

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, in order 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, pursuant to chapter 127A, Hawaii Revised Statutes (HRS), emergency powers are conferred on the Governor of the State of Hawai'i to respond to disasters or emergencies, to maintain the strength, resources, and economic life of the community, and to protect the public health, safety, and welfare; and

WHEREAS, pursuant to section 127A-14(a), HRS, the Governor may determine whether an emergency or disaster has occurred, or whether there is an imminent danger or threat of an emergency or disaster, and authorize actions under chapter 127A, HRS; and

WHEREAS, there is currently a shortage of school bus drivers able to provide services to the DOE and certain independent schools which 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

WHEREAS, as of August 17, 2023, the shortage of school bus drivers had forced the suspension, or partial suspension, of service for school bus routes serving ten (10) high schools on Oahu, which potentially affects approximately 1,130 students; and

WHEREAS, the shortage of school bus drivers also forced the suspension, or partial suspension, of service for school bus routes serving four (4) schools on the island of Kauai, which potentially affects approximately 250 students; and

WHEREAS, such suspensions, or partial suspensions, affected the current 2023-2024 school year which commenced on August 1, 2023; and

WHEREAS, on August 17, 2023, I issued my Proclamation Relating to School Bus Services, which allowed some – but not all – of the affected routes to be restored. Without a proclamation in place, those services will be in danger of being suspended again; and

WHEREAS, suspensions of additional school bus services in other counties of the State due to the shortage of school bus drivers are anticipated; and,

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

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; and

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

WHEREAS, as one means of addressing and mitigating the current school bus driver shortage in a timely manner to accommodate the 2023-2024 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 the condition that the drivers are in compliance with section 19-143-6, Hawaii Administrative Rules (HAR) regarding driver qualifications excluding the requirement of holding a CDL-S license; and

WHEREAS, as one means of addressing and mitigating the current school bus driver shortage in a timely manner to accommodate the 2023-2024 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 which shall otherwise meet vehicle requirements and qualifications set forth in 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; and

WHEREAS, without the suspension of laws pursuant to an emergency proclamation, the mitigation measures could not be implemented in an efficient and timely manner; and

WHEREAS, the current threat to the health, safety, and welfare of the people of the City and County of Honolulu and the County of Kauai, and possibly other counties of the State, caused from the school bus service shortage, as described above, constitutes an emergency under section 127A-14, HRS, and warrants preemptive and protective actions; and

WHEREAS, it is necessary for me to issue a second proclamation relating to school bus services;

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 City and County of Honolulu and the County of Kauai, State of Hawai‘i, and may occur in other counties of the State, and do hereby authorize and invoke the following emergency provisions which are expressly invoked, if not already in effect upon this declaration of an emergency:

I. Invocation of Laws

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

Section 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 such agencies, officers, and other persons as the Governor deems necessary to carry out the purposes of Chapter 127A, HRS.

Section 127A-13(a)(2), HRS, authorizing the Governor to relieve hardships and inequities, or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 127A, HRS, by suspending laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose.

Without limiting the foregoing paragraphs, section 127A-12, HRS, and section 127A-13, HRS, in order to for county and state agencies to provide emergency relief and engage in emergency management functions as defined in section 127a-2, HRS, as a result of and in response to this event.

II. Suspension of Laws

The following specific provisions of law are suspended, as allowed by federal law, pursuant to sections 127A-12(b)(8) and 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:

Section 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.

Section 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.

Section 286-181(d), HRS, **pupil transportation safety**, and Chapter 19-42, HAR, and any other applicable administrative rules, to the extent such 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**, except for the island of Maui, because the automatic statewide invocation of this provision is not needed for this emergency. Section 127A-30, HRS, remains in effect for the island of Maui under my September 8, 2023, Seventh Proclamation Relating to Wildfires.

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, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such 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.

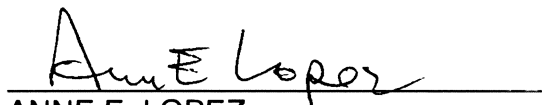
I FURTHER DECLARE that the emergency relief period shall commence immediately and continue through December 12, 2023, unless terminated or superseded by separate proclamation, whichever shall occur first.

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 15th Day of October, 2023


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

APPROVED:


ANNE E. LOPEZ
Attorney General
State of Hawai'i