

ACT 20

H.B. NO. 13

A Bill for an Act Relating to Motor Carriers, Motor Carrier Vehicles, and Motor Vehicles.

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

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

“PART . MOTOR CARRIER SAFETY LAW

Sec. 286- Definitions. As used in this part unless the context otherwise requires:

- (1) "Director" means the director of transportation.
- (2) "Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle. When there is no value specified by the manufacturer as the loaded weight of a single vehicle, the value shall be determined in accordance with rules adopted by the director.
- (3) "Motor carrier vehicle" means any motor vehicle or vehicle, including integrally mounted equipment and specially constructed motorized equipment, used by a motor carrier to transport passengers or property on the public highways.
- (4) "Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property by motor vehicle, all as defined in section 271-4.

Sec. 286- General duties and powers of the director. The general duties and powers of the director shall be:

- (1) To establish rules and regulations promoting the safety of operations, motor vehicle and equipment of motor carriers; provided that the maximum hours of service to be performed by an operator of a motor carrier vehicle shall be determined by the director based on conditions existing in the State or in particular sections of the State and shall be compatible with those prescribed by the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation.
- (2) To coordinate the various motor carrier safety programs in the State including the formulation of statewide standards as necessary.
- (3) To develop and implement, on a priority basis, a recordkeeping and information system for the motor carrier safety program.
- (4) To develop standards relating to the qualification of motor carrier vehicle drivers.
- (5) To establish standards for continuous driver training and periodic evaluation of the driver performance of motor carrier vehicle drivers pursuant to section 286-108.5.
- (6) To establish standards for motor carrier vehicle safety inspection, motor carrier vehicle inspection stations, and motor carrier vehicle inspection personnel.
- (7) To revise and update the standards relating to motor carrier vehicle maintenance and establish a system for the enforcement of such standards.
- (8) To develop the standards for size and weight of vehicles, including motor carrier vehicles, pursuant to chapter 291.
- (9) To establish standards for the issuance of special permits to carry oversized and overweight loads on the highway.
- (10) To establish standards for the transportation of hazardous materials on the highways.
- (11) To develop comprehensive regulations governing the modification of motor carrier vehicles which will at any time be operated upon the highway.

- (12) To review and approve all plans and specifications for construction in the State or modification of motor carrier vehicles which will at any time be operated upon the highway.
- (13) To adopt rules pursuant to chapter 91 necessary for the purposes of this part.
- (14) To investigate all motor carrier vehicle accidents under this part resulting in death of a human being or other accidents as the director determines necessary to advance the motor carrier safety program.

Sec. 286- Enforcement. For purposes of this part, the director may delegate the enforcement of any part of the rules adopted by the department to the executive officers of each county and any other state agency having responsibilities relating to the operation of motor vehicles or the authorized representative of such agency pursuant to the powers and duties vested in him under this part.

Sec. 286- Accounts, records, and reports. (a) The director may require annual, periodic, or special reports from all motor carriers, prescribe the manner and form in which the reports shall be made, and require from the carriers specific and full, true, and correct answers to all questions which the director may deem necessary for the safety regulation of motor carrier vehicles.

(b) The director may prescribe the forms of any and all records and memoranda to be maintained by motor carriers as related to safety of motor carrier operations. The director or his duly authorized representative shall at all reasonable times and places have access to and authority, under his order, to inspect and examine any and all equipment of motor carriers and shall have authority to inspect and copy any and all books, records, memoranda, and other documents as are related to the safety of motor carrier operations.

(c) Each motor carrier operating vehicles in the State shall keep all records and reports required by this section at an office or place of business located within the State.

Sec. 286- Reports as evidence. Any report by any motor carrier of any accident occurring in the course of its operation, made pursuant to any requirement of the director or any other lawful authority, and any report by the director or any police department of any such vehicle accident, may be admitted as evidence in any suit or action for damages growing out of any matter mentioned in the report or investigation.

Sec. 286- Penalty. Unless indicated otherwise, any motor carrier or any agent, employee, or representative thereof, who wilfully and knowingly fails, neglects or refuses to perform any act required by this part or by rules adopted by the director under this part shall be fined not more than \$2,000 for each separate offense. Each date of violation shall constitute a separate offense. An action to impose or collect the penalty provided in this section shall be considered a civil action.

Sec. 286- Exemptions, certain small vehicles. This part shall not apply to the following vehicles, if such vehicles are in compliance with safety ordinances and rules of the county in which they operate and other applicable State safety

laws and rules:

- (1) The type of passenger carrying vehicle known as a "sampan bus" within a radius of twenty miles from the City of Hilo, Hawaii;
- (2) Station wagons for the carriage of property;
- (3) Trucks, truck trailers, trailers or other nonpassenger carrying equipment having a gross vehicle weight rating of 10,000 pounds or less;
- (4) Taxicabs as described in section 271-5(3)(B);
- (5) Passenger carrying vehicles with a seating capacity of nine or less used for the transportation of employees to and from the jobsite;
- (6) Passenger carrying vehicles used by employees solely for their own transportation to, from, and during work;
- (7) Passenger carrying vehicles with a gross vehicle weight of 10,000 pounds or less used in car or van pools for the movement of passengers to and from work.

Sec. 286- Exemptions, vehicles used by farmers. This part shall not apply to motor vehicles used by a farmer exclusively for his farm operations or to motor vehicles used by a farmer who only infrequently transports from the place of production to a warehouse, regular market, place of storage, or place of shipment, the farm products of neighboring farmers in exchange for like or reciprocal services, for farm products, or for a cash consideration not exceeding \$1,500 per year; provided that the transportation of farm produce shall constitute the sole transportation of property for hire or compensation and; provided further that each motor vehicle so used complies with the safety ordinances and rules of the county in which it is operated and other applicable state safety laws and rules.

Sec. 286- Safety inspection of motor carrier vehicles. (a) Motor carrier vehicles including but not limited to trucks, truck-tractors, semitrailers, trailers, or pole trailers having a gross vehicle weight rating of more than 10,000 pounds shall be inspected and certified once every six months.

(b) The director shall adopt rules pursuant to chapter 91 for motor carrier vehicle safety inspections, the issuance of certificates of safety inspection, the affixing of motor carrier vehicle safety inspection decals and the acceptance of certificates of safety inspection issued in other jurisdictions.

(c) The director shall collect a fee of \$1.50 for each motor carrier vehicle safety inspection decal issued by motor carrier vehicle inspection stations. All moneys collected shall be paid into the State highway fund.

(d) A fee of no more than \$7 shall be charged by a motor carrier inspection station for each safety inspection performed.

Sec. 286- Operation of a motor carrier vehicle without a safety inspection decal. Whoever operates, permits the operation of, causes to be operated, or parks any motor vehicles on a public highway without a current motor carrier vehicle safety inspection decal issued under section 286- , shall be fined \$100 for each of said violation or imprisoned not more than thirty days, or both.

Sec. 286- Permits to operate official inspection stations. (a) The director shall issue permits for and furnish instructions and all forms to official

inspection stations. The stations shall operate pursuant to standards established by the director.

(b) Application for an official inspection station permit shall be made upon an official form and shall be granted only when the director is satisfied that the station is properly equipped and has competent personnel to make the required inspections. Before issuing a permit, the director shall require the applicant to file proof that he has, in effect, a liability insurance policy, issued to him by an insurance company, authorized to do business in the State, insuring against the liability of the applicant and any of his employees, in minimum amounts as follows: comprehensive public liability insurance in the amount of \$10,000 for one person and \$20,000 for one accident and comprehensive property damage insurance of \$5,000, provided that the director may, by rules and regulations, set higher limits; provided that the proof of insurance need not be filed by an applicant who inspects only vehicles owned by the applicant; and provided further that the proof of insurance need not be filed by instrumentalities of the United States.

(c) A permit for an official inspection station shall not be assigned or transferred or used at any location other than that designated by the director and every permit shall be posted in a conspicuous place at the location so designated.

Sec. 286- Suspension or revocation of permits. The director shall supervise and cause inspections to be made of official inspection stations and shall suspend or revoke and require the surrender of the permit issued to a station which he finds is not properly conducting inspections. The director shall maintain and post at the department lists of all stations holding permits and those whose permits have been suspended or revoked.

Sec. 286- Improper representation as official inspection station. Any person who in any manner represents that the business operated at any location is an official inspection station without a permit issued by the director under section 286- , or any person other than a person operating an inspection station under a permit granted by the director who issues a certificate of inspection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. 286- False certificates. Any person who makes, issues, or knowingly uses any imitation or counterfeit of an official certificate of inspection, or any person who displays or causes or permits to be displayed upon any vehicle any certificate of inspection knowing the same to be issued for another vehicle or issued without an inspection having been made or issued without authority as provided herein shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. 286- Gross weight fee, and other fees and charges. (a) In addition to all other fees to be paid by him, every motor carrier, except government agencies, shall pay to the director each year at the time of, in connection with, and before receiving his gross weight identification emblem or his identification plate for each motor vehicle owned or operated by him based upon the gross vehicle weight rating thereof, the following fees for each calendar year or portion thereof remaining:

Less than 4,000 lbs. \$7
 4,000 lbs. or more and less than 6,000 \$8
 6,000 lbs. or more and less than 8,000 \$9
 and continuing with increments of \$1.00 for every additional 2,000 pounds up to 60,000 pounds gross weight. Vehicles with a gross vehicle weight of 60,000 pounds or more shall pay a flat fee of \$36. Where the full amounts of the fees are not needed for any calendar year, the director may determine fees of lesser amounts to be necessary and reasonable for the year and may vary the schedule accordingly. The emblem shall be affixed in a conspicuous place upon the motor vehicle as prescribed by the director and shall be so displayed through the year. Any transfer or substitution of any emblem shall be unlawful.

(b) The director shall establish fair and reasonable fees for applications for approval of plans and specifications for construction or modification of a motor vehicle or class of motor vehicles in Hawaii which will at any time be operated upon the highways as provided in section 286- (12).

Sec. 286- Fines, fees and charges. All moneys collected under this part shall be paid into the State highway fund and shall be expended for the purpose of this part."

SECTION 2. Section 271-5, Hawaii Revised Statutes, is amended to read:

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

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.
- (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided, that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engaged in the transportation of persons other than those exempted in this paragraph, that portion of their operation shall not be exempt from the provisions contained in this chapter. Nothing herein shall be construed to authorize any person to engage in the transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or a certificate issued by the commission authorizing such transportation.
- (3) Persons operating taxicabs or other motor vehicles utilized in performing a bona fide metered taxicab service. "Taxicab" means and includes:
 - (A) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and

- (B) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, as defined in section 70-1, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area.
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269.
- (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.
- (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.
- (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters or blueprints.
- (8) Persons operating funeral cars or ambulances.
- (9) Persons operating motor vehicles in the transportation of garbage or refuse.
- (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii.
- (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.
- (12) Sugar plantations transporting sugar cane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pursuant to contracts administered by the United States Department of Agriculture.
- (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire.
- (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading.
- (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading.

- (16) Persons engaged in transporting not more than fifteen passengers between their places of abode, or termini near such places, and their places of employment in a single daily round trip where the driver is also on his way to or from his place of employment."

SECTION 3. Section 271-6, Hawaii Revised Statutes, is repealed.

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

"Sec. 271-7 Exemptions, vehicles used by farmers. Notwithstanding any other provisions of this chapter all motor vehicles used by farmers exclusively for their farm operations and all motor vehicles used by farmers who infrequently transport from the place of production to a warehouse, regular market, place of storage, or place of shipment, the farm products of neighboring farmers in exchange for like or reciprocal services, for farm products, or for a cash consideration not exceeding \$1,500 per year; provided, that the transportation shall constitute the sole transportation of property for hire or compensation of the farmers are exempted from this chapter."

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

"Sec. 271-9 General duties and powers of the commission (a) The general duties and powers of the public utilities commission shall be:

- (1) To regulate common carriers by motor vehicle, and to that end the commission shall establish reasonable requirements with respect to continuous and adequate service, leasing of motor vehicles, uniform system of accounts, records, and reports, and preservation of records.
- (2) To regulate contract carriers, by motor vehicle, and to that end the commission shall establish reasonable requirements with respect to leasing of motor vehicles, uniform system of accounts, records, and reports, and preservation of records.
- (3) To administer, execute, and enforce this chapter, to make all necessary orders in connection therewith, and to prescribe rules, regulations, and procedures for the administration.
- (4) For purposes of the administration of this chapter, to inquire into the management of the business of motor carriers, and into the management of the business of persons controlling, controlled by, or under common control with, motor carriers to the extent that the business of these persons is related to the management of the business of one or more motor carriers, and the commission shall keep itself informed as to the manner and method in which the same are conducted, and may obtain from the carriers and persons such information as the commission deems necessary to carry out the provisions of this chapter.

(b) The commission may from time to time establish such just and reasonable classifications of groups of carriers included in the term "common carrier by motor vehicle" or "contract carrier by motor vehicle", as the special nature of the services performed by the carriers shall require, and such just and reasonable rules, regulations, and requirements, consistent with this chapter, to be observed by the carriers so classified or grouped, as the commission deems

necessary or desirable in the public interest.

(c) Upon complaint in writing to the commission by any person or body politic, or upon its own initiative without complaint, the commission may investigate whether any motor carrier has failed to comply with any provision of this chapter, or with any regulation, requirements, or order established or issued pursuant thereto. If the commission, after notice and hearing as prescribed in section 271-31, finds upon any investigation that the motor carrier has failed to comply with any provision, regulation, requirements, or order, the commission shall issue an appropriate order to compel the carrier to comply therewith. Whenever the commission is of the opinion that any complaint does not state reasonable grounds for investigation and action on its part, it may dismiss the complaint."

SECTION 6. Section 271-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Whenever the public utilities commission inquires into the operations, operating rights, rates, or directs inquiry and investigation into motor carrier activities regulated under this chapter, and holds public hearing thereon, it shall make a report in writing in respect thereto, which shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises."

SECTION 7. Section 271-36, Hawaii Revised Statutes, is amended to read:

"Sec. 271-36 Feeds and charges. (a) Every common carrier by motor vehicle and every contract carrier by motor vehicle, shall pay to the commission in April in each year, a fee which shall be equal to one-eighth of one per cent of the gross revenues from carrier's business during the preceding calendar year or the sum of \$10, whichever is greater. Gross revenues include all revenues received from services connected with or incidental to transportation services as described in section 271-4(6), and (7).

(b) The commission shall establish fair and reasonable fees for the following applications which shall be paid to the commission at the time of submission to it of the applications:

- (1) Applications for certificates and permits as provided by sections 271-12 and 271-13.
- (2) Applications for extensions of certificates as provided by section 271-12(d).
- (3) Applications for temporary certificates and permits as provided by section 271-16.
- (4) Application for authority to sell, lease, assign, encumber, merge, etc., the property necessary or useful in the performance of duties to the public or certificates or permits or to purchase motor carrier stock, etc., as provided in section 271-18.

(c) The commission may charge an amount it deems necessary and reasonable to defray the cost of supplying to the carriers and the public the application forms and other forms, schedules, tariffs, copies of regulations, and other pamphlets and materials it provides either by the individual copy or in bulk.

(d) All of the fees and charges collected under this section shall be paid into the treasury of the State."

SECTION 8. Chapter 286, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

"PART . MOTOR VEHICLE REGULATION

"Sec. 286- Powers and duties. The director of transportation shall prescribe uniform standards and procedures for motor vehicle inspection, driver licensing, and registration, including the form and content of records to be maintained for the registration of vehicles and for the licensing of drivers.

Sec. 286- Enforcement. The director of transportation shall have such powers and duties of enforcement of statutes and of rules adopted by him as are necessary to implement this part. The director may delegate the enforcement of this part to the county executive officers.

Sec. 286- Rules. The director of transportation shall adopt rules pursuant to chapter 91 necessary for the purposes of this part."

SECTION 9. Section 286-3, Hawaii Revised Statutes, is amended to read:

"Sec. 286-3. Powers and duties of the governor. The governor, in addition to other duties and responsibilities conferred upon him by the Constitution and laws of the State, may contract and do all other things necessary in behalf of the State to promote traffic safety. To that end he shall coordinate the activities of the State and its counties.

The governor may delegate duties and functions conferred upon him by this chapter to the director of transportation appointed under the authority of section 26-31 who shall also be designated as the governor's highway safety representative."

SECTION 10. Section 286-4, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 286-26, Hawaii Revised Statutes, is amended to read:

"Sec. 286-26 Certificates of inspection. (a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Motor vehicles ten years of age or older,
- (2) Ambulances,
- (3) Trucks, truck-tractors, semitrailers, or pole trailers having a gross vehicle weight rating of more than 10,000 pounds,
- (4) Buses,
- (5) Rental or U-drive motor vehicles,
- (6) Taxi cabs.

(b) All other vehicles, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months.

(c) Any vehicle which has been involved in an accident, when it is determined by a police officer that the vehicle's equipment has been damaged so as to render the vehicle unsafe, shall be so certified before it is operated again.

(d) Every vehicle shall be certified prior to the issuance of a temporary or permanent registration by the treasurer and prior to the transfer of any

registration; provided that this requirement shall not apply to a subsequent transfer of registration in a vehicle which carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued on a vehicle, an inspection as prescribed by the director under subsection (f) shall be conducted on the vehicle and if the vehicle is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the board of supervisors or council of each county. A sticker, authorized by the director, shall be affixed to the vehicle at the time a certificate of inspection is issued.

(f) The director shall adopt necessary rules and regulations for the administration of inspections, the issuance of certificates of inspection, and the acceptance of certificates of inspection issued in other jurisdictions.

(g) This section shall not apply to any motor vehicle which is covered by part _____ of this chapter, governing safety of motor carrier vehicle operation and equipment; provided the rules adopted pursuant to part _____, impose standards of inspection at least as strict as those imposed under subsection (f), and that certification is required at least as often as provided in subsections (a), (b), (c), and (d)."

SECTION 12. Wherever necessary to conform with the purposes of this Act, chapter 286 and such other chapters or sections of the Hawaii Revised Statutes are amended by substituting the "state director of transportation" for the "state highway safety coordinator" or any other person heretofore charged with motor vehicle safety.

SECTION 13. All officers and employees of the public utilities commission whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer.

SECTION 14. All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the public utilities commission or any other state or county agency relating to the functions transferred to the department or the director of transportation shall be transferred with the functions to which they relate.

SECTION 15. There is appropriated and authorized out of the state highway fund for highway safety (TRN 595) \$271,276 (12) for the fiscal year 1977-1978 and \$261,988 (12) for the fiscal year 1978-1979 or so much thereof as may be necessary, for the purposes of this Act. The sums appropriated shall be expended by the director of transportation with the approval of the governor to establish and fund positions shown parenthetically and for any other purpose of this Act.

SECTION 16. Any rule or order, including PUC general order number two, adopted or issued under any law affected by this Act and in effect on the effective date of this Act and not in conflict with it shall continue in effect until modified, superseded or repealed.

SECTION 17. Statutory material to be repealed is bracketed. New material

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 18. This Act shall take effect on July 1, 1977.

(Approved July 5, 1977.)

*Edited accordingly.