

OFFICE OF THE GOVERNOR
STATE OF HAWAII

**SECOND PROCLAMATION
RELATING TO SCHOOL BUS SERVICES**

By the authority vested in me by the Constitution and laws of the State of Hawai'i, to provide relief for disaster damages, losses, and suffering, which shall include providing relief for Department of Education (DOE) school bus service shortages, and to protect the health, safety, and welfare of the people, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, there is currently a shortage of school bus drivers able to provide services to the DOE and certain independent schools. Among bus service contractors statewide, an estimated 179 additional drivers are needed to fully staff school bus routes. Over the last school year, 175 school bus drivers have vacated their positions, along with an additional 112 during the summer months;

WHEREAS, the shortage has resulted in the DOE and certain independent schools reducing school bus services for qualified students needing transportation to and/or from school, and forced the suspension of service for 138 school bus routes on Oahu, Maui and Hawaii Island serving approximately 3,720 students during the 2024-25 school year;

WHEREAS, suspensions of additional school bus routes across the State are also possible;

WHEREAS, school bus services are an instrumental in fulfilling the State's compulsory education laws which require school attendance for children between the ages of five and eighteen years;

WHEREAS, the suspension, and potential suspension, of school bus services due to the shortage of school bus drivers, are resulting, or will result in, lack of needed and timely access to and/or from school for a certain portion of students in the State;

WHEREAS, the lack of needed and timely access to school for that portion of students in the State is likely resulting in the students failing to attend school as required and resulting in substantial harm to the health and welfare of that portion of the population to constitute an emergency under chapter 127A, HRS;

WHEREAS, to mitigate the school bus driver shortage to accommodate the 2024-2025 school year, the DOE has proposed using drivers possessing a commercial driver's license (CDL) with a "P" endorsement (which "P" endorsement authorizes driving vehicles carrying passengers) in lieu of using drivers possessing a CDL with a "S" endorsement (which "S" endorsement authorizes driving school buses, as required by section 286-181(b)(2), HRS), subject to section 19-143-6, Hawaii Administrative Rules (HAR) regarding driver qualifications excluding the requirement of holding a CDL-S license;

WHEREAS, also to mitigate the shortage to accommodate the 2024-2025 school year, the DOE has proposed using vehicles other than a "school vehicle" as defined in section 286-181(a), HRS, as required by sections 286-181(b) and 286-181(c)(3), HRS, and instead providing motorcoach vehicles, minibuses, and vans for the school bus services, which may not meet school bus regulations but must meet vehicle requirements under chapter 19-143, HAR, to the extent required by the Department of Transportation (DOT) and DOE, with DOE providing DOE-escorts of students while students are "off-vehicle" between designated locations off-campus to designated locations on-campus;

WHEREAS, without the suspension of laws under an emergency proclamation, the mitigation measures cannot be implemented in an efficient and timely manner; and

WHEREAS, the current threat to the health, safety, and welfare of the people of the State caused by the school bus service shortage is an emergency under section 127A-14, HRS, and warrants preemptive and protective actions; and

WHEREAS, on August 2, 2024, I issued the Proclamation Relating to School Bus Services, which must be supplemented because emergency conditions continue throughout the State;

NOW, THEREFORE, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, HRS, has occurred in the State of Hawai'i and do hereby authorize and invoke the following emergency provisions, if not already in effect upon this declaration of an emergency:

I. Invocation of Laws

I invoke subsection 127A-12(b)(16), HRS, and direct all state agencies and officers to cooperate and extend their services, materials, and facilities as may be required to assist in emergency response efforts.

I invoke subsection 127A-12(b)(9), HRS, providing for, among other things, the appointment, employment, training, equipping, and maintaining with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of the agencies, officers, and other persons as the Governor deems necessary to carry out the purposes of chapter 127A, HRS.

II. Suspension of Laws

I suspend the following specific provisions of law under subsection 127A-13(a)(3), HRS, to the extent that the law impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel:

Subsection 286-181(b), HRS, **pupil transportation safety**, to the extent that it limits exemptions for the use of vehicles other than school vehicles and requires the Department of Transportation to grant exemptions subject to certain conditions detrimental to the expeditious and efficient execution of emergency actions and also to the extent that it requires school vehicle driver qualifications for driving a bus as defined in Section 286-2, HRS, detrimental to the expeditious and efficient execution of emergency actions.

Subsection 286-181(c), HRS, **pupil transportation safety**, to the extent it restricts the circumstances for which exemptions for the use of vehicles other than school vehicles may occur detrimental to the expeditious and efficient execution of emergency actions.

Subsection 286-181(d), HRS, **pupil transportation safety**, and Chapter 19-42, HAR, and any other applicable administrative rules, to the extent the provisions require school vehicle driver qualifications for driving a bus and/or otherwise restrict the use of vehicles other than school vehicles for the school bus service by the DOE and/or independent schools detrimental to the expeditious and efficient execution of emergency actions.

Chapter 76, HRS, **civil service law**, to the extent necessary to allow qualified personnel to be hired that would be directly involved in the expeditious and efficient execution of emergency actions.

Chapter 89, HRS, **collective bargaining in public employment**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Chapter 89C, HRS, **public officers and employees excluded from collective bargaining**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 103-2, HRS, **general fund**, to the extent that compliance results in any additional delays.

Section 103-53, HRS, **contracts with the State or counties; tax clearances, assignments**, only to the extent necessary to waive the Internal Revenue Service (IRS) tax clearance requirement.

Section 103-55, HRS, **wages, hours, and working conditions of employees of contractors performing services**, to the extent that compliance results in any additional delays.

Chapter 103D, HRS, **Hawaii public procurement code**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations.

Sections 105-1 to 105-10, HRS, **use of government motor vehicles, limitations**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**, because the automatic statewide invocation of this provision is not needed for this emergency. This Proclamation does not affect the invocation and suspensions of section 127A-30, HRS, contained in any other emergency proclamation.

Chapter 343, HRS, **environmental impact statements**, and chapter 11- 200.1, HAR, **environmental impact statement rules**, to the extent that compliance results in any additional delays involved with the environmental review process.

III. Severability

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, the provision shall be modified or deleted, and the remainder of this Proclamation and the application of the provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

IV. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this Proclamation, or of any rule or regulation. Unless the Governor, Director of Hawaii Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that this Proclamation is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i, the counties of this State, or any State or county agencies, departments, entities, officers, employees, or any other person.

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I FURTHER DECLARE that the emergency relief period shall commence immediately and continue through November 30, 2024, unless terminated or superseded by separate proclamation, whichever shall occur first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into, started, amended, or continued by reason of the provisions of this Proclamation shall continue in full force and effect.

Done at the State Capitol, this
1ST Day of October, 2024



JOSH GREEN, M.D.,
Governor of Hawai'i

APPROVED:

Anne E. Lopez

ANNE E. LOPEZ
*Attorney General
State of Hawai'i*