

JAN 24 2018

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# A BILL FOR AN ACT

RELATING TO WATER CARRIERS.

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

1       SECTION 1.   Section 271G-10, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§271G-10   Applications for certificates of public**  
4 **convenience and necessity.**   (a)   Except as otherwise provided in  
5 this section and in sections 271G-6 and 271G-12, no water  
6 carrier shall engage in operations between points within the  
7 State unless the carrier holds a certificate of public  
8 convenience and necessity issued by the public utilities  
9 commission authorizing the operation; provided that no new  
10 application shall be required for any common carrier by water  
11 that is the holder of a certificate of public convenience and  
12 necessity issued by the public utilities commission.

13       (b)   Applications for certificates shall be made in writing  
14 to the commission, be verified under oath, be presented in a  
15 form, contain the information, and be accompanied by proof of  
16 service upon interested parties as the commission shall, by  
17 rule, require.



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1           (c) The commission shall not approve an application for a  
2 certificate or otherwise grant authorization pursuant to an  
3 application to operate as a water carrier under this chapter  
4 until the commission has given notice and held public hearings  
5 conducted in accordance with the procedures under section  
6 271G-23.5.

7           (d) The commission shall issue a certificate to any  
8 qualified applicant, authorizing the whole or any part of the  
9 operations proposed in the application only if the commission  
10 finds that:

11           (1) The applicant is fit, willing, and able properly to  
12 perform the service proposed and to conform to this  
13 chapter and the requirements and rules of the  
14 commission; and

15           (2) The proposed service, to the extent to be authorized  
16 by the certificate, is or will be required by the  
17 present or future public convenience and necessity.

18           (e) The commission shall not make a finding of public  
19 convenience and necessity or issue an authorization, whether  
20 interim, permanent, or otherwise, to operate as a water carrier



1 without the following specific findings supported by evidence in  
2 the record:

3 (1) Existing water carrier services are inadequate to  
4 presently service the public or meet demonstrated and  
5 quantifiable future demands for service;

6 (2) The proposed service is designed for and necessary to  
7 meet demonstrated and quantifiable unmet public needs  
8 for present water carrier service or demonstrated and  
9 quantifiable future demands for service;

10 (3) The proposed service will provide demonstrated and  
11 quantifiable benefits to the general public, business  
12 community, and the economy of all islands that are  
13 entitled to notice under section 271G-23.5, including  
14 demonstrated and quantifiable benefits with respect to  
15 reliability, affordability, and security of the  
16 service line;

17 (4) The specific, identified benefits of the proposed  
18 service outweigh its detrimental impact to the  
19 public's interest in maintaining services, including:

20 (A) Economies of scale and scope of current water  
21 carriers;



1           ~~[(B) Future capital costs of existing water carriers;~~

2           ~~(C)]~~    (B) Ability of existing water carriers to make  
3                    necessary capital and resource investments; and

4           ~~[(D) The financial health, stability, and revenue~~  
5           ~~stream of existing water carriers; and~~

6           ~~(E)]~~    (C) The likelihood that existing levels of  
7                    service will be maintained after the enactment of  
8                    the proposed service; and

9           (5) If the commission's finding of public convenience and  
10                necessity differs from the recommendation of the  
11                consumer advocate, specific findings to address each  
12                ground for objection articulated by the consumer  
13                advocate.

14 The commission shall not make a finding of public convenience  
15 and necessity nor issue a certificate if the evidence in the  
16 record indicates that the issuance of the certificate would  
17 diminish an existing water carrier's ability to realize its  
18 allowed rate of return or if the certificate would allow an  
19 applicant to serve only high-margin or high-profit ports or  
20 lines of service that are currently served by an existing  
21 carrier.



1           (f) Any water carrier transporting passengers under a  
2 certificate issued pursuant to this chapter may occasionally  
3 deviate from the route over which it is authorized to operate  
4 under the certificate pursuant to the rules of the commission.

5           (g) The commission shall not issue any certificate that is  
6 designated as interim or temporary or that otherwise does not  
7 conform to the requirements of this chapter except in response  
8 to an emergency situation; provided that an emergency situation  
9 shall mean a state of emergency or local state of emergency  
10 pursuant to chapter 127A. Any certificate issued pursuant to  
11 this subsection shall expire upon the expiration of the state of  
12 emergency or local state of emergency or an earlier date  
13 determined by the commission in response to prevailing  
14 conditions. An extension of a certificate granted under this  
15 subsection beyond the expiration of the state of emergency or  
16 local state of emergency or date determined by the commission  
17 shall be granted only subject to the notice, hearing, and  
18 findings requirements of this chapter.

19           (h) The commission shall post a link on the front page of  
20 the commission's website to a publicly accessible electronic  
21 version of each application for a certificate pursuant to this



1 section and to each order of the commission regarding posted  
2 applications, including the commission's final decision and  
3 order. Links posted under this subsection shall include a short  
4 description of the document to which the link refers, shall be  
5 active within twenty-four hours of the filing of an application  
6 or issuance of an order, and shall remain active for at least  
7 thirty days from the filing of the application or the issuance  
8 of the order or decision and order.

9 (i) The commission shall exempt an alternate carrier from  
10 the requirements of subsection (a) as necessary to enable cargo  
11 to be moved on the alternate carrier, if the cargo misses its  
12 intended regular sailing and:

13 (1) The alternate carrier has a scheduled sailing to the  
14 same port at least twenty-four hours before the next  
15 regulated sailing;

16 (2) The alternate carrier already operates a similar  
17 freight mode; and

18 (3) The alternate carrier already has an established  
19 regularly scheduled call to that island."

20 SECTION 2. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



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1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

*Neel D. M.*

**By Request**



# S.B. NO. 3013

**Report Title:**

Water Carriers; Certificate of Public Convenience and Necessity;  
Exemption

**Description:**

Amends the specific findings that must be included prior to the public utilities commission making a finding of public convenience or necessary or issuing an authorization. Authorizes an exemption for cargo to be moved on an alternate carrier, if certain conditions are met.

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

