

ACT 66

An Act Providing for the Financial Responsibility of Common Carriers of Property for Property Being Transported.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. An appropriately numbered section shall be added to Chapter 104, Revised Laws of Hawaii 1955, pertaining to the Public Utilities Commission which shall provide as follows:

"Sec. 104- . Liability of initial and delivering common carrier for loss; limitation of liability; notice and filing of claim. Any common carrier receiving property for transportation from a point to Hawaii to a point in Hawaii shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier or transportation company to which such property may be delivered or over whose line or lines such property may pass when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever shall exempt such common carrier from the liability imposed; and any such common carrier so receiving property for transportation or any common carrier or transportation company delivering said property so received and transported shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any such common carrier or transportation company to which such property may be delivered or over whose line or lines such property may pass when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the public utilities commission; and any such limitation, without respect to the manner or form in which it is sought to be made is declared to be unlawful and void: provided, that if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by the bill of lading of the carrier by water and by and under the laws and regulations applicable to transportation by water, and the liability of the initial or delivering carrier shall be the same as that of such carrier by water: provided, however, that the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of

liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply, first, to baggage carried on passenger trains or boats, or trains or boats carrying passengers ; second, to property, except ordinary livestock, received for transportation concerning which the carrier shall have been or shall be expressly authorized or required by order of the public utilities commission to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released, and any tariff schedule which may be filed with the public utilities commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon ; and the public utilities commission is empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinions, be just and reasonable under the circumstances and conditions surrounding the transportation, provided further, that nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law : provided further, that it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice : and provided further, that the liability imposed by this paragraph shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as provided by the public utilities commission.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 22.**
