

ACT 41

S.B. NO. 1753

A Bill for an Act Relating to Motor Carriers.

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

SECTION 1. Section 271-27, Hawaii Revised Statutes, is amended to read:

“Sec. 271-27 Unlawful operation. (a) Any person knowingly and wilfully violating any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate or permit for which a penalty is not otherwise herein provided, shall be guilty of a misdemeanor.

(b) Any person, whether carrier, shipper, or consignee, or any officer, employee, agent, or representative thereof, who knowingly offers, grants, or gives, or solicits, accepts, or receives any rebate, concession, or discrimination in violation of any provisions of this chapter, or who by means of any false statement or representation or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, knowingly and wilfully assists, suffers, or permits any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare, or charge, or who knowingly and wilfully by any such means or otherwise fraudulently seeks to evade or defeat regulation as in this chapter provided for motor carriers, shall be deemed guilty of a misdemeanor.

(c) Any special agent, accountant, or examiner who knowingly and wilfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of sections 271-9(a)(5), 271-23, and 271-25, except as he may be directed by the commission or by a court or judge thereof, shall be guilty of a misdemeanor.

(d) It shall be unlawful for any motor carrier or any officer, receiver, trustee, lessee, agent, or employee of the carrier, or for any other person authorized by such carrier or person to receive information, knowingly to disclose to, or permit to be acquired by any person other than the shipper or consignee without the consent of the shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to the motor carrier for transportation, which information may be used to the detriment or prejudice of the shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

(e) Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the government of the United States or of any state or of any political subdivision of any state, in the exercise of his power or to any officer or other duly authorized person seeking the information for the prosecution of persons charged with or suspected of crimes or to another carrier, or its duly authorized

agents, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of the carriers.

(f) Any motor carrier or any officer, agent, employee, or representative thereof, who wilfully fails or refuses to make a report to the commission as required by this chapter, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the commission, or to keep accounts, records, and memoranda in the form and manner prescribed by the commission, or knowingly and wilfully falsifies, destroys, mutilates, or alters any report, account, record, or memorandum or knowingly and wilfully files with the commission any false report, account, record, or memorandum, or knowingly and wilfully neglects or fails to make full, true, and correct entries in the accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this chapter to keep the same, or knowingly and wilfully keeps [any] accounts, records, or memoranda contrary to the rules, regulations, or orders of the commission with respect thereto, shall be deemed guilty of a misdemeanor. As used in this subsection, the words "keep" and "kept" mean made, prepared, or compiled, as well as retained.

(g) Any motor carrier or lessor, or any officer, agent, employee, or representative thereof, who shall fail or refuse to comply with any provision of this chapter, or any rule, regulation, requirement or order thereunder, may be assessed a civil penalty payable to the State in the sum of \$100 for each such offense, and, in the case of a continuing violation, not to exceed \$50 for each additional day during which such failure or refusal shall continue.

(h) Notwithstanding subsection (g), a motor carrier who fails to file, within the prescribed time, a financial report with the commission pursuant to its rules and regulations shall be assessed a civil penalty payable to the State in the sum of one-sixteenth of one percent of the gross revenues from the motor carrier's business during the preceding calendar year, if the failure is for not more than one month, with an additional one-sixteenth of one percent for each additional month or fraction thereof during which the failure continues, but in no event shall the total civil penalty be less than the sum of \$50.

[(h)] (i) Except when required by state law to take immediately before a district judge a person arrested for violation of any provision of this chapter, including any rule or regulation adopted and promulgated pursuant to this chapter, any person authorized to enforce the provisions of this chapter, hereinafter referred to as enforcement officer, upon arresting a person for violation of any provision of this chapter, including any rule or regulation adopted and promulgated pursuant to this chapter shall issue to the alleged violator a summons or citation printed in the form hereinafter described, warning him to appear and answer to the charge against him at a certain place and at a time within seven days after such arrest.

The summons or citation shall be printed in a form comparable to the form of other summonses and citations used for arresting offenders and shall be designed to provide for inclusion of all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district courts.

The original of a summons or citation shall be given to the alleged violator and the other copy or copies distributed in the manner prescribed by the district courts;

provided that the district courts may prescribe alternative methods of distribution for the original and any other copy.

Summonses and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the enforcement officer upon his arrest for violation of any provision of this chapter, including any rule or regulation promulgated pursuant to this chapter, shall be guilty of a misdemeanor.

In the event any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest.

When a complaint is made to any prosecuting officer of the violation of any provision of this chapter, including any rule or regulation promulgated thereunder, the enforcement officer who issued the summons or citation shall subscribe to it under oath administered by another official [of the department of regulatory agencies] whose name has been submitted to the prosecuting officer and who has been designated by the director of regulatory agencies to administer the same."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1979.)