

JAN 23 2025

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# A BILL FOR AN ACT

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RELATING TO TRANSPORTATION.

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

**1** PART I

**2** SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is  
**3** amended to read as follows:

**4** "**§46-1.5 General powers and limitation of the counties.**

**5** Subject to general law, each county shall have the following  
**6** powers and shall be subject to the following liabilities and  
**7** limitations:

**8** (1) Each county shall have the power to frame and adopt a  
**9** charter for its own self-government that shall  
**10** establish the county executive, administrative, and  
**11** legislative structure and organization, including but  
**12** not limited to the method of appointment or election  
**13** of officials, their duties, responsibilities, and  
**14** compensation, and the terms of their office;

**15** (2) Each county shall have the power to provide for and  
**16** regulate the marking and lighting of all buildings and  
**17** other structures that may be obstructions or hazards



1 to aerial navigation, so far as may be necessary or  
2 proper for the protection and safeguarding of life,  
3 health, and property;

4 (3) Each county shall have the power to enforce all claims  
5 on behalf of the county and approve all lawful claims  
6 against the county, but shall be prohibited from  
7 entering into, granting, or making in any manner any  
8 contract, authorization, allowance payment, or  
9 liability contrary to the provisions of any county  
10 charter or general law;

11 (4) Each county shall have the power to make contracts and  
12 to do all things necessary and proper to carry into  
13 execution all powers vested in the county or any  
14 county officer;

15 (5) Each county shall have the power to:

16 (A) Maintain channels, whether natural or artificial,  
17 including their exits to the ocean, in suitable  
18 condition to carry off storm waters;

19 (B) Remove from the channels, and from the shores and  
20 beaches, any debris that is likely to create an  
21 unsanitary condition or become a public nuisance;



1 provided that, to the extent any of the foregoing  
2 work is a private responsibility, the  
3 responsibility may be enforced by the county in  
4 lieu of the work being done at public expense;

5 (C) Construct, acquire by gift, purchase, or by the  
6 exercise of eminent domain, reconstruct, improve,  
7 better, extend, and maintain projects or  
8 undertakings for the control of and protection  
9 against floods and flood waters, including the  
10 power to drain and rehabilitate lands already  
11 flooded;

12 (D) Enact zoning ordinances providing that lands  
13 deemed subject to seasonable, periodic, or  
14 occasional flooding shall not be used for  
15 residence or other purposes in a manner as to  
16 endanger the health or safety of the occupants  
17 thereof, as required by the Federal Flood  
18 Insurance Act of 1956 (chapter 1025, Public Law  
19 1016); and

20 (E) Establish and charge user fees to create and  
21 maintain any stormwater management system or



1           infrastructure; provided that no county shall  
2           charge against or collect user fees from the  
3           department of transportation in excess of  
4           \$1,500,000 in the aggregate per year; provided  
5           further that no services shall be denied to the  
6           department of transportation by reason of  
7           nonpayment of the fees;

8       (6) Each county shall have the power to exercise the power  
9       of condemnation by eminent domain when it is in the  
10      public interest to do so;

11      (7) Each county shall have the power to exercise  
12      regulatory powers over business activity as are  
13      assigned to them by chapter 445 or other general law;

14      (8) Each county shall have the power to fix the fees and  
15      charges for all official services not otherwise  
16      provided for;

17      (9) Each county shall have the power to provide by  
18      ordinance assessments for the improvement or  
19      maintenance of districts within the county;

20      (10) Except as otherwise provided, no county shall have the  
21      power to give or loan credit to, or in aid of, any



1 person or corporation, directly or indirectly, except  
2 for a public purpose;

3 (11) Where not within the jurisdiction of the [~~public~~  
4 ~~utilities commission,~~] department of transportation,  
5 each county shall have the power to regulate by  
6 ordinance the operation of motor vehicle common  
7 carriers transporting passengers within the county and  
8 adopt and amend rules the county deems necessary for  
9 the public convenience and necessity;

10 (12) Each county shall have the power to enact and enforce  
11 ordinances necessary to prevent or summarily remove  
12 public nuisances and to compel the clearing or removal  
13 of any public nuisance, refuse, and uncultivated  
14 undergrowth from streets, sidewalks, public places,  
15 and unoccupied lots. In connection with these powers,  
16 each county may impose and enforce liens upon the  
17 property for the cost to the county of removing and  
18 completing the necessary work where the property  
19 owners fail, after reasonable notice, to comply with  
20 the ordinances. The authority provided by this  
21 paragraph shall not be self-executing, but shall



1           become fully effective within a county only upon the  
2           enactment or adoption by the county of appropriate and  
3           particular laws, ordinances, or rules defining "public  
4           nuisances" with respect to each county's respective  
5           circumstances. The counties shall provide the  
6           property owner with the opportunity to contest the  
7           summary action and to recover the owner's property;

8       (13) Each county shall have the power to enact ordinances  
9           deemed necessary to protect health, life, and  
10          property, and to preserve the order and security of  
11          the county and its inhabitants on any subject or  
12          matter not inconsistent with, or tending to defeat,  
13          the intent of any state statute where the statute does  
14          not disclose an express or implied intent that the  
15          statute shall be exclusive or uniform throughout the  
16          State;

17       (14) Each county shall have the power to:

18           (A) Make and enforce within the limits of the county  
19               all necessary ordinances covering all:

20               (i) Local police matters;

21               (ii) Matters of sanitation;



1 (iii) Matters of inspection of buildings;

2 (iv) Matters of condemnation of unsafe

3 structures, plumbing, sewers, dairies, milk,

4 fish, and morgues; and

5 (v) Matters of the collection and disposition of

6 rubbish and garbage;

7 (B) Provide exemptions for homeless facilities and

8 any other program for the homeless authorized by

9 part XVII of chapter 346, for all matters under

10 this paragraph;

11 (C) Appoint county physicians and sanitary and other

12 inspectors as necessary to carry into effect

13 ordinances made under this paragraph, who shall

14 have the same power as given by law to agents of

15 the department of health, subject only to

16 limitations placed on them by the terms and

17 conditions of their appointments; and

18 (D) Fix a penalty for the violation of any ordinance,

19 which penalty may be a misdemeanor, petty

20 misdemeanor, or violation as defined by general

21 law;



1       (15) Each county shall have the power to provide public  
2               pounds; to regulate the impounding of stray animals  
3               and fowl, and their disposition; and to provide for  
4               the appointment, powers, duties, and fees of animal  
5               control officers;

6       (16) Each county shall have the power to purchase and  
7               otherwise acquire, lease, and hold real and personal  
8               property within the defined boundaries of the county  
9               and to dispose of the real and personal property as  
10              the interests of the inhabitants of the county may  
11              require, except that:

12            (A) Any property held for school purposes may not be  
13               disposed of without the consent of the  
14               superintendent of education;

15            (B) No property bordering the ocean shall be sold or  
16               otherwise disposed of; and

17            (C) All proceeds from the sale of park lands shall be  
18               expended only for the acquisition of property for  
19               park or recreational purposes;

20       (17) Each county shall have the power to provide by charter  
21               for the prosecution of all offenses and to prosecute





1 for offenses against the laws of the State under the  
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make  
4 appropriations in amounts deemed appropriate from any  
5 moneys in the treasury, for the purpose of:

6 (A) Community promotion and public celebrations;

7 (B) The entertainment of distinguished persons as may  
8 from time to time visit the county;

9 (C) The entertainment of other distinguished persons,  
10 as well as, public officials when deemed to be in  
11 the best interest of the community; and

12 (D) The rendering of civic tribute to individuals  
13 who, by virtue of their accomplishments and  
14 community service, merit civic commendations,  
15 recognition, or remembrance;

16 (19) Each county shall have the power to:

17 (A) Construct, purchase, take on lease, lease,  
18 sublease, or in any other manner acquire, manage,  
19 maintain, or dispose of buildings for county  
20 purposes, sewers, sewer systems, pumping  
21 stations, waterworks, including reservoirs,



1 wells, pipelines, and other conduits for  
2 distributing water to the public, lighting  
3 plants, and apparatus and appliances for lighting  
4 streets and public buildings, and manage,  
5 regulate, and control the same;

6 (B) Regulate and control the location and quality of  
7 all appliances necessary to the furnishing of  
8 water, heat, light, power, telephone, and  
9 telecommunications service to the county;

10 (C) Acquire, regulate, and control any and all  
11 appliances for the sprinkling and cleaning of the  
12 streets and the public ways, and for flushing the  
13 sewers; and

14 (D) Open, close, construct, or maintain county  
15 highways or charge toll on county highways;  
16 provided that all revenues received from a toll  
17 charge shall be used for the construction or  
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the  
20 renting, subletting, and rental conditions of property  
21 for places of abode by ordinance;



1       (21) Unless otherwise provided by law, each county shall  
2           have the power to establish by ordinance the order of  
3           succession of county officials in the event of a  
4           military or civil disaster;

5       (22) Each county shall have the power to sue and be sued in  
6           its corporate name;

7       (23) Each county shall have the power to:

8           (A) Establish and maintain waterworks and sewer  
9           works;

10          (B) Implement a sewer monitoring program that  
11           includes the inspection of sewer laterals that  
12           connect to county sewers, when those laterals are  
13           located on public or private property, after  
14           providing a property owner not less than ten  
15           calendar days' written notice, to detect leaks  
16           from laterals, infiltration, and inflow, any  
17           other law to the contrary notwithstanding;

18          (C) Compel an owner of private property upon which is  
19           located any sewer lateral that connects to a  
20           county sewer to inspect that lateral for leaks,



1           infiltration, and inflow and to perform repairs  
2           as necessary;

3           (D) Collect rates for water supplied to consumers and  
4           for the use of sewers;

5           (E) Install water meters whenever deemed expedient;  
6           provided that owners of premises having vested  
7           water rights under existing laws appurtenant to  
8           the premises shall not be charged for the  
9           installation or use of the water meters on the  
10          premises;

11          (F) Take over from the State existing waterworks  
12          systems, including water rights, pipelines, and  
13          other appurtenances belonging thereto, and sewer  
14          systems, and to enlarge, develop, and improve the  
15          same; and

16          (G) For purposes of subparagraphs (B) and (C):

17           (i) "Infiltration" means groundwater, rainwater,  
18           and saltwater that enters the county sewer  
19           system through cracked, broken, or defective  
20           sewer laterals; and



1           (ii) "Inflow" means non-sewage entering the  
2                       county sewer system via inappropriate or  
3                       illegal connections;

4       (24) (A) Each county may impose civil fines, in addition  
5                       to criminal penalties, for any violation of  
6                       county ordinances or rules after reasonable  
7                       notice and requests to correct or cease the  
8                       violation have been made upon the violator. Any  
9                       administratively imposed civil fine shall not be  
10                      collected until after an opportunity for a  
11                      hearing under chapter 91. Any appeal shall be  
12                      filed within thirty days from the date of the  
13                      final written decision. These proceedings shall  
14                      not be a prerequisite for any civil fine or  
15                      injunctive relief ordered by the circuit court;

16       (B) Each county by ordinance may provide for the  
17                      addition of any unpaid civil fines, ordered by  
18                      any court of competent jurisdiction, to any  
19                      taxes, fees, or charges, with the exception of  
20                      fees or charges for water for residential use and  
21                      sewer charges, collected by the county. Each



1 county by ordinance may also provide for the  
2 addition of any unpaid administratively imposed  
3 civil fines, which remain due after all judicial  
4 review rights under section 91-14 are exhausted,  
5 to any taxes, fees, or charges, with the  
6 exception of water for residential use and sewer  
7 charges, collected by the county. The ordinance  
8 shall specify the administrative procedures for  
9 the addition of the unpaid civil fines to the  
10 eligible taxes, fees, or charges and may require  
11 hearings or other proceedings. After addition of  
12 the unpaid civil fines to the taxes, fees, or  
13 charges, the unpaid civil fines shall not become  
14 a part of any taxes, fees, or charges. The  
15 county by ordinance may condition the issuance or  
16 renewal of a license, approval, or permit for  
17 which a fee or charge is assessed, except for  
18 water for residential use and sewer charges, on  
19 payment of the unpaid civil fines. Upon  
20 recordation of a notice of unpaid civil fines in  
21 the bureau of conveyances, the amount of the



1 civil fines, including any increase in the amount  
2 of the fine which the county may assess, shall  
3 constitute a lien upon all real property or  
4 rights to real property belonging to any person  
5 liable for the unpaid civil fines. The lien in  
6 favor of the county shall be subordinate to any  
7 lien in favor of any person recorded or  
8 registered prior to the recordation of the notice  
9 of unpaid civil fines and senior to any lien  
10 recorded or registered after the recordation of  
11 the notice. The lien shall continue until the  
12 unpaid civil fines are paid in full or until a  
13 certificate of release or partial release of the  
14 lien, prepared by the county at the owner's  
15 expense, is recorded. The notice of unpaid civil  
16 fines shall state the amount of the fine as of  
17 the date of the notice and maximum permissible  
18 daily increase of the fine. The county shall not  
19 be required to include a social security number,  
20 state general excise taxpayer identification  
21 number, or federal employer identification number



1 on the notice. Recordation of the notice in the  
2 bureau of conveyances shall be deemed, at ~~[such]~~  
3 the time, for all purposes and without any  
4 further action, to procure a lien on land  
5 registered in land court under chapter 501.

6 After the unpaid civil fines are added to the  
7 taxes, fees, or charges as specified by county  
8 ordinance, the unpaid civil fines shall be deemed  
9 immediately due, owing, and delinquent and may be  
10 collected in any lawful manner. The procedure  
11 for collection of unpaid civil fines authorized  
12 in this paragraph shall be in addition to any  
13 other procedures for collection available to the  
14 State and county by law or rules of the courts;

15 (C) Each county may impose civil fines upon any  
16 person who places graffiti on any real or  
17 personal property owned, managed, or maintained  
18 by the county. The fine may be up to \$1,000 or  
19 may be equal to the actual cost of having the  
20 damaged property repaired or replaced. The  
21 parent or guardian having custody of a minor who





1 places graffiti on any real or personal property  
2 owned, managed, or maintained by the county shall  
3 be jointly and severally liable with the minor  
4 for any civil fines imposed hereunder. Any  
5 [~~such~~] fine may be administratively imposed after  
6 an opportunity for a hearing under chapter 91,  
7 but such a proceeding shall not be a prerequisite  
8 for any civil fine ordered by any court. As used  
9 in this subparagraph, "graffiti" means any  
10 unauthorized drawing, inscription, figure, or  
11 mark of any type intentionally created by paint,  
12 ink, chalk, dye, or similar substances;

13 (D) At the completion of an appeal in which the  
14 county's enforcement action is affirmed and upon  
15 correction of the violation if requested by the  
16 violator, the case shall be reviewed by the  
17 county agency that imposed the civil fines to  
18 determine the appropriateness of the amount of  
19 the civil fines that accrued while the appeal  
20 proceedings were pending. In its review of the



1 amount of the accrued fines, the county agency  
2 may consider:

- 3 (i) The nature and egregiousness of the  
4 violation;  
5 (ii) The duration of the violation;  
6 (iii) The number of recurring and other similar  
7 violations;  
8 (iv) Any effort taken by the violator to correct  
9 the violation;  
10 (v) The degree of involvement in causing or  
11 continuing the violation;  
12 (vi) Reasons for any delay in the completion of  
13 the appeal; and  
14 (vii) Other extenuating circumstances.

15 The civil fine that is imposed by administrative  
16 order after this review is completed and the  
17 violation is corrected shall be subject to  
18 judicial review, notwithstanding any provisions  
19 for administrative review in county charters;  
20 (E) After completion of a review of the amount of  
21 accrued civil fine by the county agency that



1           imposed the fine, the amount of the civil fine  
2           determined appropriate, including both the  
3           initial civil fine and any accrued daily civil  
4           fine, shall immediately become due and  
5           collectible following reasonable notice to the  
6           violation. If no review of the accrued civil fine  
7           is requested, the amount of the civil fine, not  
8           to exceed the total accrual of civil fine prior  
9           to correcting the violation, shall immediately  
10          become due and collectible following reasonable  
11          notice to the violator, at the completion of all  
12          appeal proceedings; and

13          (F) If no county agency exists to conduct appeal  
14          proceedings for a particular civil fine action  
15          taken by the county, then one shall be  
16          established by ordinance before the county shall  
17          impose the civil fine;

18          (25) Any law to the contrary notwithstanding, any county  
19          mayor, by executive order, may exempt donors, provider  
20          agencies, homeless facilities, and any other program  
21          for the homeless under part XVII of chapter 346 from



1 real property taxes, water and sewer development fees,  
2 rates collected for water supplied to consumers and  
3 for use of sewers, and any other county taxes,  
4 charges, or fees; provided that any county may enact  
5 ordinances to regulate and grant the exemptions  
6 granted by this paragraph;

7 (26) Any county may establish a captive insurance company  
8 pursuant to article 19, chapter 431; and

9 (27) Each county shall have the power to enact and enforce  
10 ordinances regulating towing operations."

11 SECTION 2. Section 239-2, Hawaii Revised Statutes, is  
12 amended by amending the definition of "gross income" to read as  
13 follows:

14 ""Gross income" means the gross income from public service  
15 company business as follows:

16 (1) Gross income from the production, conveyance,  
17 transmission, delivery, or furnishing of light, power,  
18 heat, cold, water, gas, or oil;

19 (2) Gross income from the transportation of passengers or  
20 freight, or the conveyance or transmission of  
21 telephone or telegraph messages other than mobile



1 telecommunications services, or the furnishing of  
2 facilities for the transmission of intelligence by  
3 electricity, by land or water or air:

4 (A) Originating and terminating within [~~this~~] the  
5 State;

6 (B) By means of vessels or aircraft having their home  
7 port in the State and operating between ports or  
8 airports in the State, with respect to the  
9 transportation so effected; or

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

12 (3) Gross income from the transportation of freight by  
13 motor carriers (other than as stated in paragraph  
14 (2)), or the conveyance or transmission of messages or  
15 intelligence through wires or cables located or partly  
16 located in the State (other than as stated in  
17 paragraph (2) or (5));

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

20 (5) With respect to a home service provider of mobile  
21 telecommunications services, "gross income" includes



1 charges billed for mobile telecommunications services  
2 provided by a home service provider to a customer with  
3 a place of primary use in [~~this~~] the State when the  
4 mobile telecommunications services originate and  
5 terminate within the same state; provided that all  
6 [~~such~~] the charges for mobile telecommunications  
7 services that are billed by or for the home service  
8 provider are deemed to be provided by the home service  
9 provider at the customer's place of primary use,  
10 regardless of where the mobile telecommunications  
11 services originate, terminate, or pass through.

12 "Gross income" shall not include:

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

17 (B) Any receipts of a home service provider acting as  
18 a serving carrier providing mobile  
19 telecommunications services to another home  
20 service provider's customer; and



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

6 For the purposes of this paragraph, "customer", "home  
7 service provider", "mobile telecommunications  
8 services", "place of primary use", and "serving  
9 carrier" have the same meaning as in section 239-22.

10 The words "gross income" and "gross income from public  
11 service company business" shall not be construed to include  
12 dividends (as defined ~~by~~ in section 235-1) paid by one member  
13 of an affiliated public service company group to another member  
14 of the same group; or gross income from the sale or transfer of  
15 materials or supplies, interest on loans, or the provision of  
16 engineering, construction, maintenance, or managerial services  
17 by one member of an affiliated public service company group to  
18 another member of the same group. "Affiliated public service  
19 company group" means an affiliated group of domestic  
20 corporations within the meaning of chapter 235, all of the  
21 members of which are public service companies. "Member of an



1 affiliated public service company group" means a corporation  
2 (including the parent corporation) that is included within an  
3 affiliated public service company group.

4 Where the transportation of passengers or property is  
5 furnished through arrangements between motor carriers, and the  
6 gross income is divided between the motor carriers, any tax  
7 imposed by this chapter shall apply to each motor carrier with  
8 respect to each motor carrier's respective portion of the  
9 proceeds.

10 Where tourism related services are furnished through  
11 arrangements made by a travel agency or tour packager and the  
12 gross income is divided between the provider of the services on  
13 the one hand and the travel agency or tour packager on the other  
14 hand, any tax imposed by this chapter shall apply to each person  
15 with respect to each person's respective portion of the  
16 proceeds.

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





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

4       SECTION 3. Section 269-33, Hawaii Revised Statutes, is  
5 amended by amending subsections (a) and (b) to read as follows:

6       "(a) There is established in the state treasury a public  
7 utilities commission special fund to be administered by the  
8 public utilities commission. The proceeds of the fund shall be  
9 used by the public utilities commission and the division of  
10 consumer advocacy of the department of commerce and consumer  
11 affairs for all expenses incurred in the administration of  
12 chapters 269, [~~271, 271G,~~] 269E, and 486J, and for costs  
13 incurred by the department of commerce and consumer affairs to  
14 fulfill the department's limited oversight and administrative  
15 support functions; provided that the expenditures of the public  
16 utilities commission shall be in accordance with legislative  
17 appropriations. On a quarterly basis, an amount not exceeding  
18 thirty per cent of the proceeds remaining in the fund after the  
19 deduction for central service expenses, pursuant to section  
20 36-27, shall be allocated by the public utilities commission to  
21 the division of consumer advocacy and deposited in the



1 compliance resolution fund established pursuant to section  
2 26-9(o); provided that all moneys allocated by the public  
3 utilities commission from the fund to the division of consumer  
4 advocacy shall be in accordance with legislative appropriations.

5 (b) All moneys appropriated to, received, and collected by  
6 the public utilities commission that are not otherwise pledged,  
7 obligated, or required by law to be placed in any other special  
8 fund or expended for any other purpose shall be deposited into  
9 the public utilities commission special fund including, but not  
10 limited to, all moneys received and collected by the public  
11 utilities commission pursuant to sections 92-21, 243-3.5,  
12 269-28, 269-30, [~~271-27, 271-36, 271G-19,~~] 269E-6, 269E-14, and  
13 607-5."

14 SECTION 4. Section 271-4, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By amending the definition of "document" to read:  
17 ""Document" includes any application, complaint, pleading,  
18 brief, answer, motion, memorandum, declaration, exhibit,  
19 certificate of service, and other papers filed by or with the  
20 [~~commission-~~] department."

21 2. By amending the definition of "motor vehicle" to read:



1       ""Motor vehicle" means any vehicle, machine, tractor,  
2   trailer, or semitrailer propelled or drawn by mechanical power  
3   and used upon the highways in the transportation of passengers  
4   or property, or any combination thereof determined by the  
5   ~~[commission]~~ department, but does not include any vehicle,  
6   locomotive, or car operated exclusively on a rail or rails or a  
7   trolley bus operated by electric power derived from a fixed  
8   overhead wire, furnishing local passenger transportation similar  
9   to street-railway service."

10       3. By repealing the definition of "commission".

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

12       SECTION 5. Section 271-5, Hawaii Revised Statutes, is  
13   amended to read as follows:

14       "**§271-5 Exemptions, generally.** Notwithstanding any other  
15   provisions of this chapter, its contents shall not apply to:

- 16       (1) Persons transporting their own property where the  
17       transportation is in furtherance of a primary business  
18       purpose or enterprise of that person, except where the  
19       transportation is undertaken by a motor carrier to  
20       evade the regulatory purposes of this chapter;



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



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

"Taxicab" 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;

(B) Any motor vehicle for hire having seating accommodations for eight or fewer passengers used in the movement of passengers on the public highways that may, as part of a continuous trip, pick up or discharge passengers from various unrelated locations; provided that they shall be regulated by the counties in accordance with section 46-16.5(c); ~~and~~ provided further that this subparagraph shall not apply to any 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~~] the  
20          transportation 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]~~ the places, and their places of employment  
4           in a single daily round trip where the driver is also  
5           on 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 person, except that this  
14          exemption shall not apply to persons making any  
15          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



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

SECTION 6. Section 271-9, Hawaii Revised Statutes, is amended to read as follows:

**"§271-9 General duties and powers of the [~~commission~~]  
department.** (a) The general duties and powers of the [~~public utilities commission~~] department shall be:

(1) To regulate common carriers by motor vehicle, and to that end the [~~commission~~] department 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~~] department shall establish



1 reasonable requirements with respect to leasing of  
2 motor vehicles, uniform system of accounts, records,  
3 and reports, and preservation of records[-];

4 (3) To administer, execute, and enforce this chapter, to  
5 make all necessary orders in connection therewith, and  
6 to prescribe rules, regulations, and procedures for  
7 the administration[-];

8 (4) For purposes of the administration of this chapter, to  
9 inquire into the management of the business of motor  
10 carriers, and into the management of the business of  
11 persons controlling, controlled by, or under common  
12 control with, motor carriers to the extent that the  
13 business of these persons is related to the management  
14 of the business of one or more motor carriers, and the  
15 [~~commission~~] department shall keep itself informed as  
16 to the manner and method in which the same are  
17 conducted, and may obtain from the carriers and  
18 persons such information as the [~~commission~~]  
19 department deems necessary to carry out the provisions  
20 of this chapter[-]; and



1           (5) To investigate any person acting in the capacity of or  
2           engaging in the business of a motor carrier within the  
3           State, without having a certificate of public  
4           convenience and necessity or other authority  
5           previously obtained under and in compliance with this  
6           chapter or the rules promulgated thereunder.

7           (b) The [~~commission~~] department may from time to time  
8           establish such just and reasonable classifications of groups of  
9           carriers included in the term "common carrier by motor vehicle"  
10          or "contract carrier by motor vehicle", as the special nature of  
11          the services performed by the carriers shall require, and such  
12          just and reasonable rules, regulations, and requirements,  
13          consistent with this chapter, to be observed by the carriers so  
14          classified or grouped, as the [~~commission~~] department deems  
15          necessary or desirable in the public interest.

16          (c) Upon complaint in writing to the [~~commission~~]  
17          department by any person or body politic, or upon its own  
18          initiative without complaint, the [~~commission~~] department may  
19          investigate whether any motor carrier has failed to comply with  
20          any provision of this chapter, or with any regulation,  
21          requirements, or order established or issued pursuant thereto.



1 If the [~~commission,~~] department, after notice and hearing as  
2 prescribed in section 271-31, finds upon any investigation that  
3 the motor carrier has failed to comply with any provision,  
4 regulation, requirements, or order, the [~~commission~~] department  
5 shall issue an appropriate order to compel the carrier to comply  
6 therewith. Whenever the [~~commission~~] department is of the  
7 opinion that any complaint does not state reasonable grounds for  
8 investigation and action on its part, it may dismiss the  
9 complaint."

10 SECTION 7. Section 271-18, Hawaii Revised Statutes, is  
11 amended by amending subsection (d) to read as follows:

12 "(d) Whenever a transaction is proposed under subsection  
13 (b) or (c) of this section, the motor carrier or motor carriers,  
14 or person or persons, seeking approval thereof shall present an  
15 application to the [~~commission~~] department in [~~such~~] the form as  
16 the [~~commission~~] department may require and the [~~commission~~]  
17 department may thereupon act upon the application with or  
18 without first holding a public hearing; provided that if  
19 requested, it shall afford reasonable opportunity for interested  
20 parties to be heard. If the [~~commission~~] department finds that  
21 subject to such terms and conditions as it shall find to be just



1 and reasonable the proposed transaction will be consistent with  
2 the public interests, the [~~commission~~] department shall enter an  
3 order approving and authorizing the transaction, upon the terms  
4 and conditions, and with the modifications, so found to be just  
5 and reasonable. In passing upon any transaction under  
6 subsection (b) or (c), the [~~commission~~] department shall give  
7 weight, among other considerations, to the effect of the  
8 proposed transaction upon [~~(1) adequate transportation service~~  
9 ~~to the public, (2) other motor carriers, and (3) the employees~~  
10 ~~of any transferring motor carrier.]:~~

- 11 (1) Adequate transportation service to the public;
- 12 (2) Other motor carriers; and
- 13 (3) The employees of any transferring motor carrier."

14 SECTION 8. Section 271-27, Hawaii Revised Statutes, is  
15 amended as follows:

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

17 "(c) Any special agent, accountant, or examiner who  
18 knowingly and wilfully divulges any fact or information which  
19 may come to the special agent's, accountant's, or examiner's  
20 knowledge during the course of any examination or inspection  
21 made under authority of sections 271-9(a)(4), 271-23, and



1 271-25, except as the special agent, accountant, or examiner may  
2 be directed by the [~~commission~~] department or by a court or  
3 judge thereof, shall be guilty of a misdemeanor."

4 2. By amending subsections (f) through (j) to read:

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



1 ~~[commission]~~ department with respect thereto, shall be deemed  
2 guilty of a misdemeanor. As used in this subsection, the words  
3 "keep" and "kept" mean made, prepared, or compiled, as well as  
4 retained.

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

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





1       (2) The original of a summons or citation shall be given  
2       to the alleged violator and any other copies  
3       distributed in the manner prescribed by the district  
4       courts; provided that the district courts may  
5       prescribe alternative methods of distribution for the  
6       original and any other copies.

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

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

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

18      (6) When a complaint is made to any prosecuting officer of  
19      a violation of this chapter or any rule, the  
20      enforcement officer who issued the summons or citation  
21      shall subscribe to it under oath administered by



1 another official whose name has been submitted to the  
2 prosecuting officer and who has been designated by the  
3 [~~commission~~] department to administer the same.

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

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



1           (i) Notwithstanding subsection (h), a motor carrier who  
2 fails to file, within the prescribed time, a financial report  
3 with the [~~commission~~] department pursuant to its rules may be  
4 assessed a civil penalty payable to the State up to the sum of  
5 one-sixteenth of one per cent of the gross revenues from the  
6 motor carrier's business during the preceding calendar year, if  
7 the failure is for not more than one month, with an additional  
8 one-sixteenth of one per cent for each additional month or  
9 fraction thereof during which the failure continues, but in no  
10 event shall the total civil penalty be less than the sum of \$50.

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



1 representative thereof who engages the services of those  
2 persons.

3 (1) The citation may contain an order of abatement and an  
4 assessment of civil penalties as provided in  
5 subsection (h). All penalties collected under this  
6 subsection shall be deposited in the treasury of the  
7 State. Service of a citation issued under this  
8 subsection shall be made by personal service whenever  
9 possible or by certified mail, restricted delivery,  
10 sent to the last known business or residence address  
11 of the person cited.

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



1 The hearing shall be conducted by the [~~commission~~,]  
2 department, or the [~~commission~~] department may  
3 designate a hearings officer to hold the hearing.

4 (3) If the person cited under this subsection does not  
5 submit a written request to the [~~commission~~]  
6 department for a hearing in time, the citation shall  
7 be deemed a final order of the [~~commission~~]  
8 department. The [~~commission~~] department may apply to  
9 the appropriate court for a judgment to enforce the  
10 provisions of any final order issued by the  
11 [~~commission~~] department or designated hearings officer  
12 pursuant to this subsection, including the provisions  
13 for abatement and civil penalties imposed. In any  
14 proceeding to enforce the final order, the  
15 [~~commission~~] department need only produce a certified  
16 copy of the final order and show that the notice was  
17 given and that a hearing was held or the time granted  
18 for requesting the hearing has run without a request.

19 (4) If any party is aggrieved by the decision of the  
20 [~~commission~~] department or the designated hearings  
21 officer, the party may appeal, subject to chapter 602,



1 in the manner provided for civil appeals from the  
2 circuit courts; provided that the operation of an  
3 abatement order shall not be stayed on appeal unless  
4 specifically ordered by a court of competent  
5 jurisdiction after applying the stay criteria  
6 enumerated in section 91-14(c). The sanctions and  
7 disposition authorized under this subsection shall be  
8 separate and in addition to all other remedies either  
9 civil or criminal provided by law. The [~~commission~~]  
10 department may adopt any rules under chapter 91 that  
11 may be necessary to fully effectuate this subsection."

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

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



1 to the transportation of persons or the transportation of  
2 property, as defined under section 271-4.

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

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

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



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

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

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

10   The fees charged pursuant to this subsection shall be paid to  
11   the [~~commission~~] department at the time of submission of the  
12   application.

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

18       (e) All of the fees and charges collected under this  
19   section shall be deposited with the director of finance to the  
20   credit of the [~~public-utilities-commission special fund~~]





1 ~~established under section 269-33.]~~ state highway fund  
2 established under section 248-9."

3 PART II

4 SECTION 10. Chapter 271G, Hawaii Revised Statutes, is  
5 amended by adding two new sections to be appropriately  
6 designated and to read as follows:

7 **"§271G- Certificates of public convenience and necessity**  
8 **for water carriers.** (a) No person which holds itself out to  
9 the general public to engage in the transportation by water of  
10 passengers or property or any class or classes thereof for  
11 compensation, between points in the State, shall operate, unless  
12 there is in force with respect to the carrier a certificate of  
13 public convenience and necessity issued by the department  
14 authorizing the transportation; provided that this section shall  
15 not apply to any carrier by water to the extent that the carrier  
16 is excluded from the definition of a public utility under  
17 section 269-1(2)(E) and (F).

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

20 (c) A certificate shall be issued to any qualified  
21 applicant therefor, authorizing the whole or any part of the



1 operations covered by the application, if it is found that the  
2 applicant is fit, willing, and able properly to perform the  
3 service proposed and to conform to the provisions of this  
4 chapter and the requirements, rules, and regulations of the  
5 department thereunder, and that the proposed service, to the  
6 extent authorized by the certificate, is or will be required by  
7 the present or future public convenience and necessity;  
8 otherwise the application shall be denied. Any certificate  
9 issued shall specify the service to be rendered and the routes  
10 and ports that the water carrier is to serve and there shall be  
11 attached to the exercise of the privileges granted by the  
12 certificate, at the time of issuance and from time to time  
13 thereafter, the reasonable conditions and limitations as the  
14 public convenience and necessity may require.

15 (d) The department may at any time suspend, change, or  
16 revoke the certificate in the manner provided in section 271-19.

17 **\$271G- Preferential water carrier service rates for**  
18 **agricultural activities.** The department may authorize  
19 preferential water carrier service rates by tariff for  
20 ratepayers that engage in agricultural activities. The



1 application process for obtaining preferential water carrier  
2 service rates by tariff may be established by the department."

3 SECTION 11. Section 269-1, Hawaii Revised Statutes, is  
4 amended by amending the definition of "public utility" to read:

5 ""Public utility":

6 (1) Includes every person who may own, control, operate,  
7 or manage as owner, lessee, trustee, receiver, or  
8 otherwise, whether under a franchise, charter,  
9 license, articles of association, or otherwise, any  
10 plant or equipment, or any part thereof, directly or  
11 indirectly for public use for the transportation of  
12 passengers or freight; for the conveyance or  
13 transmission of telecommunications messages; for the  
14 furnishing of facilities for the transmission of  
15 intelligence by electricity within the State or  
16 between points within the State by land, water, or  
17 air; for the production, conveyance, transmission,  
18 delivery, or furnishing of light, power, heat, cold,  
19 water, gas, or oil; for the storage or warehousing of  
20 goods; or for the disposal of sewage; provided that  
21 the term shall include:



- 1 (A) An owner or operator of a private sewer company  
2 or sewer facility; and
- 3 (B) A telecommunications carrier or  
4 telecommunications common carrier; and .
- 5 (2) Shall not include:
- 6 (A) An owner or operator of an aerial transportation  
7 enterprise;
- 8 (B) An owner or operator of a taxicab as defined in  
9 this section;
- 10 (C) Common carriers that transport only freight on  
11 the public highways, unless operating within  
12 localities, along routes, or between points that  
13 the public utilities commission finds to be  
14 inadequately serviced without regulation under  
15 this chapter;
- 16 (D) Persons engaged in the business of warehousing or  
17 storage unless the commission finds that  
18 regulation is necessary in the public interest;
- 19 (E) A carrier by water to the extent that the carrier  
20 enters into private contracts for towage,  
21 salvage, hauling, or carriage between points



1           within the State; provided that the towing,  
2           salvage, hauling, or carriage is not pursuant to  
3           either an established schedule or an undertaking  
4           to perform carriage services on behalf of the  
5           public generally;

6           (F) A carrier by water, substantially engaged in  
7           interstate or foreign commerce, that transports  
8           passengers on luxury cruises between points  
9           within the State or on luxury round-trip cruises  
10          returning to the point of departure;

11          (G) Any user, owner, or operator of the Hawaii  
12          electric system as defined under section 269-141;

13          (H) A telecommunications provider only to the extent  
14          determined by the public utilities commission  
15          pursuant to section 269-16.9;

16          (I) Any person who controls, operates, or manages  
17          plants or facilities developed pursuant to  
18          chapter 167 for conveying, distributing, and  
19          transmitting water for irrigation and other  
20          purposes for public use and purpose;



1           (J) Any person who owns, controls, operates, or  
2           manages plants or facilities for the reclamation  
3           of wastewater; provided that:

4           (i) The services of the facility are provided  
5           pursuant to a service contract between the  
6           person and a state or county agency and at  
7           least ten per cent of the wastewater  
8           processed is used directly by the state or  
9           county agency that entered into the service  
10          contract;

11          (ii) The primary function of the facility is the  
12          processing of secondary treated wastewater  
13          that has been produced by a municipal  
14          wastewater treatment facility owned by a  
15          state or county agency;

16          (iii) The facility does not make sales of water to  
17          residential customers;

18          (iv) The facility may distribute and sell  
19          recycled or reclaimed water to entities not  
20          covered by a state or county service  
21          contract; provided that, in the absence of



1 regulatory oversight and direct competition,  
2 the distribution and sale of recycled or  
3 reclaimed water shall be voluntary and its  
4 pricing fair and reasonable. For purposes  
5 of this subparagraph, "recycled water" and  
6 "reclaimed water" means treated wastewater  
7 that by design is intended or used for a  
8 beneficial purpose; and

9 (v) The facility is not engaged, either directly  
10 or indirectly, in the processing of food  
11 wastes;

12 (K) Any person who owns, controls, operates, or  
13 manages any seawater air conditioning district  
14 cooling project; provided that at least fifty per  
15 cent of the energy required for the seawater air  
16 conditioning district cooling system is provided  
17 by a renewable energy resource, such as cold,  
18 deep seawater;

19 (L) Any person who owns, controls, operates, or  
20 manages plants or facilities primarily used to



1 charge or discharge a vehicle battery that  
2 provides power for vehicle propulsion;

3 (M) Any person who:

4 (i) Owns, controls, operates, or manages a  
5 renewable energy system that is located on a  
6 customer's property; and

7 (ii) Provides, sells, or transmits the power  
8 generated from that renewable energy system  
9 to an electric utility or to the customer on  
10 whose property the renewable energy system  
11 is located; provided that, for purposes of  
12 this subparagraph, a customer's property  
13 shall include all contiguous property owned  
14 or leased by the customer without regard to  
15 interruptions in contiguity caused by  
16 easements, public thoroughfares,  
17 transportation rights-of-way, and utility  
18 rights-of-way; and

19 (N) Any person who owns, controls, operates, or  
20 manages a renewable energy system that is located  
21 on ~~such~~ the person's property and provides,





1 sells, or transmits the power generated from that  
2 renewable energy system to an electric utility or  
3 to lessees or tenants on the person's property  
4 where the renewable energy system is located;  
5 provided that:

6 (i) An interconnection, as defined in section  
7 269-141, is maintained with an electric  
8 public utility to preserve the lessees' or  
9 tenants' ability to be served by an electric  
10 utility;

11 (ii) [~~Such~~] The person does not use an electric  
12 public utility's transmission or  
13 distribution lines to provide, sell, or  
14 transmit electricity to lessees or tenants;

15 (iii) At the time that the lease agreement is  
16 signed, the rate charged to the lessee or  
17 tenant for the power generated by the  
18 renewable energy system shall be no greater  
19 than the effective rate charged per kilowatt  
20 hour from the applicable electric utility



1 schedule filed with the public utilities  
2 commission;

3 (iv) The rate schedule or formula shall be  
4 established for the duration of the lease,  
5 and the lease agreement entered into by the  
6 lessee or tenant shall reflect [~~such~~] the  
7 rate schedule or formula;

8 (v) The lease agreement shall not abrogate any  
9 terms or conditions of applicable tariffs  
10 for termination of services for nonpayment  
11 of electric utility services or rules  
12 regarding health, safety, and welfare;

13 (vi) The lease agreement shall disclose: (1) the  
14 rate schedule or formula for the duration of  
15 the lease agreement; (2) that, at the time  
16 that the lease agreement is signed, the rate  
17 charged to the lessee or tenant for the  
18 power generated by the renewable energy  
19 system shall be no greater than the  
20 effective rate charged per kilowatt hour  
21 from the applicable electric utility



1 schedule filed with the public utilities  
2 commission; (3) that the lease agreement  
3 shall not abrogate any terms or conditions  
4 of applicable tariffs for termination of  
5 services for nonpayment of electric utility  
6 services or rules regarding health, safety,  
7 and welfare; and (4) whether the lease is  
8 contingent upon the purchase of electricity  
9 from the renewable energy system; provided  
10 further that any disputes concerning the  
11 requirements of this provision shall be  
12 resolved pursuant to the provisions of the  
13 lease agreement or chapter 521, if  
14 applicable; and

15 (vii) Nothing in this section shall be construed  
16 to permit wheeling.

17 If the application of this chapter is ordered by the  
18 commission in any case provided in paragraph (2) (C), (D), (H),  
19 and (I), the business of any public utility that presents  
20 evidence of bona fide operation on the date of the commencement  
21 of the proceedings resulting in the order shall be presumed to



1 be necessary to the public convenience and necessity, but any  
2 certificate issued under this proviso shall nevertheless be  
3 subject to terms and conditions as the public utilities  
4 commission may prescribe, as provided in [~~sections~~] section  
5 269-16.9 [~~and 269-20~~]."

6 SECTION 12. Section 271G-5, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted  
9 and to read:

10 "Department" means the department of transportation."

11 2. By amending the definitions of "document" and  
12 "enforcement officer" to read:

13 "Document" includes any application, complaint, pleading,  
14 brief, answer, motion, memorandum, declaration, exhibit,  
15 certificate of service, and other papers filed by or with the  
16 [~~commission.~~] department.

17 "Enforcement officer" means any person employed and  
18 authorized by the [~~commission~~] department to investigate any  
19 matter on behalf of the [~~commission.~~] department."

20 3. By repealing the definition of "commission".

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



1       SECTION 13. Section 271G-7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§271G-7 General duties and powers of the** ~~[commission.]~~  
4 **department.** The general duties and powers of the ~~[public~~  
5 ~~utilities commission]~~ department shall be:

- 6       (1) To regulate water carriers, and to that end the  
7       ~~[commission]~~ department shall have and utilize ~~[the~~  
8 ~~investigative powers set forth in section 269-7 as~~  
9 ~~well as]~~ all of the duties and powers specifically  
10 enumerated in this chapter~~[, and water carriers shall~~  
11 ~~be subject to the duties set forth in sections 269-8~~  
12 ~~and 269-9 as well as all of the duties specifically~~  
13 ~~enumerated herein].~~
- 14       (2) To establish such just and reasonable classifications  
15 of water carriers as the special nature of the  
16 services performed by the carriers shall require, and  
17 such just and reasonable rules, regulations, and  
18 requirements, consistent with this chapter, to be  
19 observed by the carriers so classified or grouped, as  
20 the ~~[commission]~~ department deems necessary or  
21 desirable in the public interest. ~~[Such]~~ The



1 classifications, rules, regulations, and requirements  
2 shall be adopted and promulgated pursuant to the  
3 provisions of chapter 91 and shall have the force and  
4 effect of law.

5 (3) Upon complaint in writing to the [~~commission~~]  
6 department by any person or body politic, or upon its  
7 own initiative without complaint, the [~~commission~~]  
8 department may investigate whether any water carrier  
9 has failed to comply with any provision of this  
10 chapter, or with any rule or order adopted or issued  
11 hereunder.

12 (4) The [~~commission~~] department may investigate any person  
13 acting in the capacity of or engaging in the business  
14 of a water carrier within the State, without having a  
15 certificate of public convenience and necessity or  
16 other authority previously obtained under and in  
17 compliance with this chapter or the rules promulgated  
18 under this chapter."

19 SECTION 14. Section 286-271, Hawaii Revised Statutes, is  
20 amended by amending subsection (e) to read as follows:

21 "(e) This section shall not apply to:



1 (1) Any motor vehicle rental company as defined in section  
2 431:9A-141 that periodically ships in quantities of  
3 ten vehicles or more;

4 (2) Licensed dealers who periodically ship in quantities  
5 of ten vehicles or more, or whose primary business is  
6 the auction of insurance salvage vehicles;

7 (3) Except for a lessee of a rental motor vehicle under  
8 paragraph (4), drivers of vehicles transported by any  
9 water carrier authorized by the [~~public utilities~~  
10 ~~commission~~] department of transportation to transport  
11 vehicles interisland; provided that the driver  
12 presents identification, a current certificate of  
13 registration for the vehicle, and proof of motor  
14 vehicle insurance. The interisland water carrier  
15 shall keep a record of transporting the vehicle by  
16 recording the vehicle identification number and  
17 retaining the information for three years after the  
18 date of travel; or

19 (4) A lessee of a rental motor vehicle; provided that:

20 (A) The rental motor vehicle is transported by any  
21 water carrier authorized by the [~~public utilities~~



1           ~~commission]~~ department to transport vehicles  
2           interisland;

3           (B) The water carrier has a written agreement with  
4           the owner of the rental motor vehicle; and

5           (C) The water carrier records and retains the  
6           information required under subsections (d) and  
7           (f) .

8           For purposes of this subsection, "lessee" and "rental motor  
9           vehicle" have the same meanings as those terms are defined in  
10          section 437D-3."

11          SECTION 15. Section 269-20, Hawaii Revised Statutes, is  
12          repealed.

13          ~~["§269-20 Certificates of public convenience and necessity~~  
14          ~~for water carriers. (a) No person which holds itself out to~~  
15          ~~the general public to engage in the transportation by water of~~  
16          ~~passengers or property or any class or classes thereof for~~  
17          ~~compensation, between points in the State of Hawaii, shall~~  
18          ~~operate unless there is in force with respect to such carrier a~~  
19          ~~certificate of public convenience and necessity issued by the~~  
20          ~~commission authorizing such transportation; provided that this~~  
21          ~~section shall not apply to any carrier by water to the extent~~





1 ~~that the carrier is excluded from the definition of a public~~  
2 ~~utility under section 269-1(2)(E) and (F).~~

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

5 ~~(c) A certificate shall be issued to any qualified~~  
6 ~~applicant therefor, authorizing the whole or any part of the~~  
7 ~~operations covered by the application, if it is found that the~~  
8 ~~applicant is fit, willing, and able properly to perform the~~  
9 ~~service proposed and to conform to the provisions of this~~  
10 ~~chapter and the requirements, rules and regulations of the~~  
11 ~~commission thereunder, and that the proposed service, to the~~  
12 ~~extent authorized by the certificate, is or will be required by~~  
13 ~~the present or future public convenience and necessity;~~  
14 ~~otherwise such application shall be denied. Any certificate~~  
15 ~~issued shall specify the service to be rendered and the routes~~  
16 ~~and ports which the water carrier is to serve and there shall be~~  
17 ~~attached to the exercise of the privileges granted by the~~  
18 ~~certificate, at the time of issuance and from time to time~~  
19 ~~thereafter, such reasonable conditions and limitations as the~~  
20 ~~public convenience and necessity may require.~~



~~(d) The commission may at any time suspend, change or  
revoke such certificate in the manner provided in section  
271-19." ]~~

SECTION 16. Section 269-26.6, Hawaii Revised Statutes, is repealed.

~~["§269-26.6] Preferential water carrier service rates for agricultural activities. The public utilities commission may authorize preferential water carrier service rates by tariff for ratepayers that engage in agricultural activities. The application process for obtaining preferential water carrier service rates by tariff may be established by the public utilities commission."~~]

## PART III

SECTION 17. Sections 271-2, 271-8, 271-8.5, 271-9, 271-9.5, 271-10, 271-11, 271-12, 271-13, 271-15, 271-16, 271-17, 271-19, 271-20, 271-21, 271-22, 271-23, 271-24, 271-25, 271-26, 271-26.5, 271-28, 271-29, 271-30, 271-31, 271-32, 271-33, 271-34, 271-35, 271G-3, 271G-7.5, 271G-8, 271G-9, 271G-10, 271G-12, 271G-13, 271G-14, 271G-15, 271G-16, 271G-17, 271G-17.5, 271G-18, 271G-19, 271G-20, 271G-21, 271G-22, 271G-23, 271G-23.5, 271G-24, and 271G-25, Hawaii Revised Statutes, are amended by



1 substituting the term "department of transportation",  
2 "department", or similar term, wherever the term "public  
3 utilities commission", "commission", or similar term, appears,  
4 as the context requires.

5 SECTION 18. All rights, powers, functions, and duties of  
6 the public utilities commission are transferred to the  
7 department of transportation as it relates to the motor carrier  
8 law and water carrier act.

9 All officers and employees whose functions are transferred  
10 by this Act shall be transferred with their functions and shall  
11 continue to perform their regular duties upon their transfer,  
12 subject to the state personnel laws and this Act.

13 No officer or employee of the State having tenure shall  
14 suffer any loss of salary, seniority, prior service credit,  
15 vacation, sick leave, or other employee benefit or privilege as  
16 a consequence of this Act, and such officer or employee may be  
17 transferred or appointed to a civil service position without the  
18 necessity of examination; provided that the officer or employee  
19 possesses the minimum qualifications for the position to which  
20 transferred or appointed; and provided that subsequent changes



1 in status may be made pursuant to applicable civil service and  
2 compensation laws.

3 An officer or employee of the State who does not have  
4 tenure and who may be transferred or appointed to a civil  
5 service position as a consequence of this Act shall become a  
6 civil service employee without the loss of salary, seniority,  
7 prior service credit, vacation, sick leave, or other employee  
8 benefits or privileges and without the necessity of examination;  
9 provided that such officer or employee possesses the minimum  
10 qualifications for the position to which transferred or  
11 appointed.

12 If an office or position held by an officer or employee  
13 having tenure is abolished, the officer or employee shall not  
14 thereby be separated from public employment, but shall remain in  
15 the employment of the State with the same pay and classification  
16 and shall be transferred to some other office or position for  
17 which the officer or employee is eligible under the personnel  
18 laws of the State as determined by the head of the department or  
19 the governor.

20 SECTION 19. All appropriations, records, equipment,  
21 machines, files, supplies, contracts, books, papers, documents,



1 maps, and other personal property heretofore made, used,  
2 acquired, or held by the public utilities commission relating to  
3 the functions transferred to the department of transportation  
4 shall be transferred with the functions to which they relate.

5 SECTION 20. All rules, policies, procedures, guidelines,  
6 and other material adopted or developed by the public utilities  
7 commission to implement provisions of the Hawaii Revised  
8 Statutes that are made reenacted or applicable to the department  
9 of transportation by this Act shall remain in full force and  
10 effect until amended or repealed by the department of  
11 transportation pursuant to chapter 91, Hawaii Revised Statutes.  
12 In the interim, every reference to the public utilities  
13 commission in those rules, policies, procedures, guidelines, and  
14 other material is amended to refer to the department of  
15 transportation, as appropriate.

16 SECTION 21. All deeds, leases, contracts, loans,  
17 agreements, permits, or other documents executed or entered into  
18 by or on behalf of the public utilities commission, pursuant to  
19 the provisions of the Hawaii Revised Statutes, that are  
20 reenacted or made applicable to the office of real estate  
21 operations by this Act shall remain in full force and effect.



1 Upon effective date of this Act, every reference to the public  
2 utilities commission or the chairperson of the public utilities  
3 commission therein shall be construed as a reference of the  
4 department of transportation or the director of transportation,  
5 as appropriate.

6 SECTION 22. The public utilities commission shall transfer  
7 the total fund balance in the public utilities commission  
8 special fund collected pursuant to section 271-36, Hawaii  
9 Revised Statutes, as of September 15, 2025, and all encumbrances  
10 against that fund open and outstanding as of that date, to the  
11 state highway fund no later than one hundred eighty days after  
12 the effective date of this Act.

13 SECTION 23. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ or so  
15 much thereof as may be necessary for fiscal year 2025-2026 and  
16 the same sum or so much thereof as may be necessary for fiscal  
17 year 2026-2027 for the transfer of functions related to the  
18 motor carrier law and water carrier act to the department of  
19 transportation.

20 The sums appropriated shall be expended by the department  
21 of transportation for the purposes of this Act.

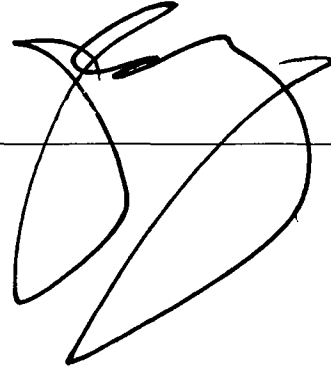


1        SECTION 24. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3        SECTION 25. This Act shall take effect on July 1, 2027;  
4 provided that section 23 shall take effect on July 1, 2025.

5

INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned over the line following "INTRODUCED BY:".

# S.B. NO. 1219

**Report Title:**

PUC; DOT; Motor Carrier Law; Water Carrier Act; Transfer;  
Appropriations

**Description:**

Transfers the jurisdiction of the Motor Carrier Law from the Public Utilities Commission to the Department of Transportation. Transfers the jurisdiction of the Water Carrier Act from the Public Utilities Commission to the Department of Transportation. Makes conforming amendments. Appropriates funds. Effective 7/1/2027.

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

