

DEPARTMENT OF TRANSPORTATION

Amendment and Compilations of Chapter 19-20.1,
Hawaii Administrative Rules

July 3, 2018

SUMMARY

1. §§19-20.1-2, 19-20.1-3, 19-20.1-4, 19-20.1-5, 19-20.1-6, 19-20.1-7, 19-20.1-8, 19-20.1-11, 19-20.1-55, 19-20.1-56, and 19-20.1-60, are amended.
2. A new §19-20.1-62 is added.



HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 20.1

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SUBCHAPTER 1

GENERAL PROVISIONS

§19-20.1-1 Applicability. This chapter shall apply to the following types of commercial services permitted at or in public airports:

- (1) Aircraft ground handling;
- (2) Baggage pickup and delivery;
- (3) Commercial photography;
- (4) Greeting services for hire;
- (5) In-flight catering;
- (6) Merchandise delivery;
- (7) Porter services; and
- (8) Prearranged ground transportation.

[Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-2 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Aircraft" means airplanes, airships, dirigibles, helicopters, gliders, amphibians, seaplanes and any other contrivance now or hereafter used for the navigation of or flight in air space.

"Airline lessee" means any aircraft operator that has entered into a lease with the department for the use of land or facilities at a public airport.

"Air operations area" means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and which is not leased or demised to anyone for exclusive use and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas; maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft or used for embarkation or debarkation of passengers.

"Department" means the department of transportation of the State.

"Director" means the director of the department of transportation or his duly authorized representative.

"Gross receipts" includes all moneys paid or payable to the permittee or person providing or facilitating one of the commercial services, specified in section 19-20.1-1, at a public airport, regardless of whether the order, reservation or payment for the commercial service is made within or without the public airport. The term "gross receipts" excludes any general excise taxes upon a consumer or tips collected by the person providing the commercial service at a public airport. (For prearranged ground transportation services, the term "gross receipts" also excludes applicable government taxes or fees, public service company taxes, commissions to travel agents, revenues from arrival sightseeing en route to the hotel in excess of two hours or its equivalent, and receipts reportable under other commercial service permits, provided all such exclusions are segregated and identified in the accounting process of the permittee or person providing or facilitating prearranged ground transportation services at a public airport.)

"Passenger" means any person who arrives or departs from a public airport aboard an aircraft except for persons comprising the flight crew of the aircraft.

"Permittee" means any person authorized to provide or facilitate any of the commercial services, specified in section 19-20.1-1, in or at a public airport under a permit or other written authorization from the director.

"Person" means any individual, firm, partnership, corporation, trust, association, company, joint venture, or any other legal entity and collectively its respective authorized employees, contractors, assignees, receivers, trustees, agents, or other similar representative.

"Public airport" means that area of land and water under governmental jurisdiction which is used for landing and taking-off of aircraft, any appurtenant areas which are used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

"Solicit" means to ask, implore, plead for; to endeavor to obtain by asking; to importune; to seek actively though silently; or to try to obtain.

"State" means the State of Hawaii.

[Eff 5/4/02; am and comp] (Auth: HRS §261-12) (Imp: HRS §261-7) **AUG 24 2018**

§19-20.1-3 Permit or authorization required.

Any person providing or facilitating any of the commercial services specified in section 19-20.1-1 in or at a public airport shall do so only upon receipt of a permit or other written authorization from the director which shall be issued upon payment of the applicable fees. A permit shall not be assigned or otherwise transferred. A permit shall not be issued to applicants who are in arrears in the payment of taxes, fees or other charges to state agencies.

[Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-4 Payment of fees. (a) The required fees for each type of commercial services are specified in the applicable subchapter.

(b) Time of payment.

- (1) Annual fees shall be paid annually in advance of providing or facilitating commercial services at or in public airports; and

(2) Monthly fees (including percentage fees) shall be paid on or before the twentieth day of the succeeding month.

(c) Any amount payable which is not paid when due shall bear interest at the rate of one percent per month or the maximum rate of interest allowable by law.

(d) Payments due under this chapter shall be made at or sent to the airports division, department of transportation, Daniel K. Inouye International Airport, Honolulu, Hawaii 96819; or any of its offices located at Hilo International Airport, Hilo, Hawaii 96720; Ellison Onizuka Kona International Airport at Keahole, Kailua-Kona, Hawaii 96740; Kahului Airport, Kahului, Hawaii 96732; or Lihue Airport, Lihue, Hawaii 96766. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-5 Records; audit of records; reports.

(a) This section shall apply to permittees who are required to pay percentage fees.

(b) The permittee shall maintain up-to-date records and books in accordance with a recognized system of bookkeeping and such records and books shall reflect a segregation of airport revenue in the general ledger, reconciled and supported by original source documents. Such records including original source documents shall be kept for three years in the state following the end of the permit year.

(c) The State shall be granted access, at all reasonable times, to all books, accounts, records and reports including gross income tax reports and data from a digital network or software application service, as defined in section 19-20.1-55 and as required by section 19-20.1-62, showing daily receipts; and at any reasonable time on twenty-four hours' notice the permittee will permit a complete audit to be made by the State's accountant or by a certified public accountant of the permittee's entire

business affairs and records relating to the business conducted at, from or in connection with the airport for the term of the permit. The permittee will cooperate fully in the making of any inspection, examination or audit. Should such audit by the State's accountant or by a certified public accountant disclose that fees have been underpaid by two percent or more for any period under examination, the State shall, in addition to the remedies provided in subsection (e) of this section, be entitled to reimbursement of the reasonable cost of any such audit in addition to the deficiency. If such audit by the State's accountant or by a certified public accountant shall disclose that fees have been underpaid by five percent or more for the period under examination, the state shall, in addition to the foregoing rights, have the right, upon ten days' notice, to revoke the authorization to conduct the applicable commercial service at public airports.

(d) The permittee shall, on or before the twentieth day of the succeeding month, file with the director, on forms prescribed by the director, a report of its gross receipts for the previous month certified to by a qualified representative of the permittee; the certifier shall state that it has examined the books, records, and other evidence of the gross receipts of the permittee for the period reported and that to its knowledge the statement is true and correct. The statement shall be in such form and contain such details and breakdowns as the State may require. Payment of requisite fees shall be submitted with the report. Any amount payable which shall not have been paid when due shall bear interest at the rate of one percent per month

(e) Without prejudice and in addition to any other remedies the State may have for such default, if the permittee shall fail to promptly furnish any monthly report, the State may have such report prepared by an accountant to be selected by the State, at the expense and on behalf of the permittee. The permittee shall furnish to such accountant all records requested for the purpose of preparing such reports,

and the permittee shall pay to the State all expenses incurred by the State in securing such reports. Furthermore, the State may select procedures which would produce a reasonable gross receipts expectation, and assess percentage fees based upon gross receipts so computed. In the event that records have not been prepared and kept in accordance with this chapter, the State shall, in addition to all other payments required herein, be entitled to demand and receive an additional payment of ten percent of the gross receipt fee for the periods involved. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-6 Insurance. (a) The permittee shall maintain and keep in force adequate insurance as determined by the applicable state or county insurance law, or as otherwise determined by the director at all times when a permittee is at a public airport in connection with providing a commercial service or actually providing or facilitating a commercial service. The insurance shall serve to protect both the department and the permittee against claims for public liability and property damage. The current insurance requirements shall be posted at each Airports Division district office. The following types of insurance are required, as applicable:

- (1) Automobile liability insurance. To provide coverage against all losses arising out of the person's operation of the registered vehicles, including motorized passenger carts, on airport premises and resulting in injury to persons or damage to property. (Commercial photography and greeting services for hire permittees are exempt from this requirement.)
- (2) Comprehensive general liability policy; owners, landlords and tenants or manufacturers and contractors liability

policy. To provide coverage against claims arising out of the person's operation on airport premises resulting in injury to persons or damage to property.

(b) The permittee shall provide the department with a certificate of insurance naming the permittee as the insured and the department as additional insured to the extent of liability arising out of the named insured's operations at the public airport with a thirty-day advance notice of material changes in coverage or cancellation. Upon demand by the department, the permittee or any person applying for a permit shall produce the insurance policy for inspection. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-7 Entry to air operations area. Except as may be authorized by the director, no person providing or facilitating commercial services at any public airport shall be permitted entry into the air operations area. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-8 Airport activity. (a) Each permittee's activity shall be limited to the area designated by the director. The director may change the designated areas when such action is deemed necessary and in the best interest of safety to persons or property.

(b) All permittees and persons shall:

- (1) Maintain its designated activity area in a safe and clean condition in compliance with all applicable statutes, laws, ordinances, rules and regulations;
- (2) Be liable for the fair value of any janitorial or maintenance service for cleaning or repairing airport premises necessitated by the permittee's failure to

properly and adequately maintain its designated area;

- (3) Conduct business in an orderly, courteous and businesslike manner;
- (4) Be suitably dressed or uniformed, as applicable;
- (5) Furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and will charge fair, reasonable and not unjustly discriminatory prices for each unit of service; provided that the permittee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers; and
- (6) Wear the identification badge (issued under this chapter) in plain sight, while at the airport, as applicable.

(c) The following provisions shall apply to permittees who are authorized to operate vehicles at a public airport in connection with providing a commercial service authorized by this chapter:

- (1) All permittees and persons shall keep all vehicles and equipment used at any public airport in good mechanical condition, clean and suited for their designated use. The department may disapprove the use by the permittee of any vehicle or equipment which the department deems unsafe or unsuitable for its designated use.
- (2) All permittees authorized to operate a vehicle at a public airport by this chapter shall be licensed by the state public utilities commission or appropriate governmental regulatory agency, if so required, and at all times display a current safety inspection sticker and current evidence of licensing as required by the applicable regulatory agency of the government.
- (3) The department shall issue decals which shall be placed by the permittee on those

vehicles utilized at a public airport that meet the requirements of the department. No vehicle shall be used to provide commercial services authorized by this chapter at any public airport without a decal issued by the department. Prearranged ground transportation permittees shall be exempt from this requirement, but shall be subject to the requirements set forth in section 19-20.1-62.

- (4) All permittees authorized to operate a vehicle at a public airport by this chapter shall do so only for the activity authorized and only at the locations designated by the director for the specified activity. [Eff 5/4/02; am and comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-9 Revocation of permit; termination. A permit issued under this chapter may be revoked by the department for violation of this chapter, upon ten days prior written notice. The permit may be terminated without cause by the department or by the permittee upon thirty days prior written notice. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-10 Subordination to sponsor's assurance agreement. A permit shall be subordinate and subject to the terms and conditions of any sponsor's assurance agreement executed between the State and the United States of America, which is in force during the term of the permit. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-11 Indemnification and hold harmless.

The permittee shall indemnify, defend and hold harmless the department and the State from all claims for damages or compensation arising out of the use of the permit or the airport. [Eff 5/4/02; am and comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-12 Severability.

The provisions of this chapter are declared to be severable and if any portion or the application thereof is held to be invalid for any reason, the validity of the remainder of this chapter shall not be affected. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-13 Enforcement.

This chapter may be enforced by police officers or any person deputized pursuant to section 261-17, Hawaii Revised Statutes. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-14 Penalty.

Penalties for violations of this chapter shall be as set forth in section 261-21, Hawaii Revised Statutes. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 2

AIRCRAFT GROUND HANDLING

§19-20.1-15 Scope. The special provisions set forth in this subchapter shall apply to aircraft ground handling services at public airports. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-16 Definitions. Unless the context clearly indicates otherwise, as used in this chapter: "Aircraft ground handling services" shall include the following services performed for arriving or departing aircraft:

- (1) Ramp services, including but not limited to, providing passenger or crew stairs, ground power units, baggage, mail and cargo loading and unloading, air start units, aircraft pushback and towing, air conditioning or heating equipment, and fueling;
- (2) Aircraft cabin cleaning, including, but not limited to, interior cleaning service, lavatory service, and drinking water service;
- (3) Passenger services, including, but not limited to, reservations, ticketing, seat selection, passenger check-in, document processing, passenger boarding, and VIP lounge services;
- (4) Cargo handling, including, but not limited to, warehousing, document processing, cargo buildup or breakdown, loading or unloading, and transportation;
- (5) Aircraft maintenance, including, but not limited to, maintenance, and preventive maintenance; and
- (6) Aircraft flight planning and flight dispatch service.

"Aircraft ground services operators" means all persons authorized to perform aircraft ground handling services at public airports and includes permittees, airline lessees, and airport lessees.

"Airport lessee" means any person other than an airline lessee that has entered into a lease with the department for the use of land or facilities at a public airport. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-17 Fee. Any person authorized to provide aircraft ground handling services shall, in consideration of using state facilities for conducting business, pay the department an annual administrative expense fee of \$100. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-18 Exemption. Airport or airline lessees authorized by their lease to provide aircraft ground handling services for others at a public airport are exempt from the permit and fee requirements under this chapter. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-19 Statement of contracted services. The permittee shall provide to the department upon request a statement certified by the serviced airline that a contract for aircraft ground handling services presently exists. This chapter shall become a part of all such contracts to which it applies, and shall be attached to the contracts so that contracting parties are aware of the rights, duties, and responsibilities of the permittee. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 3

BAGGAGE PICKUP AND DELIVERY

§19-20.1-20 Scope. The special provisions set forth in this subchapter shall apply to baggage pickup and delivery services at public airports. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-21 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Baggage pickup and delivery services" means (1) the prearranged pickup of unaccompanied baggage at a public airport and delivery to a destination outside the airport for the benefit of an arriving passenger, or another on behalf of the passenger or (2) the prearranged delivery of unaccompanied baggage from a location outside a public airport to a certain location at or in a public airport which is designated for that purpose by the airport manager for a departing passenger, or for another on behalf of a departing passenger, or (3) the prearranged transfer of unaccompanied baggage from public airport baggage claim areas to curbside or other areas within the public airport, or (4) the prearranged transfer of unaccompanied baggage from curbside or other areas within the public airport to check-in counters or other areas within the public airport where transfer services were arranged for in advance by the passenger or another on behalf of the passenger.

"Unaccompanied baggage" means that baggage which is unclaimed by the passenger at a public airport but for which prior arrangements have been made (1) by or on behalf of an arriving passenger for the pickup of such baggage from the public airport and delivery to a destination outside the public airport, (2) by or on behalf of a departing passenger for the delivery of

such baggage from a location outside the public airport to a certain location at or in the public airport which is designated for that purpose by the airport manager, (3) to transfer such baggage from public airport baggage claim areas to curbside or other areas within the public airport, or (4) to transfer such baggage from curbside or other areas within the public airport to check-in counters or other areas within the public airport. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-22 Fees. Any person providing baggage pickup and delivery services in or at a public airport shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees:

- (1) For each public airport at which baggage pickup and delivery services are provided, an annual administrative expense fee of \$100.
- (2) A percentage fee equal to three and one-half percent of the monthly gross receipts derived by the permittee, from or in connection with providing baggage pickup and delivery services in or at any public airport. The permittee's gross receipts shall include all consideration or compensation, of any kind or nature whatsoever, paid by passengers, customers and clients to the permittee or to any person who is employed by or has a working arrangement with the permittee for providing baggage pickup and delivery services.
- (3) An annual identification badge fee of \$5 per badge.
- (4) An annual registration fee of \$50 for each vehicle in excess of five vehicles registered by a permittee at a public airport for baggage pickup and delivery

services. [Eff 5/4/02; comp **AUG 24 2018**
(Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-23 Restrictions. (a) The permittee shall:

- (1) Refrain from the use of profanity, boisterous or rough and disturbing behavior or actions, unsafe use of baggage carts or other equipment, and the playing of radios, prerecorded tapes or discs, or other musical instruments or devices in public areas or areas in which the sounds from such activities may intrude upon public areas;
- (2) Not provide any of the services authorized by the permit, including the placement and use of any vehicle or equipment, in such a manner as to disturb other airport tenants or users; and
- (3) Not solicit gratuities or business in the conduct of baggage pickup and delivery services at public airports.

(b) All business activities conducted by the permittee at any public airport, unless otherwise authorized by the department, shall be limited to those passengers and clients who have made prior arrangements for baggage pickup and delivery service with the permittee. The permittee shall have evidence of such prior arrangements in the form of schedules, passenger manifests, or other similar documentation which identifies the passengers and clients, available for inspection by the director at all times during the period the permittee is engaged in business activities at the public airport, including at the time of all pickups, deliveries and transfers. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 4

COMMERCIAL PHOTOGRAPHY

§19-20.1-24 Scope. The special provisions set forth in this subchapter shall apply to commercial photography services at public airports. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-25 Definition. Unless the context clearly indicates otherwise, as used in this chapter: "Commercial photography" means the taking of still or motion pictures of persons and things by a person for (1) sale for a monetary or any other valuable consideration, or (2) for any other commercial purpose. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-26 Fees. Any person providing commercial photography services in or at a public airport shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees (as applicable):

- (1) For each public airport at which commercial photography services is provided, an annual administrative expense fee of \$100.
- (2) An annual identification badge fee of \$5 per badge;
- (3) A percentage fee equal to ten percent of the person's monthly gross receipts derived from providing commercial photography services at public airports;
- (4) A daily fee of \$100 in advance for persons providing commercial photography services on a short-term basis. [Eff 5/4/02;

comp **AUG 24 2018**] (Auth: HRS §261-12)
(Imp: HRS §261-7)

§19-20.1-27 Soliciting prohibited. To solicit, offer and provide commercial photography to any person other than to any person for whom commercial photography has been arranged in advance, as provided above, is prohibited. [Eff 5/4/02;
comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-28 News media exempt. Commercial photography as defined herein shall not apply to representatives of newspapers, magazines, television stations, or other news media. [Eff 5/4/02;
comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 5

GREETING SERVICES FOR HIRE

§19-20.1-29 Scope. The special provisions set forth in this subchapter shall apply to greeting services for hire at public airports. [Eff 5/4/02;
comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-30 Definition. Unless the context clearly indicates otherwise, as used in this chapter:
"Greeting services for hire" means the service of providing, on behalf of or at the request of another person, meeting, welcoming, receiving, salutation,

meeting with salutation, farewell or departure services, with or without the bestowal of leis, floral arrangements or other gifts, to airline passengers. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-31 Fees. Any person providing greeting services for hire in or at a public airport shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees:

- (1) For each public airport at which greeting services for hire are provided an annual administrative expense fee of \$100;
- (2) An annual identification badge fee of \$5 per badge; and
- (3) A percentage fee equal to three percent of the person's monthly gross receipts derived from providing greeting services for hire at a public airport. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-32 Soliciting prohibited. To solicit, offer and provide greeting services for hire to any person other than to any person for whom greeting services had been arranged in advance, as provided, is prohibited. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 6

IN-FLIGHT CATERING

§19-20.1-33 Scope. The special provisions set forth in this subchapter shall apply to in-flight catering services at public airports. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-34 Definition. Unless the context clearly indicates otherwise, as used in this chapter: "In-flight catering services" means the delivery of prepared and packaged food beverages at any public airport for consumption aboard an aircraft while in flight. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-35 Fees. Except for the concessionaries and airline lessees authorized to provide in-flight catering services at public airports, any person providing in-flight catering services in or at public airports shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees:

- (1) An annual administrative expense fee of \$100 in advance of providing in-flight catering services at a public airport; and
- (2) A percentage fee equal to three and one-half per cent of its monthly gross receipts derived from in-flight catering services at public airports. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 7

MERCHANDISE DELIVERY

§19-20.1-36 Scope. The special provisions set forth in this subchapter shall apply to merchandise delivery services at public airports. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-37 Definitions. Unless the context clearly indicates otherwise, as used in this chapter: "Merchandise" means items, such as fresh fruits, flowers, candies, meat products and ice cream, which are:

- (1) Sold to an airline passenger or the passenger's agent at a location other than a public airport; and
- (2) Delivered to that passenger or that passenger's agent at the airport by the seller or the seller's agent.

Duty free or in-bond goods are specifically excluded from this definition.

"Piece" means the unit in which the merchandise is packaged for an individual airline passenger.

"Time of delivery" means the time the merchandise is delivered into one of the areas designated by the director. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-38 Fees. Any person providing merchandise delivery services in or at a public airport, in consideration of using state airport facilities for conducting business, shall pay the following fees:

- (1) An annual administrative expense fee of \$100 for each public airport at which merchandise is delivered.

- (2) Except for the first vehicle, an annual fee of \$200 for each vehicle thereafter upon registration of the vehicle with the department and issuance of decal pursuant to this subchapter.
- (3) A monthly fee based on the use of public airport facilities during the month. The monthly fee shall be:
 - (A) Equal to the total number of pieces of merchandise delivered during the month times 25 cents; in other words, 25 cents for each piece of merchandise delivered during the month.
 - (B) Paid on or before the twentieth day of the succeeding month.
- (4) An annual identification badge fee of \$5 per badge. [Eff 5/4/02; comp AUG 24 2018]
(Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-39 Monthly delivery report. (a) The permittee shall submit, along with the payment of the monthly fee required under this subchapter, a delivery report for each calendar month, on or before the twentieth day of the succeeding month.

- (b) The monthly delivery report shall include:
 - (1) A listing of every delivery made during the month in chronological order; this listing shall provide the following information for each delivery:
 - (A) Date of delivery;
 - (B) Time of delivery; and
 - (C) Number of pieces of merchandise.
 - (2) The total number of pieces of merchandise delivered during the month.
- (c) The permittee shall be subject to penalties, including revocation of permit, if any false information is provided on the monthly delivery report. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12)
(Imp: HRS §261-7)

§19-20.1-40 Controls. (a) The department shall conduct regular inspections of permittee activities to help ensure:

- (1) Accurate reporting of the number of pieces of merchandise delivered; and
- (2) Compliance with the provisions of this chapter.
- (b) The department shall, upon reasonable notice, be given access to any of the permittee's records, books or documents to verify reports submitted by the permittee.
[Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-41 Designated areas. (a) The permittee shall deliver merchandise only to areas designated by the director.

(b) The permittee shall be allowed to keep the merchandise in the designated areas for a maximum of four hours starting from the time the merchandise is placed in the designated area. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-42 Identification of merchandise. (a) The merchandise for each delivery made at a public airport shall be clearly and conspicuously marked with the:

- (1) Permittee's name; and
- (2) Time of delivery.
- (b) The merchandise may be marked individually or as a group as long as it is readily identifiable at all times while it is at the airport.
- (c) The permittee shall have an authorized

representative, wearing the identification badge issued under this chapter, present at all times next to the merchandise, overseeing the merchandise as long as the merchandise is at the airport. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-43 Safety and security. (a) In order to help ensure the public health, safety and airport security, any merchandise shall be removed to a storage area by authorized department personnel if:

- (1) The merchandise is unclaimed after four hours from the time of delivery; or
- (2) The merchandise is left unattended for any amount of time in violation of section 19-20.1-42.

(b) Any merchandise not claimed after two days in storage may be summarily disposed of by the department without notice to the permittee.

(c) The cost of removal, storage or disposal of merchandise shall be assessed to the permittee. The proceeds, if any, from the sale or disposal of any unclaimed merchandise shall be used to offset the cost of removal, storage and disposal and the balance remaining shall be payable to the permittee or passenger upon proof of entitlement thereto. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-44 Unauthorized storage. Permittees shall not keep, place, or store hand trucks, vehicles, carts, or any other equipment or supply item in any area of a public airport except in those locations or spaces specifically prescribed for such use or activity. Any improper placement or storage shall result in an assessment of a \$10 fine for each item or article which is improperly placed or stored, or in

the seizure of the item or article at the owner's risk and expense, plus applicable storage and service fees resulting therefrom, or in both a fine and seizure. Upon seizure of any item or article, the department shall send a written notice by registered or certified mail, with return receipt, to the owner of the item or article at the address on record with the department if the owner is known. The notice shall contain a brief description of the item or article, the location of seizure, and intended disposition of the property if not claimed within ten days after the mailing of the notice. If the owner is not known or cannot be located, the item or article shall be held for forty-five days from date of seizure after which time it shall be disposed of as unclaimed lost property. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 8

PORTER SERVICES

§19-20.1-45 Scope. The special provisions set forth in this subchapter shall apply to porter services at public airports. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-46 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Accompanied baggage" means baggage which is claimed by a passenger at a public airport.

"Porter" means one who performs porter services.

"Porter services" means the carrying of baggage for passengers at public airports and other services

incidental to portering generally rendered by porters in and about air transportation terminals, including but not limited to:

- (1) The carrying of baggage from baggage claim areas to curbside or to other areas within the airport as requested by the passenger;
- (2) The loading of baggage aboard conveyance used by the passenger in departing the airport;
- (3) The carrying of baggage from curbside to the check-in counters or to other areas within the airport as requested by the passenger; and
- (4) The transporting of handicapped passengers by motorized carts to and from gate areas.

"Portering" with respect to porter services shall generally mean the handling of accompanied baggage whereas "portering" with respect to baggage pickup and delivery services shall generally mean the handling of unaccompanied baggage.

"Unaccompanied baggage" means baggage which is not claimed by a passenger at a public airport but for which prior arrangements have been made:

- (1) For pickup at a public airport and delivery to a destination off the airport for arriving passengers; or
- (2) For delivery to a point point at a public airport designated by the director for departing passengers. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-47 Requirements to obtain permit. To obtain the permit under this chapter, a person must:

- (1) Pay the fees prescribed by this subchapter; and
- (2) Have an existing written contract with an airline to perform porter services. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-48 Fees. Except for airline lessees authorized to provide porter services in their leases with the department, no person shall provide porter services in or at a public airport without paying the department the following fees:

- (1) For each public airport at which porter service is provided, an annual administrative expense fee of \$100; and
- (2) An annual identification badge fee of \$5 per badge. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-49 Unauthorized storage. The permittee shall not keep, place, park, or store hand trucks, baggage carts, motorized passenger carts, or any other equipment or supply item in any area of a public airport except in those locations or spaces specifically prescribed for that use or activity. Any improper placement or storage shall result in an assessment of a \$10 penalty for each item or article which is improperly placed or stored, or in the seizure of the item or article at the owner's risk and expense, plus applicable storage and service fees resulting therefrom, or in both a penalty and seizure. Upon seizure of any item or article, the department shall send a written notice by registered or certified mail, with return receipt, to the owner of the property at the address on record with the department. The notice shall contain a brief description of the item or article, the location of seizure, and intended disposition of the property if not claimed within ten days after mailing of the notice. If following reasonable attempts by the department, the owner cannot be located, the item or article shall be held for forty-five days from date of seizure after which time it shall be disposed of as unclaimed lost property. [Eff 5/4/02; comp **AUG 24 2018**] (Auth: HRS §261-12) (Imp: HRS §261-7)



§19-20.1-50 Motorized passenger carts. (a) The department shall issue decals which shall be placed on motorized passenger carts approved for use at a public airport. No carts shall be used to provide porter services at any public airport without a decal issued by the department. Carts shall be operated only on routes and locations designated by the director. Carts issued decals shall not be used on the airport for any purpose other than the transport of handicapped passengers and their escorts to and from gate areas.

(b) No motorized passenger cart shall be operated:

- (1) In a careless or negligent manner or in disregard of the rights and safety of others;
- (2) Without due caution or circumspection, or at a speed or in a manner which endangers or is likely to endanger persons or property;
- (3) While the operator thereof is under the influence of intoxicating liquor, narcotic, or habit forming drug; and
- (4) If the vehicle is so constructed, equipped, loaded or in such other condition as to endanger or be likely to endanger persons or property.

(c) The permittee shall be liable for any injury or damage to persons or property resulting from or attributed to the use of the carts at public airports.

[Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-51 Soliciting prohibited. No porter solicit tips from passengers. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-52 Statement of contracted services. The permittee shall provide to the department upon

request a statement certified by the serviced airline that a contract for porter services presently exists. This chapter shall become a part of all such contracts so that contracting parties are aware of the rights, duties, and responsibilities of the permittee. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-53 Airline lessees. (a) With the exception of sections 19-20.1-3 and 19-20.1-48, this chapter shall apply to airline lessees who provide their own porter services.

(b) Airline lessees who provide porter services to other airlines shall be subject to this chapter. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

SUBCHAPTER 9

PREARRANGED GROUND TRANSPORTATION

§19-20.1-54 Scope. The special provisions set forth in this subchapter shall apply to prearranged ground transportation services at public airports. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-55 Definitions. Unless the context clearly indicates otherwise, as used in this chapter: "Digital network" means any online-enabled application, software, website, or system offered or utilized by a prearranged ground transportation service that enables a customer's direct prearrangement of a ride with a driver and records

data that describe for each driver on the network the following:

- (1) The vehicle's registered owner, license plate number, and vehicle identification number or VIN;
- (2) Proof of insurance as required by section 19-20.1-6;
- (3) The total number, date, and time of all rides initiated at a public airport; and
- (4) The total receipts earned by each ride initiated at a public airport and an itemization of any tax, tip, and other fees included in the receipts.

"Hotel" includes motel.

"Operator" includes any person who is properly and physically qualified to operate and control any motor or other vehicle in connection with any ground transportation service provided at a public airport by a permittee under this chapter. The operator may be a permittee itself or a qualified employee, contractor, assignee, agent, or other similar representative of the permittee.

"Prearranged ground transportation services" includes the providing or facilitating for hire of a motor vehicle, including off-airport rent-a-car vehicles, at any public airport for the purpose of transporting the hirer of, or passenger in, such motor vehicle and personal property where such hire or transportation was contracted or arranged for by the hirer, passenger, or another on behalf of the hirer or passenger, in advance of the hirer or passenger's arrival at the public airport or, upon or after his arrival at the public airport, by communicating with an operator whose place of business is situated outside the public airport, for ground transportation services to be performed, at least in part, at the public airport.

Prearranged ground transportation services also include passenger transportation services, tours, and courtesy car services for customers and guests upon vehicles owned or leased by the operators even if the

services are provided gratuitously or may be an incidental part of another service.

Prearranged ground transportation services do not include the right to solicit, offer, and provide ground transportation services for hire to any person other than to persons for which ground transportation services had been arranged in advance.

"Software application service" shall have the same meaning as the term "Digital network".

"Taxi or taxicab service" includes the service of providing a motor vehicle for hire by the public at, on, or upon a public airport, which motor vehicle shall have a driver other than the hirer and be used for the purpose of transporting the hirer and incidental personal property to a destination and over a route controllable by a hirer.

"Transportation network company" or "TNC" means a person or an entity that uses a digital network or software application service to connect passengers to transportation network company drivers and uses the digital network or software application service to confirm the commercial activity and gross receipts of that activity; provided that the person or entity (1) does not own, control, operate, or manage the personal vehicles used by transportation network company drivers and (2) is not a taxicab company or a for-hire vehicle owner. [Eff 5/4/02; am and comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-56 Fees. Persons authorized to provide prearranged ground transportation services at public airports shall, in consideration of using state airport facilities for conducting business, pay the following fees as applicable:

- (1) Off-airport rent-a-car service.
 - (A) An annual administrative expense fee of \$100 in advance.
 - (B) An annual fee of \$20 for each off-airport rent-a-car vehicle in the

- permittee's fleet as of October 1 of each year.
- (C) An annual registration fee of \$250 for each courtesy vehicle used for transportation of customers to and from any public airport.
- (2) Courtesy vehicle service other than off-airport rent-a-car or hotel firms.
- (A) An annual administrative expense fee of \$250 in advance.
 - (B) An annual registration fee of \$250 for each courtesy vehicle used for transportation of customers to and from any public airport.
- (3) Taxi, bus, limousine and stretch out.
- (A) An annual administrative expense fee of \$100, in advance, per permittee providing these prearranged ground transportation services at any public airport.
 - (B) An amount equal to the following percentages of the monthly gross receipts which the operator derives from providing these prearranged ground transportation pickup services at the public airports listed below.
 - (i) Seven percent at Daniel K. Inouye International Airport in Honolulu.
 - (ii) Three percent at public airports other than Daniel K. Inouye International Airport in Honolulu.
- (4) Hotel courtesy vehicles.
- Prearranged ground transportation services between a public airport and a hotel, provided by the hotel for its guests upon vehicles owned or leased by the hotel shall be charged:
- (A) An annual administrative expense fee of \$250 in advance.
 - (B) An annual registration fee of \$250 for each courtesy vehicle used for

transportation of customers to and from any public airport.

(C) An annual fee of \$2 per sleeping room for rental by the hotel.

(5) Transportation network company.

(A) An annual administrative expense fee of \$100, in advance, per permittee providing these prearranged ground transportation services at any public airport.

(B) An amount equal to the following percentages of the monthly gross receipts which the operator derives from providing these prearranged ground transportation pickup services, consistent with the data provided by the TNC digital network or software application service, at the public airports listed below.

(i) Seven percent at Daniel K. Inouye International Airport in Honolulu.

(ii) Three percent at public airports other than Daniel K. Inouye International Airport in Honolulu.

[Eff 5/4/02; am and

comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-57 Exemptions. The director may, in the public interest, exempt all persons providing ground transportation services at certain public airports from the payment of the fees required under this subchapter. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-58 Taxi services. The director reserves the right to revoke any non-exclusive privilege of providing taxi service at any public

airport, except prearranged taxi service, and grant an exclusive taxi service concession any person in the manner prescribed by section 102-2, Hawaii Revised Statutes. [Eff 5/4/02; comp] (Auth: HRS §261-12) (Imp: HRS §261-7) **AUG 24 2018**

§19-20.1-59 Signs. No person shall display any sign that extends more than six inches above the roof, hood, or trunk of any motor vehicle used to provide ground transportation at public airports. Flashing lights and audible devices, other than that required by safety ordinances and regulations are prohibited. The display of any rates or fees on motor vehicles is also prohibited. [Eff 5/4/02; comp] (Auth: HRS §261-12) (Imp: HRS §261-7) **AUG 24 2018**

§19-20.1-60 Restrictions. (a) Permittees and operators shall not solicit passengers or fares on airport premises. Pickup shall be limited to those passengers and clients who have made prior arrangement for the ground transportation service provided or facilitated by the permittee. The permittee, and its employees, agents and operators shall have evidence of such prior arrangements in the form of schedules, passenger manifests or other similar documentation which identifies the passengers and clients, available for inspection by the director at all times during the period the permittee is engaged in business activities at the public airport, including at the time of all pickups.

(b) Permittees shall not use dispatchers, agents, customer service assistants, operators, employees or any other persons who have a working arrangement with the permittee to engage in any effort to solicit or obtain ground transportation business on any public airport premises. [Eff 5/4/02; am and comp] (Auth: HRS §261-12) (Imp: HRS §261-7) **AUG 24 2018**

§19-20.1-61 Records of off-airport rent-a-car permittees. Permittees who provide off-airport rent-a-car ground transportation services in or at public airports shall be obligated to maintain a record and original source documents which shall account for all of the vehicles in the permittee's fleet as of October 1 each year, segregated by airport districts. The record, including original source documents, shall be kept for three years in the State following the end of the permit year. The State shall be granted access at all reasonable times to all such records and documents and may make or cause to be made a complete audit to verify the reasonableness of the reported number of vehicles in the permittee's fleet as of October each year. In the event that records and original source documents have not been kept in accordance with this provision, the State, shall in addition to other payments required by this chapter, be entitled to demand and receive an additional payment of ten percent of the total amount payable by the off-airport rent-a-car ground transportation service permittee to the State under this subchapter. [Eff 5/4/02; comp AUG 24 2018] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-62 Vehicle identification and tracking.

(a) Each prearranged ground transportation permittee shall identify each of its vehicles that will be used at a public airport with one of the following:

- (1) A decal issued by the department; or
- (2) The permittee's logo, trade dress, or other company identifier as approved by the director.

The decal, logo, trade dress, or other company identifier shall be affixed to the vehicle at all times the permittee operates the vehicle at a public airport.

(b) If a permittee elects to use a decal issued by the department, the permittee shall be required to have a transponder or other tracking device issued and



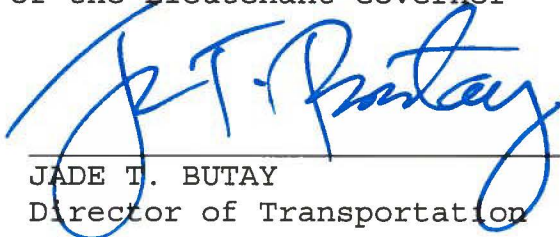
installed in each vehicle by the department to collect data that describe the activity and movement of the permittee's vehicle while it operates at a public airport. The data may be used to confirm the accuracy of fees and percentage of gross receipts paid by the permittee pursuant to section 19-20.1-56.

(c) If a permittee elects to use its logo, trade dress, or other company identifier, the permittee shall be required to have and use a digital network or software application service. The department shall verify the digital network or software application service meets the criteria set forth in section 19-20.1-55. The logo, trade dress, or company identifier shall be in good taste and shall not be vulgar or offensive. Any changes to the logo, trade dress, or company identifier that will be used at a public airport must also be approved by the director. [Eff 5/4/02; am and comp] (Auth: HRS §261-12) (Imp: HRS §261-7) *AUG 24 2018*

DEPARTMENT OF TRANSPORTATION

Amendments to and compilation of chapter 19-20.1, Hawaii Administrative Rules, on the Summary Page dated July 3, 2018, were adopted on July 3, 2018, following a series of four public hearings held on June 25, June 26, June 28, and June 29, 2018, after public notice was given in the Honolulu Star-Advertiser, The Garden Island, The Maui News, Hawaii Tribune-Herald, and West Hawaii Today on May 26, 2018.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor



JADE T. BUTAY
Director of Transportation


APPROVED AS TO FORM:



Julia H. Verbrugge
Deputy Attorney General

LIEUTENANT GOVERNOR'S
OFFICE

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DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

Date: 08-14-2018

Filed