

DEPARTMENT OF BUDGET AND FINANCE

Adoption of Chapter 6-68

Hawaii Administrative Rules

April 25, 1997

SUMMARY

Chapter 6-68, Hawaii Administrative Rules, entitled "Investigation and Enforcement of Laws Governing Public Utilities, Motor Carriers, and Water Carriers," is adopted.

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

CHAPTER 68

INVESTIGATION AND ENFORCEMENT OF LAWS GOVERNING
PUBLIC UTILITIES, MOTOR CARRIERS, AND WATER CARRIERS

Subchapter 1 General Provisions

'6-68-1 Applicability; construction

'6-68-2 Proceedings, generally

'6-68-3 Application of additional sources

'6-68-4 General definitions

'6-68-5 Separation of functions

'6-68-6 Computation of time

'6-68-7 Severability clause

"6-68-8 to 11 (Reserved)

Subchapter 2 Complaint and Investigation

'6-68-12 Application of this subchapter non-exclusive

'6-68-13 Complaint

'6-68-14 Commission investigation

'6-68-15 Commission investigation - default

"6-68-16 to 20 (Reserved)

Subchapter 3 Civil Enforcement -

Citation and Penalty

'6-68-21 Civil citation

'6-68-22 Civil penalty

'6-68-23 Civil citation - default

'6-68-24 Final order

"6-68-25 to 29 (Reserved)

Subchapter 4 Civil Enforcement -

Condition, Limitation,

Amendment, Suspension, or

Revocation of License

'6-68-30 Application of this subchapter non-exclusive

'6-68-31 Condition or limitation of license

'6-68-32 Amendment, suspension, or revocation
of license

'6-68-33 Activity during limitation or suspension

'6-68-34 Restoration of suspended license

'6-68-35 Revoked license - application for new
license

'6-68-36 Interim orders

"6-68-37 to 41 (Reserved)

Subchapter 5 Settlement of Civil Violation

'6-68-42 Settlement of civil violation

"6-68-43 to 47 (Reserved)

Subchapter 6 Criminal Enforcement

'6-68-48 Criminal citation

"6-68-49 to 53 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

'6-68-1 Applicability; construction. (a) This chapter governs violations of the regulatory law and prescribes procedures for investigating alleged violations or suspected violations of the regulatory law and for issuing citations to and imposing sanctions on any person violating, allegedly

'6-68-3

violating, or suspected of violating the regulatory laws.

(b) This chapter shall be liberally construed to provide adequate and continuous public utility, motor carrier, and water carrier services in the State. [Eff] (Auth: HRS "91-2, 269-6, 269 15, 271-9, 271-27, 271G-7, 271G-19) (Imp: HRS "269-6, 269-7, 269-7.5, 269-10, 269-12, 269-13, 269 15, 269-20, 269-28, 271-8, 271-9, 271-12, 271-13, 271-16, 271-19, 271-27, 271-31, 271-34, 271G-7, 271G 10, 271G 12, 271G-15, 271G-16, 271G-17, 271G 19, 271G-23)

'6-68-2 Proceedings, generally. The commission may commence:

(1) Investigative proceedings against any person violating, allegedly violating, or suspected of violating any regulatory law; and

(2) Enforcement proceedings against any person violating any regulatory law. [Eff] (Auth: HRS "91-2, 269 6, 269-15, 271-9, 271-27, 271G-7, 271G 19) (Imp: HRS "269 6, 269-7, 269 7.5, 269-10, 269-12, 269 13, 269-15, 269-20, 269-28, 271-8, 271-9, 271-12, 271 13, 271 16, 271-19, 271-27, 271-31, 271 34, 271G 7, 271G 10, 271G-12, 271G-15, 271G-16, 271G-17, 271G-19, 271G-23)

'6-68-3 Application of additional sources. This chapter shall be read in context with any applicable:

(1) Federal law and regulation; and

(2) State law, commission order, and rule, including chapters 269, 271, and 271G, HRS, and chapter 6-61. [Eff _____] (Auth: HRS "91-2, 269-6, 269-15, 271-9, 271-27, 271G-7, 271G-19) (Imp: HRS "269 6, 269-7, 269-7.5, 269-10, 269-12,

'6-68-3

269-13, 269 15, 269-20, 269-28, 271-8, 271 9, 271-12, 271-13, 271-16, 271-19, 271 27, 271-31, 271 34, 271G 7, 271G-10, 271G-12, 271G-15, 271G-16, 271G-17, 271G 19, 271G-23)

'6-68-4 General definitions. As used in this chapter, unless the context clearly requires otherwise:

"Chairperson" means the commissioner designated by the governor to be the chairperson of the commission.

"Citation" means a form used for citing persons allegedly violating or suspected of violating any applicable regulatory law.

"Commission" means the public utilities commission of the State, or the commission's duly authorized representative, which may include the commission's hearings officer.

"Enforcement officer" means the same as in "269 1 and 271-4, HRS.

"Hearings officer" means a person appointed as such pursuant to '269-6, HRS.

"HRS" means the Hawaii Revised Statutes.

"License" means the revocable permission to engage as a public utility, motor carrier, or water carrier, issued by the commission to a person pursuant to chapter 269, 271, or 271G, HRS, or any rule promulgated pursuant to any of these chapters. It includes any certificate, permit, or other document issued by the commission as proof of that permission. It includes a conditional or temporary permission and any certificate,

permit, or other document issued by the commission as proof of the temporary permission.

"Licensee" means the person in whose name the commission issues a license.

"Motor carrier" means the same as in '271-4, HRS.

"Person" includes any individual, firm, copartnership, corporation, company, association, or joint stock association; and includes any trustee,

'6-68-5

receiver, assignee, or personal representative thereof.

"Public utility" means the same as in '269-1, HRS.

"Regulatory law" includes:

- (1) Chapters 269, 271, and 271G, HRS, providing for the regulation by the commission of public utilities, motor carriers, and water carriers, and any other person subject to the commission's jurisdiction;
- (2) Rules promulgated pursuant to any of these chapters;
- (3) Commission orders; and
- (4) Terms, conditions, or limitations set forth in the licensee's license.

"Respondent" includes:

- (1) Any person cited by the commission or its enforcement officer;
- (2) Any person against whom the commission institutes an investigation; or
- (3) Any person against whom a complaint is made.

"Restore" or "restoration" means permission to resume business as a public utility, motor carrier, or water carrier, granted by the commission to a person whose license has been suspended.

"Rule" means the Hawaii Administrative Rules.

"State" means the State of Hawaii.

"Water carrier" means the same as in '271G-5, HRS. [Eff] (Auth: HRS "91-2, 269 6, 269 15, 271-9, 271-27, 271G-7, 271G-19) (Imp: HRS "269-1, 269-6, 269-7, 269-7.5, 269-10, 269-12, 269-13, 269-15, 269-20, 269-28, 271-4, 271-8, 271-9, 271-12, 271-13, 271-16, 271-19, 271-27, 271-31, 271 34, 271-38, 271G-5, 271G 7, 271G-10, 271G-12, 271G-15, 271G-16, 271G-17, 271G-19, 271G-23)

'6-68-5 Separation of functions. (a) The enforcement officer and any employee or agent of the commission who investigates, prepares, or presents a

'6-68-5

particular case may not, in the case or a factually related case:

(1) Participate in the case as a hearings officer; or

(2) Participate or advise in the initial decision or review of the initial decision by the commission, except as a witness or representative in public proceedings.

(b) The hearings officer or commission members who sit on an enforcement case shall not directly supervise or be supervised by the investigating official. [Eff] (Auth: HRS "91 2, 269-6, 269 15, 271-9, 271-27, 271G-7, 271G 19) (Imp: HRS '269-6)

'6-68-6 Computation of time. Unless ordered or directed otherwise by the commission, in computing any period of time specified under this chapter:

- (1) The term "day" means a calendar day;
- (2) The term "receipt," "receive," or "received" means the actual receipt of the citation, payment, written request for civil citation hearing, or other document or thing at issue;
- (3) The day of the act, event, or default shall not be included in the computation period; and
- (4) The last day of the period so computed shall be included unless it is a Saturday, Sunday, or holiday, in which event the period runs until the end of the next business day which is not a Saturday, Sunday, or holiday. As used in this paragraph:
 - (A) The term "holiday" means any day designated as such by "8-1 and 8-2, HRS; and
 - (B) The term "end of the next business day" refers to the closing of the

'6-68-12

commission's Honolulu office for the day, normally at 4:30 p.m.

[Eff] (Auth: HRS "91-2, 269-6, 269-15, 271-9, 271-27, 271G 7, 271G-19)
(Imp: HRS "1-29, 8-1, 8-2, 269 6, 271-9, 271-27, 271-31, 271G-7, 271G 19, 271G-23)

'6-68-7 Severability clause. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

[Eff] (Auth: HRS "91-2, 269-6, 269 15, 271-9, 271-27, 271G 7, 271G-19)
(Imp: HRS "269-6, 269-7, 269-7.5, 269-10, 269-12, 269-13, 269 15, 269-20, 269-28, 271-8, 271-9, 271-12, 271-13, 271-16, 271-19, 271-27, 271-31, 271-34, 271G-7, 271G

10, 271G-12, 271G-15, 271G-16, 271G-17, 271G 19, 271G-23)

'6-68-8 to 11 (Reserved)

SUBCHAPTER 2

COMPLAINT AND INVESTIGATION

'6-68-12 Application of this subchapter non-exclusive. Nothing in this subchapter shall be construed as limiting or precluding the commission from using its civil or criminal enforcement authority, or both, against any person violating,

'6-68-12

allegedly violating, or suspected of violating any regulatory law. [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "269-6, 269-7, 269-8, 269 10, 269-12, 269-13, 269-15, 269-29, 271-9, 271-10, 271-27, 271-31, 271G-7, 271G-8, 271G 16, 271G-17, 271G 19, 271G-23)

'6-68-13 Complaint. (a) Unless ordered or directed otherwise by the commission, any complaint (informal or formal) against a public utility, water carrier, motor carrier, or other person subject to the commission's jurisdiction alleging a violation of any regulatory law shall be processed in accordance with chapter 6-61.

(b) Whenever the commission is of the opinion that the complaint does not state reasonable grounds for investigation and action on the commission's part, the commission may dismiss the complaint. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "269-6, 269-7, 269-8, 269-10, 269-12, 269-13, 269-15, 269-29, 271-9, 271-10, 271-27, 271-31, 271G-7, 271G-8, 271G-16, 271G-17, 271G-19, 271G-23)

'6-68-14 Commission investigation. (a) The commission may at any time investigate alleged or suspected violations of the regulatory law.

(b) The commission may issue to the respondent an order or notice instituting an investigation that may take the form of an order to show cause. The order to show cause shall require the respondent to appear before the commission on the date and at the time and place specified in the order.

(c) An order to show cause must conform to the notice and service requirements of "91-9 and 91-9.5, HRS. The order shall be served upon the person concerned or other respondent, and the complainant,

'6-68-20

not less than two weeks before the date designated for the hearing.

(d) The order to show cause may include an order of abatement that requires the respondent to cease and desist from any present or future violations of the regulatory law or commission orders.

(1) The abatement order may be entered on the commission's initiative or by agreement between the commission and respondent, with or without a finding of a specific violation; and

(2) Failure to comply with a commission abatement order is a violation of the regulatory law separate from any underlying violation. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-9, 91 9.5, "269-6, 269-7, 269-8, 269-10, 269-12, 269-13, 269-15, 269-29, 271-9, 271-10, 271-27, 271-31, 271G-7, 271G-8, 271G-16, 271G-17, 271G-19, 271G-23)

'6-68-15 Commission investigation - default. If the respondent fails to appear on the date and at the time and place designated in the order to show cause, the commission may assume that the facts alleged in the order are true, and, if the facts establish liability, the commission:

(1) Will issue a final decision and order; and

(2) May impose the maximum amount of penalties and assessments allowed under the regulatory law. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "269-6, 269-7, 269-8, 269-10, 269-12, 269-13, 269-15, 269-29, 271-9, 271-10, 271-27, 271-31, 271G-7, 271G-8, 271G-16, 271G-17, 271G-19, 271G-23)

"6-68-16 to 20 (Reserved)

'6-68-21

SUBCHAPTER 3

CIVIL ENFORCEMENT - CITATION AND PENALTY

'6-68-21 Civil citation. (a) The commission or its enforcement officer may issue a civil citation to any person:

(1) Acting in the capacity of or engaging in the business of a public utility, motor carrier, or water carrier within the State, without having a license or other authority previously obtained from the commission, authorizing it to engage or conduct business as a public utility, motor carrier, or water carrier in the State; or

(2) Violating, allegedly violating, or suspected of violating any regulatory law.

(b) Service of a citation 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.

(c) The citation may contain an:

(1) Order of abatement; and

(2) Assessment of civil penalties, pursuant to '6-68-22.

(d) The citation may require the person cited to appear before the commission on the date and at the time and place specified in the citation and to state whether the person contests or admits to the alleged or suspected violation.

(1) If the person cited appears before the commission on the appearance date and contests the citation, the commission shall schedule a chapter 91, HRS, hearing on the citation.

(2) If the person cited appears before the commission on the appearance date and does not contest the citation, the commission shall dispose of the citation as authorized by law, which may include the assessment of

'6-68-21

a civil penalty, pursuant to '6-68-22, and the citation is deemed a final order of the commission. If a civil penalty is assessed, the person cited will be issued a bill for collection requiring payment within fifteen days from the appearance date. If payment is not received by the commission within the fifteen day period, the person cited will be issued a second bill for collection requiring payment within fifteen days from the date of the second bill for collection. A respondent who fails to make payment of the civil penalty to the commission within fifteen days from the date of the second bill for collection is in default, pursuant to '6-68-23(c).

The respondent's appearance before the commission on the date and at the time and place specified in the citation to state whether the respondent contests or admits to the alleged or suspected violation, is a preliminary appearance and is not a chapter 91, HRS, hearing. This preliminary appearance before the commission may be conducted by the commission or by a hearings officer appointed by the chairperson.

(e) Failure to appear before the commission on the specified preliminary appearance date constitutes a default, pursuant to '6 68-23(a); provided that for good cause shown, a respondent may, at least five days before the appearance date specified in the citation, seek in writing the commission's approval to continue the appearance date set forth in the citation. If the respondent's request for continuance is approved, the respondent shall appear before the commission on the new appearance date specified by the commission. If the respondent's request for continuance is denied, the respondent shall appear before the commission on the appearance date specified in the citation; the respondent's failure to appear before the commission on the specified appearance date constitutes a default, pursuant to '6 68 23(a).

'6-68-21

(f) If the citation does not specify a preliminary appearance date requiring the person cited to appear before the commission as specified in subsection (d):

(1) The person cited must pay the civil penalty assessed in the citation within fifteen days from the receipt of the citation. If the person cited fails to make payment within fifteen days from the receipt of the citation and does not submit a timely written request to the commission for a hearing under paragraph (2), the citation is deemed a final order of the commission and the person cited will be issued a bill for collection requiring payment within fifteen days from the date of the bill for collection. If payment is still not received by the commission within fifteen days from the date of the bill for collection, the person cited will be issued a second bill for collection requiring payment within fifteen days from the date of the second bill for collection. Failure to make payment of the civil penalty to the commission within fifteen days from the date of the second bill for collection constitutes a default, pursuant to '6 68 23(c); or

(2) The person cited may contest the citation by submitting a written request to the commission for a hearing within twenty days from the receipt of the citation. Upon the receipt of a timely request for a hearing, the commission shall schedule a hearing on the citation pursuant to '271 31(a), HRS, and chapter 91, HRS. The hearing may be conducted by the commission or by a hearings officer appointed by the chairperson. Failure of respondent to appear before the commission on the specified hearing date constitutes a default, pursuant to '6 68 23(a); provided that for good cause

'6-68-22

shown, a respondent may, at least five days before the specified hearing date, seek in writing the commission's approval to continue the hearing date specified by the commission. If the respondent's request for continuance is approved, the respondent shall appear before the commission on the new hearing date specified by the commission. If the respondent's request for continuance is denied, the respondent shall appear before the commission on the hearing date specified by the commission; the respondent's failure to appear before the commission on the specified hearing date constitutes a default, pursuant to '6 68 23(a). [Eff] (Auth: "91-2, 269 6, 269-15, 271-9, 271-27, 271 38, 271G 7, 271G-19) (Imp: HRS "91 9, 91 9.5, 91-10, 91-11, 91-12, 269-1, 269-6, 269 7.5, 269-13, 269-15, 269-20, 269 28, 271-4, 271-8, 271-9, 271-12, 271-13, 271-27, 271-31, 271-38, 271G 5, 271G 7, 271G-10, 271G 19, 271G-23)

'6-68-22 Civil penalty. (a) The commission shall assess civil penalties in accordance with '269 28, '271-27, or '271G-19, HRS.

(b) Payment of a civil penalty shall be made:

(1) In-person, at the commission's Honolulu office; or

(2) By United States mail, postage pre-paid. If payment is made by mail, certified or registered mail is preferred.

If payment is made in-person, payment shall be by cash (United States currency only), cashier's check, or money order. If payment is made by United States mail, payment shall be by cashier's check or money order only. No personal or business checks, credit cards, or any other methods of payment will be

'6-68-22

accepted, regardless of the manner of payment (whether in-person or by United States mail). [Eff] (Auth: HRS "91 2, 269-6, 269-15, 271-9, 271-27, 271G-7, 271G-19) (Imp: HRS "269-6, 269 7.5, 269-15, 269-20, 269-28, 271-8, 271 9, 271-12, 271-13, 271-27, 271-31, 271G 7, 271G 10, 271G 19, 271G-23)

'6-68-23 Civil citation - default. (a) Failure of the respondent to appear:

(1) On the date and at the time and place designated in the citation for a preliminary appearance, pursuant to '6-68-21(d); or

(2) On the date and at the time and place designated by the commission for a chapter 91, HRS, hearing;

constitutes a default.

(b) In the event of a default pursuant to subsection (a), the commission may assume that the facts alleged in the citation are true, and, if the facts establish a violation, the commission:

(1) Will issue a final order and pursue enforcement of the final order, pursuant to '6-68-24; and

(2) May impose the maximum amount of penalties and assessments allowed under the regulatory law.

(c) Failure of the respondent to make payment of the civil penalty, referred to in "6-68-21(d)(2) or 6 68 21(f)(1), following the expiration of the second bill for collection period, constitutes a default, and the commission:

(1) May impose the maximum amount of penalties and assessments authorized under the regulatory law; and

(2) Will pursue enforcement of the final order, pursuant to '6-68-24. [Eff]
(Auth: HRS "91-2, 269 6, 269-15, 271-9, 271-27, 271G-7, 271G 19) (Imp: HRS "269-6, 269 7.5,

'6-68-30

269 15, 269-20, 269-28, 271-8, 271 9, 271 12, 271-13, 271-27, 271 31, 271G 7, 271G-10, 271G-19, 271G-23)

'6-68-24 Final order. The commission, attorney general, or any other authorized person may apply to the appropriate court for a judgment to enforce the provisions of any final order issued pursuant to this subchapter. In any proceeding to enforce the provisions of the final order, the commission need only:

(1) Show that notice, where required, was given, and that a hearing was held or the

time for requesting a hearing expired without such a request; and

(2) Present a certified copy of the final order. [Eff _____] (Auth: HRS "91-2, 269-6, 269-15, 271-9, 271-27, 271G-7, 271G 19) (Imp: HRS "269-6, 269 7.5, 269 13, 269-15, 269-20, 269-28, 271-8, 271 9, 271-12, 271-13, 271-27, 271-31, 271G 7, 271G-10, 271G 19, 271G-23)

'6-68-25 to 29 (Reserved)

SUBCHAPTER 4

CIVIL ENFORCEMENT - CONDITION, LIMITATION, AMENDMENT, SUSPENSION, OR REVOCATION OF LICENSE

'6-68-30 Application of this subchapter non-exclusive. Nothing in this subchapter shall be construed as limiting or precluding the commission from using its civil citation (including the

'6-68-30

assessment of civil penalties) or criminal enforcement authority, or both, against any person violating, allegedly violating, or suspected of violating any regulatory law. [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-9, 91 9.5, 269-6, 269-7, 269-7.5, 269-15, 269-20, 271-8, 271-9, 271-12, 271-13, 271-16, 271-19, 271-27, 271-31, 271G-7, 271G-10, 271G 12, 271G-15, 271G-19, 271G-23)

'6-68-31 Condition or limitation of license. The commission, from time to time, may impose reasonable conditions or limitations on a previously granted license:

- (1) In accordance with '269-7.5(b), HRS, for a public utility;
- (2) In accordance with '271-12(d), HRS, for a common carrier by motor vehicle;
- (3) In accordance with '271-13(c), HRS, for a contract carrier by motor vehicle; and
- (4) In accordance with '269-20(c), HRS, for a water carrier. [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "269-6, 269-7, 269-7.5, 269-15, 269-20, 271 8, 271-9, 271-12, 271-13, 271 16, 271 19, 271-27, 271-31, 271G-7, 271G-10, 271G-12, 271G-15, 271G-19, 271G-23)

'6-68-32 Amendment, suspension, or revocation of license. (a) In accordance with '269-7.5(d), HRS, the commission may amend, suspend, or revoke the license of a public utility, in whole or in part, after notice and hearing, for the wilful violation of any regulatory law; provided that the commission may, upon the licensee's application and the commission's discretion, amend, suspend, or revoke the license of a public utility, in whole or in part, without a hearing.

(b) In accordance with '271-19(a), HRS, the commission may suspend or revoke the license of a motor carrier, in whole or in part, after notice and hearing, for the violation of any regulatory law; provided that the commission may:

(1) Upon the licensee's application and the commission's discretion, amend or revoke the license of a motor carrier, in whole or in part, without a hearing;

(2) Immediately suspend the license of a motor carrier, without a hearing, upon the motor carrier's failure to comply with:

(A) "271-17, 271-21(a), or 271-22(a), HRS;

(B) Act 20, Special Session Laws of Hawaii 1977 and any amendments thereto; or

(C) Any commission order.

Any summary suspension imposed pursuant to this paragraph shall continue until the carrier complies with the applicable provision or order;

(3) Without notice or hearing, revoke the license of a motor carrier that has been placed on inactive status if the carrier does not reactivate the license on or before the last day of the approved period of inactivity; or

(4) Without notice or hearing, revoke the license of a motor carrier if the motor carrier is a corporation or partnership, and the corporation or partnership has voluntarily dissolved. Before revoking the license, the commission shall:

(A) Verify the voluntary dissolution with the state department of commerce and consumer affairs; and

(B) Issue an order stating its findings.

(c) In accordance with '271G-15, HRS, the commission may suspend, amend, or revoke the license of a water carrier, in whole or in part, after notice and hearing, for the wilful failure to comply with any regulatory law; provided that:

(1) The commission may, upon the licensee's application and the commission's discretion, amend or revoke the license of a water carrier, in whole or in part, without a hearing;

(2) No license of a water carrier may be revoked (except upon the licensee's application), unless the licensee wilfully fails to comply within a reasonable time, not less than thirty days, fixed by the commission to comply with a commission order commanding compliance with the regulatory law the licensee is in violation of; and

(3) Upon a reasonable notice of not less than fifteen days, but without a hearing, the commission may suspend a water carrier's license issued under "271G-10 or 271G-12, HRS, for the carrier's failure to comply with:

(A) '271G-17(a), HRS, relating to water carrier tariffs; or

(B) Any order or rule of the commission implementing '271G-17(a), HRS.

Any suspension imposed pursuant to this paragraph continues until the water carrier complies with '271G-17(a) or the commission's order or rule implementing '271G-17(a). [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "269 6, 269-7, 269-7.5, 269-15, 269 20, 271-8, 271 9, 271-12, 271-13, 271 16, 271-17, 271-19, 271-21, 271-22, 271 27, 271 31, 271G-7, 271G-10, 271G-12, 271G-15, 271G-271G-17, 271G-19, 271G-23)

'6-68-33 Activity during limitation or suspension. The commission may institute proceedings to permanently revoke the license of any licensee who violates the commission's order of limitation or suspension. The licensee is subject to all penalties

prescribed by the applicable regulatory law. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "269-6, 269-7, 269-7.5, 269-15, 269-20, 271-8, 271-9, 271-12, 271-13, 271-16, 271-19, 271-27, 271-31, 271G-7, 271G-10, 271G-12, 271G-15, 271G-19, 271G-23)

'6-68-34 Restoration of suspended license. Unless ordered or directed otherwise by the commission, a person whose license is suspended by the commission may apply for restoration of the license upon complete compliance with:

- (1) The applicable regulatory law that the commission determined the licensee had violated; and
- (2) All terms and conditions imposed by the order of suspension.

The application for restoration of license must be accompanied by all applicable fees and assessments, including any assessment of civil penalties. [Eff _____] (Auth: HRS "91 2, 269-6, 271 9, 271G-7) (Imp: HRS "269-6, 269-7, 269-7.5, 269 15, 269-20, 271-8, 271-9, 271-12, 271-13, 271-16, 271-19, 271-27, 271-31, 271G-7, 271G-10, 271G-12, 271G 15, 271G-19, 271G-23)

'6-68-35 Revoked license - application for new license. (a) Unless ordered or directed otherwise by the commission, a person whose license has been revoked by the commission may apply for a new license by filing an application and complying with all requirements for new applicants in effect at the time of the application. The commission may waive any or all requirements if it is satisfied:

- (1) Upon review of the documentation submitted by the applicant whose license had been previously revoked, that the applicant has

'6-68-35

maintained its fitness and ability to provide the service; and

(2) That the public convenience and necessity require the proposed service.

(b) Notwithstanding subsection (a), a person whose motor carrier license has been revoked may not file an application for a new license earlier than two years from the date of the revocation of the previous license. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "269-6, 269-7, 269 7.5, 269 15, 269-20, 271-8, 271-9, 271-12, 271-13, 271 16, 271 19, 271-27, 271-31, 271G-7, 271G-10, 271G 12, 271G 15, 271G-19, 271G-23)

'6-68-36 Interim orders. The commission may issue an interim order that temporarily disposes of issues in a civil enforcement proceeding after notice to the respondent. The order remains in effect until final commission action, unless otherwise provided in the interim order. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "269-6, 271 9, 271G-7)

"6-68-37 to 41 (Reserved)

SUBCHAPTER 5

SETTLEMENT OF CIVIL VIOLATION

'6-68-42 Settlement of civil violation. The commission, at its discretion, may enter into discussions or negotiations and reach an agreement with a respondent to settle any civil violation of a

'6-68-53

regulatory law. A settlement agreement is not binding on the commission until it is approved by the commission. [Eff _____] (Auth: HRS "91 2, 269-6, 269-15, 271-9, 271-27, 271G-7, 271G-19) (Imp: HRS "269-6, 271-9, 271G-7)

"6-68-43 to 47 (Reserved)

SUBCHAPTER 6

CRIMINAL ENFORCEMENT

'6-68-48 Criminal citation. (a) When criminal enforcement is authorized by law, the commission or its enforcement officer may issue a criminal citation to any person violating, allegedly violating, or suspected of violating any regulatory law for which the criminal enforcement is authorized. The form, content, and service of the criminal citation shall be as adopted or prescribed by the district courts of the State.

(b) The procedure for contesting and enforcing a criminal citation shall be as adopted or prescribed by the jurisdictional courts of the State. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "269-1, 269-6, 269-29, 271 4, 271-8.5, 271-9, 271-27, 271-38, 271G-5, 271G-7, 271G-19)

"6-68-49 to 53 (Reserved)

DEPARTMENT OF BUDGET AND FINANCE

Chapter 6-68, Hawaii Administrative Rules, on Summary Page dated April 25, 1997, was adopted on April 25, 1997, following public hearings held on March 4, 5, 6, 7, and 8, 1996, after public notice was given in the Honolulu Advertiser on February 2, 1996, The Garden Island on February 2, 1996, the Maui News on February 2, 1996, the Hawaii Tribune-Herald on February 4, 1996, and West Hawaii Today on February 4, 1996; and following public rehearings held on March 17, 18, 19, 20, and 21, 1997, after public notice was given in the Honolulu Advertiser on February 12, 1997, The Garden Island on February 12, 1997, the Maui News on February 12, 1997, the Hawaii Tribune-Herald on February 12, 1997, and West Hawaii Today on February 12, 1997.

Chapter 6-68 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Anzai

Earl I.

Director of Finance
Department of Budget &
Finance

Yukio Naito, Chairman
Public Utilities Commission

APPROVED:

Benjamin J. Cayetano

Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed