

DEPARTMENT OF TRANSPORTATION

Repeal of Chapter 19-38 and Adoption of
Chapter 19-38.1, Hawaii Administrative Rules
September 10, 1997

SUMMARY

1. Chapter 19-38, Hawaii Administrative Rules, entitled "Taxi Service at Public Airports", is repealed.
2. Chapter 19-38.1, Hawaii Administrative Rules, entitled "On-Demand Taxi Service at Public Airports", is adopted.

TITLE 19

DEPARTMENT OF TRANSPORTATION

CHAPTER 19-38

TAXI SERVICE AT PUBLIC AIRPORTS

Repealed

§§19-38-1 to 19-38-13 Repealed. [OCT 04 1997]

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 38.1

ON-DEMAND TAXI SERVICE AT PUBLIC AIRPORTS

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Historical note. This chapter is based substantially on chapter 19-38. [Eff 12/16/93; R OCT 04 1997

§19-38.1-1 Definitions Unless the context indicates otherwise, as used in this chapter:

"Department" means the state department of transportation.

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

"On-demand taxi service" means those taxi services in which a customer has made no prior arrangement for services.

"Open-access taxi system" means a taxi system that will allow all qualifying taxi drivers and vehicles to provide taxi service at public airports.

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

"State" means the State of Hawaii.

"Taxi" or "taxicab" means the motor vehicle used to provide taxi service in or at a public airport.

"Taxi driver" means the operator or driver of a taxi.

"Taxi driver authorization" means an authorization issued by the director or taxi management concessionaire for the purpose of authorizing a taxi driver to provide on-demand taxi service at a public airport, pursuant to this chapter.

"Taxi management concessionaire" means the concessionaire hired by the State to provide an open-access taxi system at a public airport.

"Taxi service" means the service of providing a motor vehicle for hire by the public in or at 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 over a route controlled by the hirer and is subject to a metered rate or tariff as prescribed and authorized by county ordinance or rules.

"Taxi vehicle permit" means a permit issued by the director or taxi management concessionaire for the purpose of authorizing a motor vehicle to be used in providing on-demand taxi service at a public airport, pursuant to this chapter. [Eff **OCT 04 1997**]
(Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-2 Purpose. The purpose of this chapter is to regulate the open-access taxi system at public airports and to ensure safe, orderly and reliable taxi service for the travelling public.

[Eff **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-7)

§19-38.1-3 Applicability. This chapter applies to airports with or without taxi management concessionaires, unless indicated otherwise. [Eff. OCT 04 1997]
 (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-4 Airports without a taxi management concessionaire. (a) At airports without a taxi management concessionaire, the following permit or authorization shall be obtained to provide on-demand taxi service at airports:

- (1) No taxi shall be used to provide taxi service from a public airport without a taxi vehicle permit. The taxi vehicle permit shall be in the form of a vehicle decal, and issued by the director upon payment of the monthly or per trip fee and upon qualification of the vehicle as required by this chapter. The permit is limited only to the airport where issued, and is renewable on a monthly basis, upon payment of the appropriate fee. The permit shall not be assigned or otherwise transferred, and shall be prominently displayed while operating at the airport in a manner prescribed by the director.
- (2) No taxi driver shall be allowed to provide taxi service from a public airport without having obtained the authorization of the director. The taxi driver authorization shall be in the form of a driver identification badge issued by the director and shall not be assigned or otherwise transferred. The driver identification badge shall be valid only at the airport where issued, and shall be worn while operating at the airport in a manner prescribed by the director. The driver shall pay a fee of \$5 to the director for the cost of processing the initial application of the driver identification badge. The taxi driver identification badge shall be renewed annually.
- (3) No permit shall be issued to an applicant, including existing authorized taxi vehicles and drivers, who are in arrears of payment of taxes, rent, or other charges to the State or political division or subdivision, agency, authority, commission or instrumentality

thereof. An applicant shall meet the taxi driver qualification or taxi vehicle requirement standards as required by this chapter.

(b) At airports without a taxi management concessionaire, the following fees shall apply:

(1) Taxi vehicles authorized to be used for providing taxi service at public airports that do not have a taxi management concessionaire hired by the State shall, as a condition for the issuance of a permit, be assessed the following fees, payable to the State as applicable:

- (A) A monthly fee of \$400 per taxi vehicle at Honolulu International Airport, or a single trip fee of \$4 for each trip originating from Honolulu International Airport;
- (B) A monthly fee of \$400 per taxi vehicle at Kahului Airport, or a single trip fee of \$4 for each trip;
- (C) A monthly fee of \$250 per taxi vehicle at Kona International Airport at Keahole;
- (D) A monthly fee of \$150 per taxi vehicle at Lihue Airport;
- (E) An annual fee of \$100 per taxi vehicle at all other public airports.

(2) The fees shall:

- (A) Be paid in advance of the period the taxi vehicle is used to provide taxi service;
- (B) Not be subject to proration; and
- (C) Not be non-refundable.

(c) At airports without a management concessionaire, the following procedures shall apply for review of suspension or termination of taxi vehicle permits or taxi driver authorization.

(1) A taxi vehicle permit or taxi driver authorization, issued under this chapter may be suspended or revoked by the director for violation of this chapter. The suspension or revocation may be contested by providing notice to the director within fourteen days after receipt of a written notice of suspension or revocation that provides the reasons for the suspension or revocation and the length of the proposed suspension. Upon receipt of the

notice to contest, the director may appoint a hearing officer to conduct a contested case hearing and allow the presentation of evidence or testimony to contest the facts upon which the suspension or revocation is based. If the director upholds the proposed suspension or revocation based on the hearing officer's recommendation, the period of suspension or revocation shall begin five days following receipt of the final decision and order of the director.

- (2) The taxi vehicle permit or taxi driver authorization may be terminated with or without cause by the director or by the taxi driver authorized to provide taxi service at a public airport, upon thirty days prior written notice. Upon notification of termination, the taxi vehicle decal or driver identification badge shall be returned within three business days to the director or taxi management concessionaire. [Eff. **OCT 04 1997**] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-5 Airports with a taxi management concessionaire. (a) At airports with a taxi management concessionaire, the concessionaire shall develop an appropriate permitting system to qualify taxi drivers and taxis, in accordance with section 19-38.1-6.

- (1) No taxi shall be used to provide taxi service from a public airport without a taxi permit issued by the taxi management concessionaire.
- (2) No taxi driver shall be allowed to provide taxi service from a public airport without having obtained the authorization of the taxi management concessionaire.
- (3) No permit or authorization shall be issued to an applicant who is in arrears of payment of taxes, rent, or other charges to the State or political division or subdivision, agency, authority, commission or instrumentality thereof. An applicant shall meet the taxi driver qualification or taxi vehicle requirement standards as required by this chapter, as appropriate.

(b) At airports with a taxi management concessionaire, the taxi management concessionaire shall develop a procedure to suspend or revoke taxi vehicle permits and taxi driver authorizations for violation of this chapter in accordance with procedures established in the lease between the concessionaire and the director.

(c) Taxi driver participation fees shall be subject to prior review and approval of the director.

[Eff **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-7)

§19-38.1-6 Taxi driver qualification; taxi vehicle requirements. (a) No taxi driver shall be authorized to operate at a public airport without the necessary permits, licenses, approvals, qualifications, and certification required by this chapter or by the laws of the State or any other governmental body having the jurisdiction to regulate the operation of a motor vehicle or the carrying of baggage or people for hire on any vehicle in the State.

(b) With regard to qualifications, the taxi driver shall:

- (1) Have a valid motor vehicle driver license issued by the State and evidence of having one year driving experience in the county in which the application is made;
- (2) Be a citizen or alien who has been admitted for permanent residence or who has otherwise been granted employment authorization by the United States Immigration and Naturalization Services;
- (3) Be at least 18 years of age;
- (4) Not have outstanding arrest warrants or criminal convictions pending for offenses committed while driving intoxicated or recklessly;
- (5) Not be addicted to the use of drugs or alcohol, and shall sign a form consistent with the Drug-Free Workplace Act;
- (6) Be subject to background checks or clearances if required by Federal Motor Carrier Safety Regulations and applicable state statutes;

- (7) Submit a certificate from a licensed physician indicating the applicant's condition as to visual acuity and hearing ability, and shall be, in the opinion of the physician, free of medical conditions that may render the driver unfit for the safe operation of a motor vehicle; and
- (8) Pass a written examination, to be administered by the director or taxi management concessionaire in the English language, covering airport taxicab operations, vehicle safety procedures, applicable department's Motor Vehicle Safety Office and Hawaii Administrative Rules, local traffic laws, passenger courtesy and assistance procedures, public relations, and knowledge of major destinations in the county in which the application is made.

(c) A taxi driver shall comply with instructions issued by the director regarding the taxi staging sequence to implement an open-access taxi system pertaining to:

- (1) Location of designated passenger pickup areas, taxicab stands, taxicab hold areas;
- (2) Queuing procedure to wait their turn to pickup passengers; and
- (3) Circulation path while on the airport.

(d) Any vehicle being issued a permit under this chapter shall be licensed by the appropriate governmental regulatory agency, operating in conformance with the requirements and procedures prescribed by such agency, and at all times display a current safety sticker and current evidence of licensing and registration by the applicable regulatory agency of the government.

(e) Taxi vehicles shall:

- (1) Be equipped with a taxicab meter in accordance with the terms and conditions as set forth by the state Office of Weights and Measures (the taxicab meter must be mounted in a permanent manner in a position that is visible to all passengers);
- (2) Display in the interior of the taxicab the typical authorized fares to major destinations in the county;
- (3) Provide a seating capacity for at least five passengers, including the driver, and shall be in safe mechanical condition, clean and acceptable in appearance, and in damage-free condition;

- (4) Have an illuminated taxicab domelight mounted on the roof of the vehicle, in accordance with the county rules and regulations as applicable;
- (5) Comply with the rules and regulations set forth by the department's Motor Vehicle Safety Office; and
- (6) Where required by the director, have a two-way radio with the capability to operate on the appropriate airport frequency to meet taxi service dispatch requirements.

(f) The director may in the interest of public safety or in the interest of improving airport operations, establish additional airport procedures and requirements covering taxi driver qualifications, identification and conduct, and vehicle standards.

(g) Failure to meet the established standards for taxi driver qualification, taxi driver conduct, and vehicle requirement shall be grounds for non-issuance or revocation of the taxi vehicle permit or taxi driver authorization. The taxi vehicle permit or driver identification badge shall be returned to the issuing agency within three business days after the notice of revocation is received. [Eff. **OCT 04 1997**]

(Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-7 Taxi management concession. The director may lease a concession area to a taxi management concessionaire to provide an open access taxi system at a public airport. [Eff. **OCT 04 1997**]

(Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-8 Insurance. (a) As a condition for the issuance of a taxi vehicle permit, each taxi vehicle shall have liability and other insurance of the type and amount required for taxi license as required by the county in which the vehicle will be used for taxi service.

(b) In addition to motor vehicle liability insurance, the taxi drivers issued a taxi driver authorization to participate in providing on-demand taxi services at public airports shall maintain and keep in force adequate comprehensive general liability insurance as determined by the director to provide coverage against

claims arising out of the taxi driver's operations on airport premises for injury to persons or damage to property. This requirement may be satisfied by taxi drivers being party to a taxi concessionaire's or company's comprehensive general liability insurance policy.

(c) An applicant for a taxi vehicle permit or taxi driver authorization, shall provide the director or taxi management concessionaire with a certificate of insurance naming the applicant as the insured and the department and the taxi management concessionaire, when applicable, as additional insured under each insurance policy for coverage to individuals providing taxi service under this chapter. Certificates of insurance for each such policy shall be provided to the director or taxi management concessionaire within thirty days prior to commencing taxi service. The insurer shall provide certificates of insurance to the director or taxi management concessionaire within thirty days of any material changes to any policy including coverage and shall provide notification within thirty days of cancellation.
 [Eff **OCT 04 1997**] (Auth: HRS §261-12)
 (Imp: HRS §261-7)

§19-38.1-9 Signs. No taxi vehicle used as a taxi at a public airport shall display any sign that extends more than six inches above the roof. Flashing lights and audible devices, other than that required by safety ordinances and regulations, are prohibited. The external display of any rates or fees on a taxi is also prohibited. [Eff **OCT 04 1997**]
 (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-10 Taxi driver conduct. A taxi driver who is issued a taxi driver authorization to provide on demand taxi services at public airports shall:

- (1) Be authorized to provide taxi service only in the area designated by the director who may change any designated area when such change is deemed necessary and is in the best interest of safety to persons and property;
- (2) Maintain the designated taxi service area in a safe, clean and sanitary condition;

- (3) Keep all taxis operated at any public airport in good mechanical condition, clean and suitable for providing taxi service (the department may prohibit the operation of any taxi unsuitable for providing taxi service);
 - (4) Furnish service on a fair, equal and non-discriminatory basis to the public;
 - (5) Conduct business in an orderly, courteous and businesslike manner;
 - (6) Present a clean and neat appearance at all times;
 - (7) Be suitably uniformed or clothed;
 - (8) Refrain from use of profanity, offensive or rough and disturbing behavior;
 - (9) Not solicit at public airports any gratuities or any other business not directly related to providing taxi service at a public airport;
 - (10) Upon finding lost or forgotten article in the taxi, report and turn the article over to the airport lost and found;
 - (11) At all times comply with all applicable laws, ordinances, terms or agreements, and rules and regulations; and
 - (12) Comply with instructions and procedures issued by the director or taxi management concessionaire regarding driver and vehicle identification requirements, fee payment process, and taxi operation pertaining to:
 - (A) Location of designated passenger pickup areas, taxi stands, taxi hold areas;
 - (B) Queuing procedures; and
 - (C) Operating routes.
- [Eff: **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-7)

§19-38.1-11 Indemnification and hold harmless.
Applicants for a taxi vehicle permit or taxi driver authorization to provide on-demand taxi services at public airports shall indemnify and hold harmless the director, department and the State from any action or claim arising out of their use of the airport and operation of a taxi service pursuant to this chapter. Failure to comply with the requirement of this section shall be grounds for non-issuance of the taxi vehicle permit or taxi driver authorization.
[Eff: **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-7)

§19-38.1-12 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 **OCT 04 1997**]
(Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-13 Enforcement. This chapter may be enforced by police officers or any person deputized pursuant to section 261-17, Hawaii Revised Statutes. [Eff **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-17)

§19-38.1-14 Cumulative penalty. In addition to the penalties provided in this chapter, penalties for violations of this chapter shall be as set forth in section 261-21, Hawaii Revised Statutes. [Eff **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-21)

§19-38.1-15 Subordination to sponsor's assurance agreement. A taxi vehicle permit or taxi driver authorization to provide on-demand taxi service at a public airport 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 taxi vehicle permit or taxi driver authorization. [Eff **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-7)

§19-38.1-16 Repeal. Chapter 19-38 is repealed. [Eff **OCT 04 1997**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

DEPARTMENT OF TRANSPORTATION

The repeal of Chapter 19-38, and Chapter 19-38.1, Hawaii Administrative Rules, on the Summary Page dated September 10, 1997 were adopted on September 10, 1997 following public hearings held on March 24 and 25, and April 15, 1997 after public notice was given in the Honolulu Advertiser, Honolulu Star-Bulletin, Maui News, and West Hawaii Today on February 13, 1997 and in the Hawaii Herald-Tribune on March 11, 1997.

The repeal of Chapter 19-38 and adoption of Chapter 19-38.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

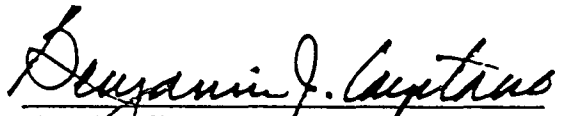
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KAZU HAYASHIDA
Director of Transportation

APPROVED:



BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 9/23/97

SEP 24 1997

Filed

APPROVED AS TO FORM:



Deputy Attorney General