

**ACT 86**

H.B. NO. 2615

A Bill for an Act Relating to Hazardous Materials.

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

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by amending the title of part XII to read as follows:

**“PART XII. TRANSPORTATION OF HAZARDOUS MATERIALS,  
HAZARDOUS WASTE, INFECTIOUS SUBSTANCES, AND MEDICAL  
WASTE]”**

SECTION 2. Section 286-221, Hawaii Revised Statutes, is amended to read as follows:

**“§286-221 Definitions.** As used in this part, unless the context otherwise requires:

[“Extremely hazardous substance” means for transportation purposes, chemicals transported in commerce that could cause serious health effects following short-term exposure from accidental releases and which are listed in Part 355 of Title 40 of the Code of Federal Regulations.]

“Hazardous material” means a substance or material[, including a hazardous substance,] which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, infectious substances, medical wastes, marine pollutants, elevated temperature materials, and materials that meet the defining criteria for hazard classes and divisions in title 49, Code of Federal Regulations, part 173.

“Hazardous materials incident” means an occurrence or likely occurrence or potential of a spill, release, leakage, dumping, or loss of control of [an extremely hazardous substance, hazardous substance,] a hazardous material[, hazardous waste, infectious substance, or medical waste] during the course of transportation in commerce including loading, unloading, or temporary storage.

“Hazardous substance” means [for transportation purposes, shipments of particular quantities of hazardous substances that are significant enough to be a substantial threat to public health and the environment, and which are listed in Part 172 of Title 49 of the Code of Federal Regulations.] any material, including its mixtures and solutions, defined under title 49, Code of Federal Regulations, part 171.

“Hazardous waste” means any material designated in [Part 261 of Title 40 of the] title 40, Code of Federal Regulations, part 261 and which are subject to the hazardous waste manifest requirements of [Part 262 of Title] title 40, Code of Federal Regulations[.], part 262.

“Infectious substance” means a viable microorganism, or its toxin, which causes or may cause disease in humans and animals[.], or which is further described as an infectious substance in title 49, Code of Federal Regulations, part 173.

“Medical waste” means for transportation purposes, shipments of medical waste material generated in the diagnosis, treatment, or immunization of human beings and animals, in research pertaining thereto, in the production or testing of biologicals, or which are further described as regulated medical waste in [Part 173 of Title] title 49, Code of Federal Regulations[.], part 173.

[“Transportation-related release” means a release of a hazardous material, hazardous substance, extremely hazardous substance, hazardous waste, infectious substance, or medical waste that occurs during the course of transportation in commerce including storage incidental to transportation while under active shipping papers or manifests and which has not reached the ultimate consignee.]”

SECTION 3. Section 286-222, Hawaii Revised Statutes, is amended to read as follows:

“§286-222 **General powers.** (a) The department of transportation may regulate the transportation of hazardous materials[, hazardous waste, hazardous substances, infectious substances, and medical waste] by motor carrier in commerce.

(b) The department shall annually adopt the hazardous [materials] material regulations established by the United States Department of Transportation and published in [Title] title 49 [of the], Code of Federal Regulations, [Parts] parts 107, 171 to 173, inclusive, and [Parts] parts 177, 178, and 180. All other rules adopted by the State and political subdivisions thereof shall be consistent therewith.

(c) Any hazardous material[, including hazardous substances and hazardous waste, and any infectious substance or medical waste,] which meets the federal and state criteria of a hazardous material[, infectious substance, or medical waste] must be handled and transported according to the appropriate requirements of the federal hazardous materials regulations and the additional requirements in this part.”

SECTION 4. Section 286-223, Hawaii Revised Statutes, is amended to read as follows:

“§286-223 **Scope.** (a) The federal rules establish minimum standards and must be complied with when transporting a hazardous material[, hazardous waste, hazardous substance, infectious substance, or medical waste] by motor carrier in commerce.

(b) For purpose of clarity and conformance with the rules established for describing hazardous materials on shipping papers and simplicity in hazardous materials incident reporting, hazardous substances and extremely hazardous substances as previously defined, shall be reported as hazardous materials.

(c) (b) Transport shall be deemed to include any operation incidental to the whole course of carriage by motor carrier from shippers point of origin to final destination[.], including storage incidental to transportation while under active shipping papers and prior to the hazardous material reaching the ultimate consignee.

(d) (c) No person shall transport any hazardous material[, hazardous waste, hazardous substance, infectious substance, or medical waste] outside the confines of the person’s facility or other location of storage or use, or offer or deliver any hazardous materials[, hazardous waste, hazardous substances, infectious substances, or medical waste] to a motor carrier for transportation in commerce, nor shall any motor carrier accept any hazardous materials[, hazardous waste, hazardous substances, infectious substances, or medical waste] for transport, without compliance with the applicable requirements of the hazardous [materials] material rules adopted by the department, including those relating to packaging of hazardous materials[, hazardous waste, hazardous substances, infectious substances, and medical waste], marking and labeling of packages, preparation and carriage of shipping papers or manifests, handling, loading, and unloading packages, placarding of the transporting vehicle, training of employees, inspection of motor carrier vehicles, and motor carrier accident and hazardous materials incident reporting.

(e) (d) No person in the course of transportation in commerce, shall spill, dump, deposit, or cause the release of a hazardous material[, hazardous waste, hazardous substance, infectious substance, or medical waste] upon a public highway, street, or the surrounding or connecting property, including but not limited to, storm drains, gutters, harbors, waterways, canals, lakes, and ocean shorelines, without immediately taking action to stop the spread of the material or remove the same or cause the same to be removed. If such person fails to comply with this subsection, the governmental agency responsible for the maintenance of the highway, street, or property on which the material was deposited may remove such materials and collect, by civil action, if necessary, the actual cost of the removal

operation and repair of damage to the affected facility or property from the person responsible as stated in this subsection.

[(f) Owners or operators of a facility from which there is a transportation-related release are subject to the hazardous materials transportation incident reporting requirements of this part.

(g) A copy of any written report required under this part shall be submitted to the director of transportation within fifteen days of the reported incident.]”

SECTION 5. Section 286-224, Hawaii Revised Statutes, is amended to read as follows:

“**§286-224 Inspections.** (a) Any shipment or transport of hazardous materials[, hazardous waste, hazardous substances, infectious substances, or medical waste,] by motor vehicle in commerce of which vehicle placarding or a shipping paper or manifest is required by the hazardous materials regulations adopted by the State, is subject to inspection by persons appointed by the director of transportation to enforce the safe transportation of hazardous materials[, hazardous waste, hazardous substances, infectious substances, and medical waste] in commerce and by those state and county officers charged with the enforcement of laws and ordinances adopted pursuant to this part.

(b) All carriers and persons that use a highway or street to transport hazardous materials[, hazardous waste, hazardous substances, infectious substances, or medical waste] in commerce shall afford the director of transportation, persons designated by the director, and those persons designated by the county executive officers, reasonable opportunity to enter and inspect freight containers, and motor vehicles, to review and document deficiencies on shipping papers and manifests, and to inspect other places incidental to the transshipment of hazardous materials[, hazardous waste, hazardous substances, infectious substances, and medical waste] by motor carrier vehicles.”

SECTION 6. Section 286-225, Hawaii Revised Statutes, is amended to read as follows:

“**§286-225 Hazardous materials incident reporting.** (a) Any employee of the motor carrier, the driver, handlers, and loaders, and any employees of state and county governments shall report [incidents involving] hazardous materials[, hazardous waste, infectious substances, and medical waste] incidents as follows:

- (1) Upon becoming aware of or observing the potential or actual spill, leakage, or loss of control of a hazardous material, [hazardous waste, or hazardous substance,] shall immediately, or as soon as possible, notify the nearest police or fire department and make a report of the situation. This incident reporting requirement does not relieve a carrier or shipper of the responsibility to notify the United States Department of Transportation, state department of health, or local emergency planning committee of certain hazardous materials incidents.
  - (2) Whenever an infectious substance shipment is lost, stolen, or suspected or known to be leaking from its containment packaging, shall immediately, or as soon as possible, notify the state department of health, and the Centers for Disease Control in Atlanta, Georgia, and make a report of the situation.
  - (3) Spillage or loss of control of a regulated medical waste shipment in commerce shall be reported immediately, or as soon as possible to the state department of health.
- (b) Whenever possible, the incident report should include [the]:

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- (1) The name and telephone number of the person calling in the report[, the];
  - (2) The name of the carrier[, type];
  - (3) Type of vehicle involved[, injuries];
  - (4) Injuries or fatalities connected with the incident, if any[, the];
  - (5) The location and time of the incident[, the];
  - (6) The duration of a chemical release into the environment, if known[, a];
  - (7) A description of hazards involved to include the chemical name or identity of any substance released[, hazardous];
  - (8) Hazardous materials classification, markings, and information on labels and placards affixed on packages, containers or vehicles[.]; and [emergency]
  - (9) Emergency actions taken including evacuation to minimize hazardous effects to public health, safety, and property.
- (c) A copy of any written notification required under title 49, Code of Federal Regulations, part 171 shall be provided to the state director of transportation.’’

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 27, 2000.)