

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. Section 269-1, Hawaii Revised Statutes, is amended to read as follows:

“§269-1 Definitions. As used in this chapter:

“Public utility” means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph

messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term (1) means and includes any person, insofar as such person owns or operates a private sewer company or sewer facility; (2) shall not include any person insofar as such person owns or operates an aerial transportation enterprise; (3) shall not include persons owning or operating taxicabs, as defined herein; (4) shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points which the public utilities commission finds to be inadequately serviced without regulation under this chapter; (5) shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest; (6) shall not include the business of any carrier by water to the extent that such carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally, and also shall not include the business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure; and (7) shall not include any person which (A) controls, operates, or manages plants or facilities for production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources, and (B) provides, sells, or transmits all of such power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public.

In the event the application of this chapter is ordered by the commission in any case provided in (3) and (4) the business of any public utility which presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in section 269-20.

“Taxicab” means and includes:

- (1) 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
- (2) 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, 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 unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only

to those motor vehicles whose operators or owners were duly licensed (under section 445-222 and any other applicable provision of law or ordinance) and doing business between such terminals on January 1, 1957.

“Public highways” has the meaning defined by section 264-1, including both state and county highways, but operation upon rails shall not be deemed transportation on public highways.”

SECTION 2. Section 269-24, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 269-30, Hawaii Revised Statutes, is amended to read as follows:

“§269-30 **Finances; public utility fee.** Section 607-5 to 607-9 shall apply to the public utilities commission and each commissioner, as well as to the supreme and circuit courts, and all costs and fees paid or collected hereunder shall be deposited with the director of finance of the State to the credit of the general fund.

There shall also be paid to the commission in each of the months of July and December in each year by each public utility which is subject to investigation by the commission, a fee which shall be equal to one-eighth of one per cent of the gross income from the public utility business carried on by the public utility during the preceding year, or the sum of \$15, whichever is greater. This fee shall likewise be deposited with the director of finance of the State to the credit of the general fund.”

SECTION 4. Section 238-1, Hawaii Revised Statutes, is amended by amending the definition of “use” to read as follows:

““Use” (and any noun, verbal, adjective, adverbial, and other equivalent form of the term) herein used interchangeably means any use, whether the use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of the property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property, but the term “use” shall not include:

- (1) Temporary use of property, not of a perishable or quickly consumable nature, where the property is imported into the State for temporary use (not sale) therein by the person importing the same and is not intended to be, and is not, kept permanently in the State (as for example without limiting the generality of the foregoing language: (A) in the case of a contractor importing permanent equipment for the performance of a construction contract, with intent to remove, and who does remove, the equipment out of the State upon completing the contract; (B) in the case of moving picture films imported for use in theaters in the State with intent or under contract to transport the same out of the State after completion of such use; (C) in the case of a transient visitor importing an automobile or other belongings into the State to be used by him while therein but which are to be used and are removed upon his departure from the State).
- (2) Use by the taxpayer of property acquired by him solely by way of gift.
- (3) Use which is limited to the receipt of articles and the return thereof, to the person from whom acquired, immediately or within a reasonable time

either after temporary trial or without trial.

- (4) Use of goods imported into the State by the owner of a vessel or vessels engaged in interstate or foreign commerce and held for and used only as ship stores for the vessels.
- (5) The use or keeping for use of household goods, personal effects, and private automobiles imported into the State for nonbusiness use by a person who (A) acquired them in another state, territory, district, or country, (B) at the time of the acquisition was a bona fide resident of another state, territory, district, or country, (C) acquired the property for use outside the State, and (D) made actual and substantial use thereof outside this State; provided that as to an article acquired less than three months prior to the time of its importation into the State it shall be presumed, until and unless clearly proved to the contrary, that it was acquired for use in the State and that its use outside the State was not actual and substantial.
- (6) The leasing or renting of any aircraft or the keeping of any aircraft solely for leasing or renting to lessees or renters using the aircraft for commercial transportation of passengers and goods.
- (7) The use of oceangoing vehicles for passenger or passenger and goods transportation from one point to another within the State as a public utility as defined in chapter 269.

With regard to purchases made and distributed under the authority of chapter 421 or under the authority of the Fish Marketing Act under chapter 422, a cooperative association shall be deemed the user thereof.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 17, 1981.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.