

ACT 105

H.B. NO. 759

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

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

SECTION 1. The legislature finds that there is a need for better and more efficient enforcement of the motor carrier law. The use of department of transportation personnel for this purpose avoids creating more bureaucracy and is the most cost-effective method because it makes use of personnel already in place. Because these personnel are already stopping motor vehicles for other purposes at way stations, it would be a simple task to further check for current certificates, permits, and identification numbers issued by the public utilities commission, or otherwise issue citations on the spot.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "enforcement officer" to read as follows:

““Enforcement officer” means any person employed and authorized by the commission to investigate any matter on behalf of the commission. The term also means a motor vehicle safety officer employed and assigned, pursuant to section 271- , by the department of transportation to enforce sections 271-8, 271-12, 271-13, and 271-29 through assessment of civil penalties as provided in section 271-27(h), (i), and (j).”

SECTION 3. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§271- Enforcement.** At the request of the public utilities commission the department of transportation shall assign a motor vehicle safety officer employed by the department of transportation to assist in the enforcement of sections 271-8, 271-12, 271-13, and 271-29 through the assessment of civil penalties as provided in section 271-27(h), (i), and (j).”

SECTION 4. Section 271-4, Hawaii Revised Statutes, is amended by amending the definition of "enforcement officer" to read as follows:

“(15) “Enforcement officer” means any person employed and authorized by the commission to investigate any matter on behalf of the commission. The term also means a motor vehicle safety officer employed and assigned, pursuant to section 271- , by the department of transportation to enforce sections 271-8, 271-12, 271-13, and 271-29 through the assessment of civil penalties as provided in section 271-27(h), (i), and (j).”

SECTION 5. Section 271-27, Hawaii Revised Statutes, is amended by:

1. Amending subsection (g) to read as follows:

“(g) 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, [the commission’s] any enforcement officer, other than a motor vehicle safety officer employed and assigned, pursuant to section 271- , by the department of transportation to assess civil penalties, 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 the alleged violator to appear and answer to the charge against the alleged violator at a certain place [and at a time] within seven days after [such] the arrest.

- (1) The summons or citation shall be printed in a form comparable to [the form] that of other summonses and citations used for arresting offenders and shall [be designed to provide for inclusion of] include all necessary information. The form and content [of such summons or citation] shall be adopted or prescribed by the district courts.
- (2) The original of a summons or citation shall be given to the alleged violator and [the other copy or] any other 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.] copies.
- (3) Summonses and citations shall be consecutively numbered and [the carbon copy or] any other copies of each shall bear the same number.
- (4) Any person who fails to appear at the place and within the time specified in the summons or citation [issued to the person by the enforcement officer upon the person's 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.
- (5) [In the event] If 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] the person and secure the issuance of a warrant for the person's arrest.
- (6) When a complaint is made to any prosecuting officer of [the] a violation of [any provision of] this chapter[, including] or 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 whose name has been submitted to the prosecuting officer and who has been designated by the commission to administer the same."

2. Amending subsection (j) to read as follows:

“(j) In addition to any other remedy available, the commission or its enforcement officer, including a motor vehicle safety officer employed and assigned, pursuant to section 271- , by the department of transportation may issue citations to persons acting in the capacity of or engaging in the business of a motor carrier within the State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter and [the] rules [promulgated] adopted thereunder.

- (1) The citation may contain an order of abatement[,] and an assessment of civil penalties as provided in subsection (h). All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request to the commission for a hearing[,] within twenty days from the receipt of the citation, with respect to the violations alleged,

the scope of the order of abatement and the amount of civil penalties assessed. If the person cited under this subsection [timely] notifies the commission of the request for a hearing[,], in time, the commission shall afford the person an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission or the commission may designate a hearings officer to hold the hearing.

- (3) If the person cited under this subsection does not submit a written request to the commission for a hearing [within twenty days from the receipt of the citation,] in time, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order[,], issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the [provisions of] final order [of the commission or designated hearings officer], the commission need only produce a certified copy of the final order and show that the notice was given, and a hearing was held or the time granted for requesting the hearing has run without such a request[, and a certified copy of the final order of the commission or designated hearings officer].
- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal to the supreme court; provided that the operation of an abatement order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies either civil or criminal provided [in any other applicable statutory provision.] by law. The commission may adopt any rules under chapter 91 [as] that may be necessary to fully effectuate this subsection.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval and shall be repealed one year from its effective date. Sections 269-1, 271-4, and 271-27, Hawaii Revised Statutes are reenacted in the form in which they read on the day before the approval of this Act.

(Approved June 8, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.