

ACT 66

H.B. NO. 1932-78

A Bill for an Act Relating to the Motor Carrier Law.

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

SECTION 1. Section 271-5, Hawaii Revised Statutes, is amended to read:

“Sec. 271-5 Exemptions, generally. Notwithstanding any other provisions of this chapter, its contents shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.
- (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided, that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engage in the transportation of persons other than those exempted in this paragraph, that portion of their operation shall not be exempt from the provisions contained in this chapter. Nothing herein shall be construed to authorize any person to engage in the transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or a certificate issued by the commission authorizing such transportation.
- (3) Persons operating taxicabs or other motor vehicles utilized in perform-

ing a bona fide metered taxicab service. "Taxicab" means and 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; and
- (B) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, as defined in section 70-1, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area.
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269.
- (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.
- (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.
- (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters or blueprints.
- (8) Persons operating funeral cars or ambulances.
- (9) Persons operating motor vehicles in the transportation of garbage or refuse.
- (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii.
- (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.
- (12) Sugar plantations transporting sugar cane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pursuant to contracts administered by the United States Department of Agriculture.
- (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire.

- (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading.
- (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading.
- (16) Persons engaged in transporting not more than fifteen passengers between their places of abode, or termini near such places, and their places of employment in a single daily round trip where the driver is also on his way to or from his place of employment.
- (17) Persons transporting passengers without charge in motor vehicles owned or operated by such person, where such transportation is provided in conjunction with and in furtherance of a related primary business purpose or enterprise of that person, and such transportation is provided only directly to and from the place of business of such person, except that this exemption shall not apply to persons making any contract, agreement, or arrangement to provide, procure, furnish, or arrange for transportation as a travel agent or broker or a person engaged in tour or sightseeing activities, nor shall this exemption apply where the transportation is undertaken by a person to evade the regulatory purposes of this chapter."

SECTION 2. Section 271-19, Hawaii Revised Statutes, is amended to read:

"Sec. 271-19 Suspension, change and revocation of certificates and permits. (a) Certificates and permits shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any certificate or permit may, upon application of the holder thereof, in the discretion of the public utilities commission, be amended or revoked, in whole or in part. The commission may upon complaint or upon its own initiative, after notice and hearing, suspend or revoke any certificate or permit, in part or in whole, if the holder thereof is found to be in violation of any of the provisions of this chapter; provided that a motor carrier's right to engage in transportation by virtue of any certificate or permit may be suspended by the commission immediately without hearing or other proceedings upon the carrier's failure to comply, and until the carrier complies with sections 271-21(a), 271-22(a), 271-17 or Act 20, Special Session Laws of Hawaii 1977, or with any lawful order of the commission.

(b) Upon written request by a motor carrier and for good cause shown, the public utilities commission may place an active certificate or permit in an inactive status. The certificate or permit may be placed on an inactive status for a period not exceeding twelve months. Prior to the termination of the approved inactive period, the certificate or permit must be reactivated or it shall be declared abandoned and the certificate or permit revoked. The certificate or permit may be reactivated at any time within the approved period by fulfilling the requirements for renewal, including the payment of the appropriate fees. No request for inac-

tive status, the cumulative period of which is in excess of two years, shall be granted by the commission. Unless good cause is shown, no request to transfer a certificate or permit which is on inactive status shall be approved by the commission.

(c) No person whose certificate or permit is revoked shall be eligible to apply for a new certificate or permit until the expiration of two years.

(d) A certificate or permit shall be revoked upon the voluntary dissolution of the corporation or partnership in whose name the certificate or permit has been issued. Upon verification with the department of regulatory agencies on the voluntary dissolution of a corporation or partnership, the commission shall issue an order with its findings and revoke the certificate or permit held by the registered certificate or permit holder."

SECTION 3. Section 271-29, Hawaii Revised Statutes, is amended to read:

"Sec. 271-29 Identification of carriers. The public utilities commission is authorized, under such rules and regulations as it shall prescribe, to require the display of suitable identification number or numbers, upon any motor vehicle used in transportation subject to this chapter, and to provide for the issuance of numbers. Any substitution, transfer, or use of any identification number or numbers, except such as may be duly authorized by the commission, is prohibited and shall be unlawful."

SECTION 4. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately numbered and to read:

"Sec. 271- Advertising, aiding and abetting; misdemeanor. (a) It shall be unlawful for any person, including a person who is exempt by section 271-5 of this chapter, to advertise as a motor carrier of passengers or property, unless such person holds a valid certificate or permit under this chapter issued by the public utilities commission. The term "advertise", as used in this section, includes but is not limited to the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or motor vehicle, or in any newspaper or magazine, or in any directory under a listing of motor common or contract carrier, or broadcasting by airwave transmission, with or without any limiting qualification.

(b) It shall be unlawful for any person to aid or abet an unlicensed or non-certificated motor carrier to evade this chapter or knowingly to combine or conspire with an unlicensed or non-certificated person, or to allow one's certificate or permit to be used by an unlicensed or non-certificated person, or to act as agent or partner or associate, or otherwise, of an unlicensed or non-certificated person, with the intent to evade this chapter.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor."

SECTION 5. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately numbered and to read:

"Sec. 271- Change of address; responsibility; service of orders. A motor

carrier shall have, maintain and operate from a definite place of business in the State and shall display therein the certificate or permit issued by the public utilities commission. The certificate or permit holder shall report any change of address or telephone number to the commission within five business days from such change. Communications, correspondence and service of orders and other official documents shall be made upon the certificate or permit holder at the last recorded address on file with the commission. Proof of service by certified or registered mail to the last known address shall constitute a valid service of any commission's order."

SECTION 6. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately numbered, and to read:

"Sec. 271- Attorney general; aid in enforcement. Upon written request of the public utilities commission, the attorney general shall prosecute all violations on behalf of the commission for the enforcement of the provisions of this chapter."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 8. This act shall take effect upon its approval.

(Approved May 10, 1978.)

*Edited accordingly.