

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEES ON
CONSUMER PROTECTION & COMMERCE
AND
JUDICIARY

FEBRUARY 20, 2013
2:00 p.m.

MEASURE: H.B. No. 1101, H.D. 1
TITLE: Relating to Motor Carriers

Chair McKelvey, Chair Rhoads, and Members of the Committees:

DESCRIPTION:

H.B. No. 1101, H.D. 1 would prohibit motor vehicle carriers operating without a certificate of authorization from the Public Utilities Commission (“Commission”) from enforcing undercharge recoveries pursuant to Section 271-24, Hawaii Revised Statutes (“HRS”). In addition, this measure would authorize any person using an uncertified motor vehicle carrier to bring judicial action to recover “all compensation” paid to the carrier. Finally, this measure clarifies that only carriers in compliance with HRS § 271-8 shall have a statutory lien for goods transported as provided under HRS § 271-28.5 and HRS § 490:7-307. The bill states an effective date of July 1, 2020.

POSITION:

The Commission would like to offer the following comments for the Committees’ consideration.

COMMENTS:

To assist a person seeking judicial action, the Commission recommends the person first be required to file a complaint with the Commission. This initial step would give notification to the Commission of a pending problem. Should the complaint involve a

certified motor carrier, the Commission can then investigate and resolve the issue under its existing rules and authority. Should the motor carrier be uncertified, the Commission can verify the motor carrier's uncertified status and the complainant can then proceed to court to initiate a claim to recover all compensation paid to the carrier. The filing of a complaint will also give the Commission the opportunity to issue a cease and desist order until the uncertified motor carrier is brought into compliance.

Thank you for the opportunity to testify on this measure.



FAX TRANSMISSION

Date: February 15, 2013

Company: House Consumer Protection Cmte. **To:** Vice Chair Kawakami

Fax: 586-8437

From: Gareth Sakakida **Our fax # (808) 833-8486**

No. of pages including this sheet = 2 Please call us if pages are missing.

MESSAGE:

Aloha,

Attached is testimony from:

Gareth Sakakida, Managing Director, Hawaii Transportation Association

To House Committees on: Consumer Protection & Commerce Committee, and
Judiciary

For hearing on February 20, 2013 at 2:00 p.m. in room 325

House Bill 1101 HD1



February 20, 2013

**TESTIMONY BEFORE THE JOINT HOUSE COMMITTEES ON
CONSUMER PROTECTION & COMMERCE, AND ON JUDICIARY
ON HB 1101 HD1 RELATING TO MOTOR CARRIERS**

Thank you Chair McKelvey, Chair Rhoads and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

We support this bill.

The Public Utilities Commission (PUC) regulates common carrier authority and operations since these carriers serve the general public. Enforcement against illegal motor carriers has been extremely light for at least the past 32 years, except for a couple of the years in the late 1990s.

Although we are encouraged that the PUC has reported they are close to adding staff, including enforcement officers, a similar report was made a year ago in this committee, so we understand these things take time.

In the meantime we support mechanisms to make it less desirable to operate illegally by denying rights that legal motor carriers have.

One is to deny the right to pursue undercharges for transportation services. This helps to prevent making up a low price to attract the consumer, then coming back for more money.

Second is to permit the users of illegal carriers to pursue recovery of all compensation paid to the illegal motor carrier. This is a unique measure that is gaining notice in the regulatory community. Most recently, California implemented the concept to deter illegal operations.

Third is a provision that denies the illegal motor carrier the right to place a lien on freight in its possession. Although this law is intended to allow a motor carrier to hold freight for payment of previous services, illegal carriers are reported to use the lien concept to hold current shipments hostage for more money.

We believe those who choose to operate outside the law should not have the rights and privileges afforded to legal motor carriers.

Thank you.