected under this
15 section shall be deposited with the director of finance to the
16 credit of the [~~public utilities commission special fund~~
17 ~~established under section 269-33.~~] state highway fund
18 established pursuant to section 248-9."

19 SECTION 6. 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 7. Sections 271-2, 271-8, 271-8.5 271-9, 271-9.5
9 271-10, 271-11, 271-12, 271-13, 271-15, 271-16, 271-17, 271-18,
10 271-19, 271-20, 271-21, 271-22, 271-23, 271-24, 271-25, 271-26,
11 271-26.5, 271-28, 271-29, 271-30, 271-31, 271-32, 271-33, 271-
12 34, 271-35, and 271-37, Hawaii Revised Statutes, are amended by
13 substituting the term "department of transportation",
14 "department", or similar term, wherever the term "public
15 utilities commission", "commission", or similar term, appears,
16 as the context requires.

17 SECTION 8. All rights, powers, functions, and duties of
18 the public utilities commission are transferred to the
19 department of transportation as it relates to the motor carriers
20 law.



1 All officers and employees whose functions are transferred
2 by this Act shall be transferred with their functions and shall
3 continue to perform their regular duties upon their transfer,
4 subject to the state personnel laws and this Act.

5 No officer or employee of the State having tenure shall
6 suffer any loss of salary, seniority, prior service credit,
7 vacation, sick leave, or other employee benefit or privilege as
8 a consequence of this Act, and such officer or employee may be
9 transferred or appointed to a civil service position without the
10 necessity of examination; provided that the officer or employee
11 possesses the minimum qualifications for the position to which
12 transferred or appointed; and provided that subsequent changes
13 in status may be made pursuant to applicable civil service and
14 compensation laws.

15 An officer or employee of the State who does not have
16 tenure and who may be transferred or appointed to a civil
17 service position as a consequence of this Act shall become a
18 civil service employee without the loss of salary, seniority,
19 prior service credit, vacation, sick leave, or other employee
20 benefits or privileges and without the necessity of examination;
21 provided that such officer or employee possesses the minimum



1 qualifications for the position to which transferred or
2 appointed.

3 If an office or position held by an officer or employee
4 having tenure is abolished, the officer or employee shall not
5 thereby be separated from public employment, but shall remain in
6 the employment of the State with the same pay and classification
7 and shall be transferred to some other office or position for
8 which the officer or employee is eligible under the personnel
9 laws of the State as determined by the head of the department or
10 the governor.

11 SECTION 9. All appropriations, records, equipment,
12 machines, files, supplies, contracts, books, papers, documents,
13 maps, and other personal property heretofore made, used,
14 acquired, or held by the public utilities commission relating to
15 the functions transferred to the department of transportation
16 shall be transferred with the functions to which they relate.

17 SECTION 10. All rules, policies, procedures, guidelines,
18 and other material adopted or developed by the public utilities
19 commission to implement provisions of the Hawaii Revised
20 Statutes that are made reenacted or applicable to the department
21 of transportation by this Act shall remain in full force and



1 effect until amended or repealed by the department of
2 transportation pursuant to chapter 91, Hawaii Revised Statutes.

3 In the interim, every reference to the public utilities
4 commission in those rules, policies, procedures, guidelines, and
5 other material is amended to refer to the department of
6 transportation, as appropriate.

7 SECTION 11. All deeds, leases, contracts, loans,
8 agreements, permits, or other documents executed or entered into
9 by or on behalf of the public utilities commission, pursuant to
10 the provisions of the Hawaii Revised Statutes, that are
11 reenacted or made applicable to the office of real estate
12 operations by this Act shall remain in full force and effect.
13 Upon effective date of this Act, every reference to the public
14 utilities commission or the chairperson of the public utilities
15 commission therein shall be construed as a reference of the
16 department of transportation or the director of transportation,
17 as appropriate.

18 SECTION 12. The public utilities commission shall transfer
19 the total fund balance in the public utilities commission
20 special fund collected pursuant to section 271-36, Hawaii
21 Revised Statutes, as of September 15, 2023, and all encumbrances



1 against that fund open and outstanding as of that date, to the
2 state highway fund no later than one hundred eighty days after
3 the effective date of this Act.

4 SECTION 13. In accordance with section 9 of article VII of
5 the Hawaii State Constitution and sections 37-91 and 37-93,
6 Hawaii Revised Statutes, the legislature has determined that the
7 appropriations contained in Act 164, Regular Session of 2023,
8 and this Act will cause the state general fund expenditure
9 ceiling for fiscal year 2024-2025 to be exceeded by
10 \$ or per cent. This current declaration takes
11 into account general fund appropriations authorized for fiscal
12 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
13 only. The reasons for exceeding the general fund expenditure
14 ceiling are that:

- 15 (1) The appropriation made in this Act is necessary to
16 serve the public interest; and
- 17 (2) The appropriation made in this Act meets the needs
18 addressed by this Act.

19 SECTION 14. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2024-2025 for



1 the transfer of functions related to the motor carrier law to
2 the department of transportation.

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

5 SECTION 15. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 16. This Act shall take effect on July 1, 2026;
8 provided that section 13 and 14 shall take effect on July 1,
9 2024.

10

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'NOA', is written over a horizontal line.



S.B. NO. 3220

Report Title:

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

Description:

Transfers the jurisdiction 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.

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

