

A Bill for an Act Relating to Transportation.

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

SECTION 1. The legislature finds and declares that:

(a) The State of Hawaii receives substantial revenues from the sale and delivery of in-bond merchandise to foreign-bound travelers departing from the Honolulu International Airport. In 1980 the State's airport special fund received over \$30 million from such sales.

(b) Presently there are two competing businesses serving the duty-free market under contracts with the department of transportation. These contractors have guaranteed the airport special fund a minimum of \$395,700,007 over the seven and one-half year life of the contracts.

(c) For the fiscal year 1981-1982, the revenues from the contracts are expected to provide forty per cent of the income of the airport special fund which supports all capital improvement programs and operating expenses and secures the revenue bonds for the state airport system.

(d) The addition of any more competition into this line of commerce may jeopardize these revenues and detrimentally affect the airport special fund.

(e) Tourism is, and will continue to be, one of the State's major industries. The economic welfare of the State and its citizens will depend in part upon the future of tourism in the State.

(f) Tourism in Hawaii is heavily dependent upon the national and international airline industry. If the revenues received by the airport special fund from the duty-free contractors are reduced, the airline industry landing fees will be increased correspondingly. There will be a detrimental effect on Hawaii's tourism industry if the airlines pass the additional cost on to the tourists through increased airline fares. Local consumers, of course, will also be paying higher air fares.

(g) Another important aspect of the State's tourism industry is the selling and delivering of in-bond merchandise to foreign-bound travelers.

(h) It is in the interest of the State and the State's tourism industry to insure that quality merchandise and excellent service at reasonable prices to departing foreign-bound travelers be established and maintained in the in-bond merchandise marketplace, taking into consideration the available physical facilities, personnel, logistical parameters, and competing interests at the Honolulu International Airport and within the State.

(i) Foremost among the concerns related to the addition of other competitors into the duty-free market are (1) whether the orderly administration of the airport and its facilities can be maintained and (2) the amount which can be assessed against additional competitors by the State for the privilege of delivering duty-free merchandise to the Honolulu International Airport.

(j) It is the policy of this State to protect the duty-free marketplace and thereby the tourist industry by limiting the number of duty-free operations to two and requiring that the State actively supervise their operations as a substitute for the competitive discipline of a free market economy. This Act will expire on June 30, 1982. It is intended that the Legislature will reexamine this Act during the 1982 Regular Session.

SECTION 2. Section 261-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Under department operation. In operating an airport or air navigation facility owned or controlled by the department of transportation, or in which it has a right or interest, the department may enter into contracts, leases, licenses, and other arrangements with any person:

- (1) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;
- (2) Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility;
- (3) Making available services, facilities, goods, commodities, or other things to be furnished by the department or its agents at the airport or air navigation facility; or
- (4) Granting the use and occupancy on a temporary basis by license or otherwise any portion of the land under its jurisdiction which for the time being may not be required by the department so that it may put the area to economic use and thereby derive revenue therefrom.

All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess.

Except as otherwise provided in this section, in each case mentioned in paragraphs (1), (2), (3) and (4), the department may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals, or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature. Such charges shall be reasonable and uniform for the same class of privilege, service, or thing.

The department shall enter into separate contracts with no more than two persons (“contractors”) for the sale and delivery of in-bond merchandise at Honolulu International Airport, in the manner provided by law. Each such contract shall confer the right to operate and maintain commercial facilities within the airport for the sale of in-bond merchandise and the right to deliver to the airport in-bond merchan-

dise for sale to departing foreign-bound passengers.

The department shall grant such contracts pursuant to the laws of this State and may take into consideration:

- (1) The payments to be made on in-bond merchandise sold at Honolulu International Airport and on in-bond merchandise displayed or sold elsewhere in the State and delivered to the airport;
- (2) The ability of the applicant to comply with all federal and state rules and regulations concerning the sale and delivery of in-bond merchandise; and
- (3) The reputation, experience, and financial capability of the applicant.

The department shall actively supervise the operation of the contractors to insure its effectiveness. The department shall develop and implement such guidelines as it may find necessary and proper to actively supervise the operations of such contractors, and shall include guidelines relating to the department's review of the reasonableness of contractors' price schedules, quality of merchandise, merchandise assortment, operations, and service to customers.

Apart from the contracts described above, during the period ending June 30, 1982, the department shall confer no right upon any person to offer to sell, sell, or deliver in-bond merchandise at Honolulu International Airport."

SECTION 3. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 5. This Act shall take effect upon its approval and shall expire on June 30, 1982.

The foregoing became law on July 7, 1981, without the Governor's signature, pursuant to Art. III, §16, State Constitution.

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.