

ACT 25

An Act Pertaining to the Establishment of the Hawaii Aeronautics Law.

WHEREAS, section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration and enactment in a budget session of all urgency measures deemed necessary in the public interest; and

WHEREAS, said section further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such section shall have been first approved by each house; and

WHEREAS, it is the intention of the legislature to enact this as an urgency measure pursuant to said section 11 of Article III; now, therefore,

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

The definition of a public utility in section 104-1, Revised Laws of Hawaii 1955, as amended, includes "every person who may own, control, operate or manage . . . any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight . . . by land or water or air within the state or points within the state. . . ." There is presently no comprehensive statute governing the transportation of persons or property for compensation or hire by air carriers, except by general provisions of the public utilities law which is wholly inadequate to cover this vital business affected with the public interest. It is essential that fair and impartial regulation of such air transportation be enacted for the public benefit and use and to promote safe, adequate, economical and effective service and foster sound economic service in such air transportation among the several air carriers.

The Public Utilities Commission should be given such powers and imposed upon it such duties that would enable it to properly perform its functions relative to aeronautics. This is especially true when there is presently practically no legislation in this vital area and where there has already been two new applications for economical air service between the islands since statehood.

SECTION 2. Section 104-15, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding the word "schedule," after the word "classification," and before the words "rules and regulations" wherever they appear in said section.

SECTION 3. There is hereby added a new section to chapter 104, Revised Laws of Hawaii 1955, to read as follows:

Sec. 104- . Certificates of public convenience and necessity for air carriers. (a) No common carrier by air shall engage in transportation by aircraft unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the commission authorizing such transportation.

(b) Applications for certificates shall be made in writing under oath to the commission in such form as it requires.

(c) A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. Any certificate issued shall specify the service to be rendered and the routes and airports which the common carrier by air is to serve and there shall be attached to the exercise of the privileges granted by the certificate, at the time of issuance and from time to time thereafter, such reasonable conditions and limitations as the public convenience and necessity may require.

SECTION 4. Section 3 of this Act shall take effect immediately upon the final determination by the courts that the Public Utilities Commission of the State of Hawaii has jurisdiction to regulate air carriers operating between the eight major islands of the State, and all other parts of this Act shall take effect upon its approval.

(Approved May 23, 1962.) **S.B. 94.**