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# A BILL FOR AN ACT

RELATING TO CLIMATE CHANGE.

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

1           SECTION 1. The legislature finds that unabated greenhouse  
2 gas emissions, and resulting climate change and sea level rise,  
3 present an urgent and existential threat to citizens of the  
4 State. The State has committed to mitigating the impacts of  
5 climate change. Chapter 225P, Hawaii Revised Statutes,  
6 established a statewide target to become net carbon negative as  
7 quickly as possible but no later than 2045. In addition, mayors  
8 from each county have pledged to reduce the State's dependence  
9 on fossil fuels by eliminating fossil fuels from ground  
10 transportation by 2045. These efforts, however, must be  
11 accelerated.

12           The purpose of this Act is to advance the State's climate  
13 change mitigation commitment by requiring state, county, and  
14 private bus operators to upgrade to zero emission buses by 2035.

15           SECTION 2. Section 51-1, Hawaii Revised Statutes, is  
16 amended to read as follows:



1           "§51-1 Grant of powers. Every county of this State may  
2 acquire, condemn, purchase, lease, construct, extend, own,  
3 maintain, and operate mass transit systems, including, without  
4 being limited to, motor buses, street railroads, fixed rail  
5 facilities such as monorails or subways, whether surface,  
6 subsurface, or elevated, taxis, and other forms of  
7 transportation for hire for passengers and their personal  
8 baggage.

9           Every county shall have power to provide mass  
10 transportation service, whether directly, jointly, or under  
11 contract with private parties, without the county or private  
12 parties being subject to the jurisdiction and control of the  
13 public utilities commission in any manner.

14           The terms "mass transit" and "mass transportation" mean  
15 transportation by bus, or rail or other conveyance, either  
16 publicly or privately owned, which provides to the public  
17 general or special service (but not including school buses or  
18 charter or sightseeing service) on a regular and continuing  
19 basis.

20           Notwithstanding the foregoing, commencing January 1, 2035,  
21 any county operating mass transit services pursuant to this



1 chapter shall not use or employ any motor bus unless the motor  
2 bus is a zero emissions bus. As used in this section:

3 "Pollutant" means hydrocarbons, carbon monoxide, carbon  
4 dioxide, nitrogen oxides, and lead.

5 "Zero emission bus" means a motor bus that produces zero  
6 exhaust emissions of any pollutant and includes battery  
7 electric-powered buses and hydrogen fuel cell-electric powered  
8 buses, but does not include any vehicle, locomotive, or car  
9 operated exclusively on a rail or rails.

10 This section shall not be applied so as to impair any  
11 contract existing as of the date of enactment of this section,  
12 or operative portion thereof, in a manner violative of either  
13 the Hawaii State Constitution or Article I, section 10, of the  
14 United States Constitution."

15 SECTION 3. Section 103D-211, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§103D-211 Procurement rules. (a) The procurement policy  
18 board shall adopt all rules necessary to carry out the purposes  
19 of this chapter and to implement its provisions in accordance  
20 with chapter 91. The policy board shall not delegate its power  
21 to adopt rules.



1        (b) Regarding the procurement of motor vehicles capable of  
2 transporting more than fifteen passengers, the procurement  
3 policy board shall promptly adopt all rules necessary to  
4 transition to one hundred per cent zero emission buses as  
5 quickly as possible, but no later than January 1, 2035. As used  
6 in this subsection:

7        "Pollutant" mean hydrocarbons, carbon monoxide, carbon  
8 dioxide, nitrogen oxides, and lead.

9        "Zero emission bus" means a motor vehicle capable of  
10 transporting more than fifteen passengers that produces zero  
11 exhaust emissions of any pollutant and includes battery-  
12 electric powered buses and hydrogen fuel cell-electric powered  
13 buses, but does not include any vehicle, locomotive, or car  
14 operated exclusively on a rail or rails.

15        [~~(b)~~] (c) No rule shall change any commitment, right, or  
16 obligation of the State or of a contractor under a contract in  
17 existence on the effective date of such rule."

18        SECTION 4. Section 271-4, Hawaii Revised Statutes, is  
19 amended by adding two new definitions to be appropriately  
20 inserted and to read as follows:



1        "Pollutant" means hydrocarbons, carbon monoxide, carbon  
2 dioxide, nitrogen oxides, and lead.

3        "Zero emission bus" means a motor vehicle capable of  
4 transporting more than fifteen passengers that produces zero  
5 exhaust emissions of any pollutant and includes battery-  
6 electric powered motor vehicles and hydrogen fuel cell-electric  
7 powered motor vehicles, but does not include any vehicle,  
8 locomotive, or car operated exclusively on a rail or rails."

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

11        **"§271-12 Applications for certificates of public**  
12 **convenience and necessity.** (a) Except as otherwise provided in  
13 this section and in section 271-16, no person shall engage in  
14 the business of a common carrier by motor vehicle on any public  
15 highway in this State, unless there is in force with respect to  
16 [~~such~~] the carrier, a certificate of public convenience and  
17 necessity issued by the public utilities commission authorizing  
18 such operation.

19        (b) Applications for certificates shall be made in  
20 writing, on paper, or electronically, to the commission, be  
21 verified under oath, and shall be in [~~such~~] a form [and],



1 contain [~~such~~] the information, and be accompanied by proof of  
2 service upon interested parties, as the commission shall [~~]~~ by  
3 [~~regulation,~~] rule require.

4 (c) Subject to section 271-15, a certificate shall be  
5 issued to any qualified applicant therefor, authorizing the  
6 whole or any part of the operations covered by the application  
7 if it is found that the applicant is fit, willing, and able  
8 [~~properly~~] to properly perform the service proposed and to  
9 conform to this chapter and the requirements [~~]~~ and rules [~~, and~~  
10 ~~regulations~~] of the commission thereunder, and that the proposed  
11 service, to the extent to be authorized by the certificate, is  
12 or will be required by the present or future public convenience  
13 and necessity; otherwise the application shall be denied. The  
14 commission shall not issue any certificate covering the  
15 transportation of more than fifteen passengers for any period  
16 after December 31, 2034, unless the commission finds that all of  
17 the motor vehicles covered by the certificate are zero emission  
18 buses.

19 (d) Any certificate issued under this section covering the  
20 transportation of property shall be issued as an irregular route  
21 certificate and shall specify the island or islands or portion



1 or portions thereof within which service may be rendered. Any  
2 certificate covering the transportation of passengers shall  
3 specify the service to be rendered and the routes over which,  
4 the fixed termini, if any, between which, and the intermediate  
5 and off-route points, if any, at which the motor carrier is  
6 authorized to operate, and the certificate may include authority  
7 to transport in the same vehicle with the passengers, baggage of  
8 passengers, express, and also to transport baggage of passengers  
9 in a separate vehicle. There shall, at the time of issuance,  
10 and from time to time thereafter, be attached to the exercise of  
11 the privileges granted by the certificate [~~such~~] the reasonable  
12 terms, conditions, and limitations [~~as~~] that the public  
13 convenience and necessity may from time to time require,  
14 including terms, conditions, and limitations as to the  
15 extensions of the service territory or route or routes of the  
16 carriers, and [~~such~~] the terms and conditions [~~as~~] that are  
17 necessary to carry out, with respect to the operations of the  
18 carrier, the requirements established by the commission under  
19 sections 271-9(a)(1) and 271-9(a)(4), provided that the terms,  
20 conditions, or limitations shall not restrict the right of the  
21 carrier to add to his or its equipment and facilities in the



1 service territory or over the routes or between the termini as  
2 the development of business and the demands of the public shall  
3 require.

4 (e) Any common carrier by motor vehicle transporting  
5 passengers under any such certificate may occasionally deviate  
6 from the route over which and the fixed termini between which it  
7 is authorized to operate under the certificate under ~~[such]~~ the  
8 rules ~~[and regulations as]~~ that the commission may prescribe."

9 SECTION 6. Section 271-13, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11 "(c) Subject to section 271-15, a permit shall be issued  
12 to any qualified applicant therefor, authorizing in whole or in  
13 part the operations covered by the application, if it is found  
14 that the applicant is fit, willing, and able to properly perform  
15 the service of a contract carrier by motor vehicle, and to  
16 conform to this chapter and the ~~[lawful]~~ requirements and rules  
17 of the commission thereunder, and that the proposed operation to  
18 the extent authorized by the permit will be consistent with the  
19 public interest and the transportation policy declared in this  
20 chapter; otherwise, the application shall be denied. In  
21 determining whether issuance of a permit will be consistent with



1 the public interest and the transportation policy, the  
2 commission shall consider the number of shippers to be served by  
3 the applicant, the nature of the service proposed, whether the  
4 proposed service can be or is being properly performed by  
5 existing common carriers, the effect that granting the permit  
6 would have upon the services of the protesting carriers, the  
7 effect that denying the permit would have upon the applicant's  
8 proposed shipper or shippers, and the changing character of  
9 shipper requirements; provided that a permit shall not be issued  
10 in any case where it has been established that an existing  
11 common carrier is properly performing the proposed service. The  
12 commission shall specify in the permit the business of the  
13 contract carrier covered thereby and the scope thereof, and it  
14 shall attach to it at the time of issuance, and from time to  
15 time thereafter the reasonable terms, conditions, and  
16 limitations consistent with the character of the holder of the  
17 permit as a contract carrier, including terms, conditions, and  
18 limitations respecting the person or persons, their names, the  
19 number or class thereof for which the contract carrier may  
20 perform transportation service, as may be necessary to assure  
21 that the business is that of a contract carrier and within the



1 scope of the permit, and to carry out with respect to the  
2 operation of the carrier the requirements established by the  
3 commission under sections 271-9(a)(2) and 271-9(a)(4). Any  
4 permit covering the transportation of passengers may include  
5 authority to transport, in the same vehicle with the passengers,  
6 baggage of passengers and also authority to transport baggage of  
7 passengers in a separate vehicle; provided that within the scope  
8 of the permit and any terms, conditions, or limitations attached  
9 thereto, the carrier shall have the right to substitute or add  
10 to its equipment and facilities as the development of its  
11 business may require; and provided further that no motor carrier  
12 shall commence operations under any contract carrier authority  
13 granted under this section until it has filed with the  
14 commission a certified copy or an electric copy of a written  
15 contract or contracts executed with the shipper or shippers for  
16 whom the service is authorized in the permit to be provided, the  
17 contract or contracts to be bilateral and impose specific  
18 obligations upon both carrier and shipper or shippers and to set  
19 forth all terms and conditions of any transportation agreement  
20 obtaining between the motor carrier and the shipper or shippers.  
21 The commission shall not issue any permit covering the



1 transportation of more than fifteen passengers for any period  
2 after December 31, 2034, unless the commission finds that all of  
3 the motor vehicles covered by the permit are zero emission  
4 buses."

5 SECTION 7. Section 271-19, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§271-19 Suspension, change, and revocation of  
8 certificates and permits. (a) Certificates and permits shall  
9 be effective from the date specified therein, and shall remain  
10 in effect until suspended or terminated as herein provided. Any  
11 certificate or permit, upon application of the holder thereof,  
12 in the discretion of the public utilities commission, may be  
13 amended or revoked, in whole or in part. The commission, upon  
14 complaint or upon its own initiative, after notice and hearing,  
15 may suspend or revoke any certificate or permit, in part or in  
16 whole, if the holder thereof is found to be in violation of any  
17 of the provisions of this chapter; provided that:

18 (1) A motor carrier's right to engage in transportation by  
19 virtue of any certificate or permit may be suspended  
20 by the commission immediately without hearing or other  
21 proceedings upon the carrier's failure to comply, and



1           until the carrier complies with sections 271-21(a),  
2           271-22(a), 271-17 or Act 20, Special Session Laws of  
3           Hawaii 1977, or with any lawful order of the  
4           commission; and

5           (2) The commission shall revoke the certificate or permit  
6           of a holder that knowingly and wilfully engages the  
7           services of a driver not licensed under part XIII of  
8           chapter 286.

9           (b) Upon written request by a motor carrier and for good  
10          cause shown, the public utilities commission may place an active  
11          certificate or permit in an inactive status. The certificate or  
12          permit may be placed on an inactive status for a period not  
13          exceeding twelve months. Prior to the termination of the  
14          approved inactive period, the certificate or permit must be  
15          reactivated or it shall be declared abandoned and the  
16          certificate or permit revoked. The certificate or permit may be  
17          reactivated at any time within the approved period by fulfilling  
18          the requirements for renewal, including the payment of the  
19          appropriate fees. No request for inactive status, the  
20          cumulative period of which is in excess of two years, shall be  
21          granted by the commission. Unless good cause is shown, no



1 request to transfer a certificate or permit which is on inactive  
2 status shall be approved by the commission.

3 (c) No person whose certificate or permit is revoked shall  
4 be eligible to apply for a new certificate or permit until the  
5 expiration of two years; provided that a person whose  
6 certificate or permit is revoked for knowingly and wilfully  
7 engaging the services of a driver not licensed under part XIII  
8 of chapter 286 shall not be eligible to apply for a new  
9 certificate or permit until the expiration of five years.

10 (d) A certificate or permit shall be revoked upon the  
11 voluntary dissolution of the corporation or partnership in whose  
12 name the certificate or permit has been issued. Upon  
13 verification with the department of commerce and consumer  
14 affairs on the voluntary dissolution of a corporation or  
15 partnership, the commission shall issue an order with its  
16 findings and revoke the certificate or permit held by the  
17 registered certificate or permit holder.

18 (e) Commencing January 1, 2035, any certificate or permit  
19 covering the transportation of more than fifteen passengers in a  
20 motor vehicle that is not a zero emission bus shall be void  
21 without prior notice or action by the commission."



1 SECTION 8. Section 302A-407, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Any school bus contract between the State and the  
4 contractor shall include a provision requiring the contractor to  
5 equip the contractor's vehicles with the signs and visual  
6 signals described in section 291C-95(d) and (g). The contract  
7 shall also include other provisions as may be deemed necessary  
8 by the State for the safety of school bus passengers and shall  
9 include provisions requiring compliance with the rules and  
10 standards described in section 286-181. Commencing July 1,  
11 2022, the State shall not enter into any school bus contract for  
12 a term that extends past January 1, 2035, unless the bus that is  
13 the subject of the contract is a zero emission bus. Commencing  
14 January 1, 2035, the State shall not enter into any school bus  
15 contract unless the bus that is the subject of the contract is a  
16 zero emission bus. As used in this subsection:

17 "Pollutant" mean hydrocarbons, carbon monoxide, carbon  
18 dioxide, nitrogen oxides, and lead.

19 "Zero emission bus" means a motor bus that produces zero  
20 exhaust emissions of any pollutant and includes battery-  
21 electric powered buses and hydrogen fuel cell-electric powered



1 buses, but does not include any vehicle, locomotive, or car  
2 operated exclusively on a rail or rails."

3 SECTION 9. If any provision of this Act, or the  
4 application thereof to any person or circumstance, is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act that can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9 SECTION 10. This Act does not affect rights and duties  
10 that matured, penalties that were incurred, and proceedings that  
11 were begun before its effective date.

12 SECTION 11. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 12. This Act shall take effect upon its approval.

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INTRODUCED BY: Michelle E. Lowen  
JAN 24 2022



# H.B. NO. 1938

**Report Title:**

Climate Change; Mass Transit; Motor Carrier; Zero Emissions

**Description:**

Requires all state, county, and private bus operators to upgrade to zero emission buses by 2035.

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

