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# A BILL FOR AN ACT

RELATING TO MOTOR CARRIERS.

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

1           SECTION 1. Section 286-2, Hawaii Revised Statutes, is  
2 amended by adding two new definitions to be appropriately  
3 inserted and to read as follows:

4           "Transportation of persons" includes every service in  
5 connection with or incidental to the safety, comfort, or  
6 convenience of persons transported and the receipt, carriage,  
7 and delivery of these persons and their baggage.

8           "Transportation of property" includes every service in  
9 connection with or incidental to the transportation of property,  
10 including its receipt, delivery, elevation, transfer, carriage,  
11 ventilation, refrigeration, icing, dunnage, storage in transit,  
12 handling, and consolidation for the purposes of forwarding  
13 within the State."

14           SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "§46-1.5 General powers and limitation of the counties.

17 Subject to general law, each county shall have the following



1 powers and shall be subject to the following liabilities and  
2 limitations:

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

10 (2) Each county shall have the power to provide for and  
11 regulate the marking and lighting of all buildings and  
12 other structures that may be obstructions or hazards  
13 to aerial navigation, so far as may be necessary or  
14 proper for the protection and safeguarding of life,  
15 health, and property;

16 (3) Each county shall have the power to enforce all claims  
17 on behalf of the county and approve all lawful claims  
18 against the county, but shall be prohibited from  
19 entering into, granting, or making in any manner any  
20 contract, authorization, allowance payment, or



1 liability contrary to the provisions of any county  
2 charter or general law;

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

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

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

11 (B) Remove from the channels, and from the shores and  
12 beaches, any debris that is likely to create an  
13 unsanitary condition or become a public nuisance;  
14 provided that, to the extent any of the foregoing  
15 work is a private responsibility, the  
16 responsibility may be enforced by the county in  
17 lieu of the work being done at public expense;

18 (C) Construct, acquire by gift, purchase, or by the  
19 exercise of eminent domain, reconstruct, improve,  
20 better, extend, and maintain projects or  
21 undertakings for the control of and protection



- 1           against floods and flood waters, including the  
2           power to drain and rehabilitate lands already  
3           flooded;
- 4           (D) Enact zoning ordinances providing that lands  
5           deemed subject to seasonable, periodic, or  
6           occasional flooding shall not be used for  
7           residence or other purposes in a manner as to  
8           endanger the health or safety of the occupants  
9           thereof, as required by the Federal Flood  
10          Insurance Act of 1956 (chapter 1025, Public Law  
11          1016); and
- 12          (E) Establish and charge user fees to create and  
13          maintain any stormwater management system or  
14          infrastructure;
- 15          (6) Each county shall have the power to exercise the power  
16          of condemnation by eminent domain when it is in the  
17          public interest to do so;
- 18          (7) Each county shall have the power to exercise  
19          regulatory powers over business activity as are  
20          assigned to them by chapter 445 or other general law;



- 1           (8) Each county shall have the power to fix the fees and  
2                   charges for all official services not otherwise  
3                   provided for;
- 4           (9) Each county shall have the power to provide by  
5                   ordinance assessments for the improvement or  
6                   maintenance of districts within the county;
- 7           (10) Except as otherwise provided, no county shall have the  
8                   power to give or loan credit to, or in aid of, any  
9                   person or corporation, directly or indirectly, except  
10                  for a public purpose;
- 11          (11) [~~Where not within the jurisdiction of the public~~  
12                  ~~utilities commission, each~~] Each county shall have the  
13                  power to regulate by ordinance the operation of motor  
14                  vehicle common carriers transporting passengers within  
15                  the county and adopt and amend rules the county deems  
16                  necessary for the public convenience and necessity;
- 17          (12) Each county shall have the power to enact and enforce  
18                  ordinances necessary to prevent or summarily remove  
19                  public nuisances and to compel the clearing or removal  
20                  of any public nuisance, refuse, and uncultivated  
21                  undergrowth from streets, sidewalks, public places,



1 and unoccupied lots. In connection with these powers,  
2 each county may impose and enforce liens upon the  
3 property for the cost to the county of removing and  
4 completing the necessary work where the property  
5 owners fail, after reasonable notice, to comply with  
6 the ordinances. The authority provided by this  
7 paragraph shall not be self-executing, but shall  
8 become fully effective within a county only upon the  
9 enactment or adoption by the county of appropriate and  
10 particular laws, ordinances, or rules defining "public  
11 nuisances" with respect to each county's respective  
12 circumstances. The counties shall provide the  
13 property owner with the opportunity to contest the  
14 summary action and to recover the owner's property;

15 (13) Each county shall have the power to enact ordinances  
16 deemed necessary to protect health, life, and  
17 property, and to preserve the order and security of  
18 the county and its inhabitants on any subject or  
19 matter not inconsistent with, or tending to defeat,  
20 the intent of any state statute where the statute does  
21 not disclose an express or implied intent that the



1 statute shall be exclusive or uniform throughout the  
2 State;  
3 (14) Each county shall have the power to:  
4 (A) Make and enforce within the limits of the county  
5 all necessary ordinances covering all:  
6 (i) Local police matters;  
7 (ii) Matters of sanitation;  
8 (iii) Matters of inspection of buildings;  
9 (iv) Matters of condemnation of unsafe  
10 structures, plumbing, sewers, dairies, milk,  
11 fish, and morgues; and  
12 (v) Matters of the collection and disposition of  
13 rubbish and garbage;  
14 (B) Provide exemptions for homeless facilities and  
15 any other program for the homeless authorized by  
16 part XVII of chapter 346, for all matters under  
17 this paragraph;  
18 (C) Appoint county physicians and sanitary and other  
19 inspectors as necessary to carry into effect  
20 ordinances made under this paragraph, who shall  
21 have the same power as given by law to agents of

1           the department of health, subject only to  
2           limitations placed on them by the terms and  
3           conditions of their appointments; and  
4       (D)   Fix a penalty for the violation of any ordinance,  
5           which penalty may be a misdemeanor, petty  
6           misdemeanor, or violation as defined by general  
7           law;

8       (15)  Each county shall have the power to provide public  
9           pounds; to regulate the impounding of stray animals  
10          and fowl, and their disposition; and to provide for  
11          the appointment, powers, duties, and fees of animal  
12          control officers;

13       (16)  Each county shall have the power to purchase and  
14          otherwise acquire, lease, and hold real and personal  
15          property within the defined boundaries of the county  
16          and to dispose of the real and personal property as  
17          the interests of the inhabitants of the county may  
18          require, except that:

19           (A)  Any property held for school purposes may not be  
20           disposed of without the consent of the  
21           superintendent of education;



- 1 (B) No property bordering the ocean shall be sold or
- 2 otherwise disposed of; and
- 3 (C) All proceeds from the sale of park lands shall be
- 4 expended only for the acquisition of property for
- 5 park or recreational purposes;
- 6 (17) Each county shall have the power to provide by charter
- 7 for the prosecution of all offenses and to prosecute
- 8 for offenses against the laws of the State under the
- 9 authority of the attorney general of the State;
- 10 (18) Each county shall have the power to make
- 11 appropriations in amounts deemed appropriate from any
- 12 moneys in the treasury, for the purpose of:
- 13 (A) Community promotion and public celebrations;
- 14 (B) The entertainment of distinguished persons as may
- 15 from time to time visit the county;
- 16 (C) The entertainment of other distinguished persons,
- 17 as well as, public officials when deemed to be in
- 18 the best interest of the community; and
- 19 (D) The rendering of civic tribute to individuals
- 20 who, by virtue of their accomplishments and



1 community service, merit civic commendations,  
2 recognition, or remembrance;

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

4 (A) Construct, purchase, take on lease, lease,  
5 sublease, or in any other manner acquire, manage,  
6 maintain, or dispose of buildings for county  
7 purposes, sewers, sewer systems, pumping  
8 stations, waterworks, including reservoirs,  
9 wells, pipelines, and other conduits for  
10 distributing water to the public, lighting  
11 plants, and apparatus and appliances for lighting  
12 streets and public buildings, and manage,  
13 regulate, and control the same;

14 (B) Regulate and control the location and quality of  
15 all appliances necessary to the furnishing of  
16 water, heat, light, power, telephone, and  
17 telecommunications service to the county;

18 (C) Acquire, regulate, and control any and all  
19 appliances for the sprinkling and cleaning of the  
20 streets and the public ways, and for flushing the  
21 sewers; and



- 1 (D) Open, close, construct, or maintain county
- 2 highways or charge toll on county highways;
- 3 provided that all revenues received from a toll
- 4 charge shall be used for the construction or
- 5 maintenance of county highways;
- 6 (20) Each county shall have the power to regulate the
- 7 renting, subletting, and rental conditions of property
- 8 for places of abode by ordinance;
- 9 (21) Unless otherwise provided by law, each county shall
- 10 have the power to establish by ordinance the order of
- 11 succession of county officials in the event of a
- 12 military or civil disaster;
- 13 (22) Each county shall have the power to sue and be sued in
- 14 its corporate name;
- 15 (23) Each county shall have the power to:
- 16 (A) Establish and maintain waterworks and sewer
- 17 works;
- 18 (B) Implement a sewer monitoring program that
- 19 includes the inspection of sewer laterals that
- 20 connect to county sewers, when those laterals are
- 21 located on public or private property, after



1 providing a property owner not less than ten  
2 calendar days' written notice, to detect leaks  
3 from laterals, infiltration, and inflow, any  
4 other law to the contrary notwithstanding;

5 (C) Compel an owner of private property upon which is  
6 located any sewer lateral that connects to a  
7 county sewer to inspect that lateral for leaks,  
8 infiltration, and inflow and to perform repairs  
9 as necessary;

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

12 (E) Install water meters whenever deemed expedient;  
13 provided that owners of premises having vested  
14 water rights under existing laws appurtenant to  
15 the premises shall not be charged for the  
16 installation or use of the water meters on the  
17 premises; and

18 (F) Take over from the State existing waterworks  
19 systems, including water rights, pipelines, and  
20 other appurtenances belonging thereto, and sewer



1 systems, and to enlarge, develop, and improve the  
2 same;

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

4 (i) "Infiltration" means groundwater, rainwater,  
5 and saltwater that enters the county sewer  
6 system through cracked, broken, or defective  
7 sewer laterals; and

8 (ii) "Inflow" means non-sewage entering the  
9 county sewer system via inappropriate or  
10 illegal connections;

11 (24) (A) Each county may impose civil fines, in addition  
12 to criminal penalties, for any violation of  
13 county ordinances or rules after reasonable  
14 notice and requests to correct or cease the  
15 violation have been made upon the violator. Any  
16 administratively imposed civil fine shall not be  
17 collected until after an opportunity for a  
18 hearing under chapter 91. Any appeal shall be  
19 filed within thirty days from the date of the  
20 final written decision. These proceedings shall



1           not be a prerequisite for any civil fine or  
2           injunctive relief ordered by the circuit court;  
3           (B) Each county by ordinance may provide for the  
4           addition of any unpaid civil fines, ordered by  
5           any court of competent jurisdiction, to any  
6           taxes, fees, or charges, with the exception of  
7           fees or charges for water for residential use and  
8           sewer charges, collected by the county. Each  
9           county by ordinance may also provide for the  
10          addition of any unpaid administratively imposed  
11          civil fines, which remain due after all judicial  
12          review rights under section 91-14 are exhausted,  
13          to any taxes, fees, or charges, with the  
14          exception of water for residential use and sewer  
15          charges, collected by the county. The ordinance  
16          shall specify the administrative procedures for  
17          the addition of the unpaid civil fines to the  
18          eligible taxes, fees, or charges and may require  
19          hearings or other proceedings. After addition of  
20          the unpaid civil fines to the taxes, fees, or  
21          charges, the unpaid civil fines shall not become



1 a part of any taxes, fees, or charges. The  
2 county by ordinance may condition the issuance or  
3 renewal of a license, approval, or permit for  
4 which a fee or charge is assessed, except for  
5 water for residential use and sewer charges, on  
6 payment of the unpaid civil fines. Upon  
7 recordation of a notice of unpaid civil fines in  
8 the bureau of conveyances, the amount of the  
9 civil fines, including any increase in the amount  
10 of the fine [~~which~~] that the county may assess,  
11 shall constitute a lien upon all real property or  
12 rights to real property belonging to any person  
13 liable for the unpaid civil fines. The lien in  
14 favor of the county shall be subordinate to any  
15 lien in favor of any person recorded or  
16 registered prior to the recordation of the notice  
17 of unpaid civil fines and senior to any lien  
18 recorded or registered after the recordation of  
19 the notice. The lien shall continue until the  
20 unpaid civil fines are paid in full or until a  
21 certificate of release or partial release of the



1           lien, prepared by the county at the owner's  
2           expense, is recorded. The notice of unpaid civil  
3           fines shall state the amount of the fine as of  
4           the date of the notice and maximum permissible  
5           daily increase of the fine. The county shall not  
6           be required to include a social security number,  
7           state general excise taxpayer identification  
8           number, or federal employer identification number  
9           on the notice. Recordation of the notice in the  
10          bureau of conveyances shall be deemed, at [~~such~~]  
11          the time, for all purposes and without any  
12          further action, to procure a lien on land  
13          registered in land court under chapter 501.  
14          After the unpaid civil fines are added to the  
15          taxes, fees, or charges as specified by county  
16          ordinance, the unpaid civil fines shall be deemed  
17          immediately due, owing, and delinquent and may be  
18          collected in any lawful manner. The procedure  
19          for collection of unpaid civil fines authorized  
20          in this paragraph shall be in addition to any



1 other procedures for collection available to the  
2 State and county by law or rules of the courts;  
3 (C) Each county may impose civil fines upon any  
4 person who places graffiti on any real or  
5 personal property owned, managed, or maintained  
6 by the county. The fine may be up to \$1,000 or  
7 may be equal to the actual cost of having the  
8 damaged property repaired or replaced. The  
9 parent or guardian having custody of a minor who  
10 places graffiti on any real or personal property  
11 owned, managed, or maintained by the county shall  
12 be jointly and severally liable with the minor  
13 for any civil fines imposed hereunder. Any  
14 [~~such~~] fine may be administratively imposed after  
15 an opportunity for a hearing under chapter 91,  
16 but [~~such~~] a proceeding shall not be a  
17 prerequisite for any civil fine ordered by any  
18 court. As used in this subparagraph, "graffiti"  
19 means any unauthorized drawing, inscription,  
20 figure, or mark of any type intentionally created  
21 by paint, ink, chalk, dye, or similar substances;



1 (D) At the completion of an appeal in which the  
2 county's enforcement action is affirmed and upon  
3 correction of the violation if requested by the  
4 violator, the case shall be reviewed by the  
5 county agency that imposed the civil fines to  
6 determine the appropriateness of the amount of  
7 the civil fines that accrued while the appeal  
8 proceedings were pending. In its review of the  
9 amount of the accrued fines, the county agency  
10 may consider:

- 11 (i) The nature and egregiousness of the  
12 violation;
- 13 (ii) The duration of the violation;
- 14 (iii) The number of recurring and other similar  
15 violations;
- 16 (iv) Any effort taken by the violator to correct  
17 the violation;
- 18 (v) The degree of involvement in causing or  
19 continuing the violation;
- 20 (vi) Reasons for any delay in the completion of  
21 the appeal; and



1           (vii) Other extenuating circumstances. The civil  
2           fine that is imposed by administrative order  
3           after this review is completed and the  
4           violation is corrected shall be subject to  
5           judicial review, notwithstanding any  
6           provisions for administrative review in  
7           county charters;

8           (E) After completion of a review of the amount of  
9           accrued civil fine by the county agency that  
10          imposed the fine, the amount of the civil fine  
11          determined appropriate, including both the  
12          initial civil fine and any accrued daily civil  
13          fine, shall immediately become due and  
14          collectible following reasonable notice to the  
15          violator. If no review of the accrued civil fine  
16          is requested, the amount of the civil fine, not  
17          to exceed the total accrual of civil fine prior  
18          to correcting the violation, shall immediately  
19          become due and collectible following reasonable  
20          notice to the violator, at the completion of all  
21          appeal proceedings; and



1 (F) If no county agency exists to conduct appeal  
2 proceedings for a particular civil fine action  
3 taken by the county, then one shall be  
4 established by ordinance before the county shall  
5 impose the civil fine;

6 (25) Any law to the contrary notwithstanding, any county  
7 mayor, by executive order, may exempt donors, provider  
8 agencies, homeless facilities, and any other program  
9 for the homeless under part XVII of chapter 346 from  
10 real property taxes, water and sewer development fees,  
11 rates collected for water supplied to consumers and  
12 for use of sewers, and any other county taxes,  
13 charges, or fees; provided that any county may enact  
14 ordinances to regulate and grant the exemptions  
15 granted by this paragraph;

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

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

20 SECTION 3. Section 92-28, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§92-28 State service fees; increase or decrease of. Any  
2 law to the contrary notwithstanding, the fees or other nontax  
3 revenues assessed or charged by any board, commission, or other  
4 governmental agency may be increased or decreased by the body in  
5 an amount not to exceed fifty per cent of the statutorily  
6 assessed fee or nontax revenue, to maintain a reasonable  
7 relation between the revenues derived from [~~such~~] the fee or  
8 nontax revenue and the cost or value of services rendered,  
9 comparability among fees imposed by the State, or any other  
10 purpose which it may deem necessary and reasonable; provided  
11 that:

- 12           (1) The authority to increase or decrease fees or nontax  
13 revenues shall be subject to the approval of the  
14 governor and extend only to the following: chapters  
15 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189,  
16 231, 269, [~~271,~~] 321, 338, 373, 412, 414, 414D, 415A,  
17 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431,  
18 436E, 436H, 437, 437B, 440, 440E, 441, 442, 443B, 444,  
19 447, 448, 448E, 448F, 448H, 451A, 451J, 452, 453,  
20 453D, 455, 456, 457, 457A, 457B, 457G, 458, 459, 460J,  
21 461, 461J, 462A, 463, 463E, 464, 465, 465D, 466, 466D,



1 466K, 467, 467E, 468E, 468L, 468M, 469, 471, 472, 482,  
 2 482E, 484, 485A, 501, 502, 505, 514B, 514E, 572, 574,  
 3 and 846 (part II) and any board, commission, program,  
 4 or entity created pursuant to title 25 and assigned to  
 5 the department of commerce and consumer affairs or  
 6 placed within the department for administrative  
 7 purposes;

8 (2) The authority to increase or decrease fees or nontax  
 9 revenues under the chapters listed in paragraph (1)  
 10 that are established by the department of commerce and  
 11 consumer affairs shall apply to fees or nontax  
 12 revenues established by statute or rule;

13 (3) The authority to increase or decrease fees or nontax  
 14 revenues established by the [University] university of  
 15 Hawaii under chapter 304A shall be subject to the  
 16 approval of the board of regents; provided that the  
 17 board's approval of any increase or decrease in  
 18 tuition for regular credit courses shall be preceded  
 19 by an open public meeting held during or before the  
 20 semester preceding the semester to which the tuition  
 21 applies;



- 1           (4) This section shall not apply to judicial fees as may  
2           be set by any chapter cited in this section;
- 3           (5) The authority to increase or decrease fees or nontax  
4           revenues pursuant to this section shall be exempt from  
5           the public notice and public hearing requirements of  
6           chapter 91; and
- 7           (6) Fees for copies of proposed and final rules and public  
8           notices of proposed rulemaking actions under chapter  
9           91 shall not exceed 10 cents a page, as required by  
10          section 91-2.5."

11          SECTION 4. Section 239-2, Hawaii Revised Statutes, is  
12          amended by amending the definition of "motor carrier" to read as  
13          follows:

14          "Motor carrier" means a common carrier or contract carrier  
15          transporting persons or property for compensation on the public  
16          highways, other than a [~~public utility or~~] taxicab."

17          SECTION 5. Section 269-1, Hawaii Revised Statutes, is  
18          amended as follows:

19          1. By repealing the definition of "enforcement officer":

20          [~~"Enforcement officer" means any person employed and~~  
21          ~~authorized by the commission to investigate any matter on behalf~~



1 ~~of the commission. The term also means a motor vehicle safety~~  
2 ~~officer employed and assigned, pursuant to section 271-38, by~~  
3 ~~the department of transportation to enforce sections 271-8, 271-~~  
4 ~~12, 271-13, 271-19, and 271-29 through assessment of civil~~  
5 ~~penalties as provided in section 271-27(h), (i), and (j)."]~~

6 2. By amending the definition of "public utility" to read:

7 "Public utility":

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



1 goods; or for the disposal of sewage; provided that  
2 the term shall include:

3 (A) An owner or operator of a private sewer company  
4 or sewer facility; and

5 (B) A telecommunications carrier or  
6 telecommunications common carrier; and

7 (2) Shall not include:

8 (A) An owner or operator of an aerial transportation  
9 enterprise;

10 (B) An owner or operator of a taxicab as defined in  
11 this section;

12 (C) Common carriers that transport only freight on  
13 the public highways [~~unless operating within~~  
14 ~~localities, along routes, or between points that~~  
15 ~~the public utilities commission finds to be~~  
16 ~~inadequately serviced without regulation under~~  
17 ~~this chapter]~~;

18 (D) Persons engaged in the business of warehousing or  
19 storage unless the commission finds that  
20 regulation is necessary in the public interest;



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- 1           (E) A carrier by water to the extent that the carrier  
2                   enters into private contracts for towage,  
3                   salvage, hauling, or carriage between points  
4                   within the State; provided that the towing,  
5                   salvage, hauling, or carriage is not pursuant to  
6                   either an established schedule or an undertaking  
7                   to perform carriage services on behalf of the  
8                   public generally;
- 9           (F) A carrier by water, substantially engaged in  
10                   interstate or foreign commerce, that transports  
11                   passengers on luxury cruises between points  
12                   within the State or on luxury round-trip cruises  
13                   returning to the point of departure;
- 14           (G) Any user, owner, or operator of the Hawaii  
15                   electric system as defined under section 269-141;
- 16           (H) A telecommunications provider only to the extent  
17                   determined by the public utilities commission  
18                   pursuant to section 269-16.9;
- 19           (I) Any person who controls, operates, or manages  
20                   plants or facilities developed pursuant to  
21                   chapter 167 for conveying, distributing, and



1 transmitting water for irrigation and other  
2 purposes for public use and purpose;

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

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

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

18 (iii) The facility does not make sales of water to  
19 residential customers;

20 (iv) The facility may distribute and sell  
21 recycled or reclaimed water to entities not



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

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

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



- 1           (L) Any person who owns, controls, operates, or
- 2                   manages plants or facilities primarily used to
- 3                   charge or discharge a vehicle battery that
- 4                   provides power for vehicle propulsion;
- 5           (M) Any person who:
- 6                   (i) Owns, controls, operates, or manages a
- 7                           renewable energy system that is located on a
- 8                           customer's property; and
- 9                   (ii) Provides, sells, or transmits the power
- 10                           generated from that renewable energy system
- 11                           to an electric utility or to the customer on
- 12                           whose property the renewable energy system
- 13                           is located; provided that, for purposes of
- 14                           this subparagraph, a customer's property
- 15                           shall include all contiguous property owned
- 16                           or leased by the customer without regard to
- 17                           interruptions in contiguity caused by
- 18                           easements, public thoroughfares,
- 19                           transportation rights-of-way, and utility
- 20                           rights-of-way; and



1           (N) Any person who owns, controls, operates, or  
2           manages a renewable energy system that is located  
3           on [~~sueh~~] the person's property and provides,  
4           sells, or transmits the power generated from that  
5           renewable energy system to an electric utility or  
6           to lessees or tenants on the person's property  
7           where the renewable energy system is located;  
8           provided that:  
9           (i) An interconnection, as defined in section  
10           269-141, is maintained with an electric  
11           public utility to preserve the lessees' or  
12           tenants' ability to be served by an electric  
13           utility;  
14           (ii) [~~Sueh~~] The person does not use an electric  
15           public utility's transmission or  
16           distribution lines to provide, sell, or  
17           transmit electricity to lessees or tenants;  
18           (iii) At the time that the lease agreement is  
19           signed, the rate charged to the lessee or  
20           tenant for the power generated by the  
21           renewable energy system shall be no greater



1 than the effective rate charged per kilowatt  
2 hour from the applicable electric utility  
3 schedule filed with the public utilities  
4 commission;

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

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

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



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

17 (vii) Nothing in this section shall be construed  
18 to permit wheeling.

19 If the application of this chapter is ordered by the  
20 commission in any case provided in paragraph (2) [~~(C)~~], (D), (H),  
21 and (I), the business of any public utility that presents



1 evidence of bona fide operation on the date of the commencement  
2 of the proceedings resulting in the order shall be presumed to  
3 be necessary to the public convenience and necessity, but any  
4 certificate issued under this proviso shall nevertheless be  
5 subject to terms and conditions as the public utilities  
6 commission may prescribe, as provided in sections 269-16.9 and  
7 269-20."

8 SECTION 6. Section 269-20, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10 "(d) The commission may at any time suspend, change or  
11 revoke such certificate in the manner provided in section  
12 [~~271-19.~~] 271G-15."

13 SECTION 7. Section 269-33, Hawaii Revised Statutes, is  
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) There is established in the state treasury a public  
16 utilities commission special fund to be administered by the  
17 public utilities commission. The proceeds of the fund shall be  
18 used by the public utilities commission and the division of  
19 consumer advocacy of the department of commerce and consumer  
20 affairs for all expenses incurred in the administration of  
21 chapters 269, [~~271,~~] 271G, 269E, and 486J, and for costs



1 incurred by the department of commerce and consumer affairs to  
2 fulfill the department's limited oversight and administrative  
3 support functions; provided that the expenditures of the public  
4 utilities commission shall be in accordance with legislative  
5 appropriations. On a quarterly basis, an amount not exceeding  
6 thirty per cent of the proceeds remaining in the fund after the  
7 deduction for central service expenses, pursuant to section  
8 36-27, shall be allocated by the public utilities commission to  
9 the division of consumer advocacy and deposited in the  
10 compliance resolution fund established pursuant to section  
11 26-9(o); provided that all moneys allocated by the public  
12 utilities commission from the fund to the division of consumer  
13 advocacy shall be in accordance with legislative appropriations.

14 (b) All moneys appropriated to, received, and collected by  
15 the public utilities commission that are not otherwise pledged,  
16 obligated, or required by law to be placed in any other special  
17 fund or expended for any other purpose shall be deposited into  
18 the public utilities commission special fund including, but not  
19 limited to, all moneys received and collected by the public  
20 utilities commission pursuant to sections 92-21, 243-3.5,



1 269-28, 269-30, [~~271-27, 271-36,~~] 271G-19, 269E-6, 269E-14, and  
2 607-5."

3 SECTION 8. Section 279J-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~§~~279J-2[~~]~~] **Relation to other laws; commercial vehicle;**  
6 **for-hire vehicle; registration; exemption.** [~~Neither a~~  
7 ~~transportation network company nor transportation network~~  
8 ~~company driver shall be considered a motor carrier under chapter~~  
9 ~~271.~~] No transportation network company driver shall be  
10 required to register a transportation network company vehicle as  
11 a commercial or for-hire vehicle."

12 SECTION 9. Section 286-207, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§286-207 Exemptions, certain vehicles.** This part shall  
15 not apply to the following vehicles, if such vehicles are in  
16 compliance with safety ordinances and rules of the county in  
17 which they operate and other applicable state safety laws and  
18 rules:

- 19 (1) Trucks, truck-trailers, trailers, or other  
20 nonpassenger carrying equipment having a gross vehicle  
21 weight rating of 10,000 pounds or less, except



1 vehicles used in transporting material found by the  
2 United States Secretary of Transportation to be  
3 hazardous under 49 U.S.C. section 5103 and transported  
4 in a quantity requiring placarding under 49 C.F.R.,  
5 subtitle B, chapter I, subchapter C;

6 (2) Taxicabs [as described in section 271-5(3)(B),] or  
7 other motor vehicles utilized in performing a bona  
8 fide taxicab service. For purpose of this paragraph,  
9 "taxicab" includes:

10 (A) Any motor vehicle used in the movement of  
11 passengers on the public highways where the  
12 passenger hires the vehicle on call or at a fixed  
13 stand, with or without baggage for  
14 transportation, and controls the vehicle to the  
15 passenger's destination;

16 (B) Any motor vehicle for hire having seating  
17 accommodations for eight or fewer passengers used  
18 in the movement of passengers on the public  
19 highways that may, as part of a continuous trip,  
20 pick up or discharge passengers from various  
21 unrelated locations; provided that they shall be



1 regulated by the counties in accordance with  
2 section 46-16.5(c); provided further that this  
3 subparagraph shall not apply to any exclusive  
4 rights granted by the department of  
5 transportation for taxicab services at facilities  
6 under the department's control; and  
7 (C) Any motor vehicle having seating accommodations  
8 for eight or fewer passengers used in the  
9 movement of passengers on the public highways  
10 between a terminal, i.e., a fixed stand, in the  
11 Honolulu district, as defined in section 4-1 and  
12 a terminal in a geographical district outside the  
13 limits of the Honolulu district, and vice versa,  
14 without picking up passengers other than at the  
15 terminals or fixed stands; provided that the  
16 passengers may be picked up by telephone call  
17 from their homes in the rural area or may be  
18 unloaded at any point between the fixed stands or  
19 may be delivered to their homes in the rural  
20 area;



- 1           (3) Passenger carrying vehicles used by employees solely  
2           for their own transportation to, from, and during  
3           work;
- 4           (4) Passenger carrying vehicles with a gross vehicle  
5           weight of 10,000 pounds or less used in car or van  
6           pools to transport less than sixteen individuals for  
7           the movement of passengers to and from work;
- 8           (5) A passenger carrying vehicle used for the  
9           transportation, without compensation, of persons for  
10          personal, recreational, or entertainment purposes;
- 11          (6) A passenger carrying vehicle with a gross vehicle  
12          weight rating of 10,000 pounds or less used solely for  
13          the transportation, without compensation, of the  
14          vehicle owner, the vehicle owner's family or guests;  
15          and
- 16          (7) A passenger carrying vehicle with a gross vehicle  
17          weight rating of 10,000 pounds or less used for the  
18          transportation, without compensation, of persons for  
19          the furtherance of their physical or mental  
20          rehabilitation or for social welfare activities."



1 SECTION 10. Section 286-231, Hawaii Revised Statutes, is  
2 amended by amending the definition of "school bus" to read as  
3 follows:

4 "School bus" means a commercial motor vehicle used to  
5 transport pre-primary, primary, or secondary school students  
6 from home to school, from school to home, or to and from school-  
7 sponsored events, but does not include a bus, as defined under  
8 section 286-2, used as a common carrier [~~as defined under~~  
9 ~~section 271-4~~]."

10 SECTION 11. Section 431:10C-702, Hawaii Revised Statutes,  
11 is amended to read as follows:

12 "[+] §431:10C-702 [+] **Relation to other laws.** Solely for  
13 the purposes of this article, neither a transportation network  
14 company nor a transportation network company driver shall be  
15 deemed to be a common carrier by motor vehicle, a contract  
16 carrier by motor vehicle, a motor carrier [~~as defined in section~~  
17 ~~271-4~~], a taxicab, or a for-hire vehicle service. As used in  
18 this section:

19 "Common carrier by motor vehicle" means any person that  
20 holds itself out to the general public to engage in the



1 transportation by motor vehicle of passengers or property or any  
2 class or classes thereof for compensation.

3 "Contract carrier by motor vehicle" means any person that  
4 engages in transportation by motor vehicle of passengers or  
5 property for compensation (other than transportation referred to  
6 in the definition of "common carrier by motor vehicle") under  
7 continuing contracts with one person or a limited number of  
8 persons for the furnishing of transportation services:

9 (1) Through the assignment of motor vehicles for a  
10 continuing period of time to the exclusive use of each  
11 person served; or

12 (2) Designed to meet the distinct need of each individual  
13 customer.

14 "Motor carrier" includes both a common carrier by motor  
15 vehicle and a contract carrier by motor vehicle."

16 SECTION 12. Chapter 271, Hawaii Revised Statutes, is  
17 repealed.

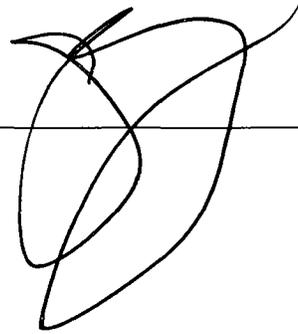
18 SECTION 13. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



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

2

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

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, crossing the line of the 'INTRODUCED BY:' text.

# S.B. NO. 2097

**Report Title:**

PUC; Deregulation; Motor Carrier Law

**Description:**

Repeals the regulation of motor carriers by the Public Utilities Commission. Makes conforming amendments.

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

