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# A BILL FOR AN ACT

RELATING TO ADVERTISING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that vehicles used  
2 primarily for advertising pose a significant threat to the  
3 State's compelling interests in maintaining traffic safety,  
4 limiting traffic congestion and vehicle emissions, and  
5 protecting the outstanding natural beauty of Hawaii's islands.

6           Advertising vehicles are designed to attract the attention  
7 of drivers and pedestrians and thus, by their very nature, they  
8 increase the risks of traffic accidents by distracting the  
9 attention of drivers and pedestrians. These vehicles also add  
10 to the congestion of Hawaii's roads, thus increasing the  
11 possibility of accidents, and increase the emissions that  
12 degrade the quality of air.

13           The world-renowned aesthetic beauty of Hawaii is important  
14 to the health and happiness of Hawaii's residents and crucial to  
15 Hawaii's economy because it attracts visitors and serves as a  
16 foundation of the visitor industry. By their very nature,  
17 vehicles used primarily for advertising have the effect of  
18 obscuring and detracting from Hawaii's valuable natural scenery.



1           In 1978, the people of Hawaii emphasized the importance of  
2 protecting Hawaii's natural beauty by adding article XI, section  
3 1, to the Constitution of the State of Hawaii, which states:  
4 "For the benefit of present and future generations, the State  
5 and its political subdivisions shall conserve and protect  
6 Hawaii's natural beauty and all natural resources...." A  
7 prohibition of vehicular advertising carries out the mandate  
8 laid out in article XI, section 1 of the state constitution.

9           The purpose of this Act is to advance the State's  
10 compelling interests in traffic safety and aesthetics by  
11 prohibiting the operation or parking of vehicles engaged in  
12 commercial advertising.

13           SECTION 2. Chapter 445, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16           "**§445-A Vehicular advertising prohibited; penalty.** (a)  
17 It is unlawful for any person, for consideration or economic  
18 benefit of any sort, to operate, cause to be operated, or park  
19 an advertising vehicle or trailer displaying an advertisement on  
20 any public street, roadway, or other public place, or upon any  
21 private place that can be seen from a public street, roadway, or  
22 other public place.



1        (b) This section shall not apply to any vehicle or trailer  
2 that displays an advertisement or business notice related to the  
3 business for which the vehicle is used, so long as the vehicle  
4 or trailer is engaged in the usual business or regular work of  
5 the owner or operator and is not being used merely, mainly, or  
6 primarily to display advertisements or business notices.

7        (c) Every day of continued violation of this section shall  
8 constitute a separate offense.

9        (d) Any person convicted of violating this section shall  
10 be fined not less than \$500 nor more than \$5,000, or imprisoned  
11 not more than three months, or both.

12        (e) As used in this section:

13        "Advertisement" means any sign, insignia, symbol, picture,  
14 banner, depiction, display, graphics, light, model, writing, or  
15 lettering:

16        (1) Relating to a name, trademark, or trade insignia of a  
17 company engaged in the marketing of merchandise,  
18 products, commodities, things, services, or  
19 entertainment;

20        (2) Relating to a product, commodity, or thing  
21 manufactured or distributed by a business enterprise  
22 of any sort; or



1           (3) Relating to a service performed or an entertainment  
2           provided by a business enterprise of any sort.

3           "Advertising vehicle" means any wheeled, waterborne,  
4 aerial, or otherwise movable conveyance, whether operable or  
5 not, designed or used for the purpose of displaying  
6 advertisements.

7           "Consideration" means:

8           (1) Money;

9           (2) Any thing of value;

10          (3) Any economic benefit conferred or received; or

11          (4) Any combination of paragraphs (1) through (3).

12          "Trailer" shall mean a vehicle or conveyance with or  
13 without motive power designed to be pulled or propelled by a  
14 vehicle or other form of power."

15          SECTION 3. Section 445-112, Hawaii Revised Statutes, is  
16 amended to read as follows:

17          "**§445-112 Where and when permitted.** No person shall  
18 erect, maintain, or use a billboard or display any outdoor  
19 advertising device, except as provided in this section:

20          (1) The display of official notices and signs, posted by  
21               order of any court or public office, or posted by any  
22               public officer in the performance of a public duty, or



1 posted by any person required to do so by any law or  
2 rule having the force of law;

3 (2) Any outdoor advertising device announcing a meeting or  
4 series of meetings is not prohibited by this section  
5 if displayed on the premises where the meeting or  
6 series of meetings will be or is being held. Meeting,  
7 as used in this section, includes all meetings  
8 regardless of whether open to the public or conducted  
9 for profit and includes but is not limited to sports  
10 events, conventions, fairs, rallies, plays, lectures,  
11 concerts, motion pictures, dances, and religious  
12 services;

13 (3) Any outdoor advertising device indicating that the  
14 building or premises on which it is displayed is the  
15 residence, office, or place of business, commercial or  
16 otherwise, of any individual, partnership, joint  
17 venture, association, club, or corporation, and  
18 stating the nature of the business;

19 (4) Any outdoor advertising device that advertises  
20 property or services that may be bought, rented, sold,  
21 or otherwise traded in on the premises or in the



- 1 building on which the outdoor advertising device is  
2 displayed;
- 3 (5) The offering for sale of merchandise bearing  
4 incidental advertising, including books, magazines,  
5 and newspapers, in any store, newsstand, vending  
6 machine, rack, or other place where such merchandise  
7 is regularly sold;
- 8 (6) Any outdoor advertising device offering any land,  
9 building, or part of a building for sale or rent, if  
10 displayed on the property so offered or on the  
11 building [~~of which part is~~] so offered;
- 12 (7) Any outdoor advertising device carried by persons or  
13 placed upon vehicles used for the transportation of  
14 persons or goods[+], except as provided under section  
15 445-A, relating to vehicular advertising for  
16 consideration;
- 17 (8) Any outdoor advertising device warning the public of  
18 dangerous conditions that they may encounter in nearby  
19 sections of streets, roads, paths, public places,  
20 power lines, gas and water mains, or other public  
21 utilities;



- 1           (9) Signs serving no commercial purpose that indicate  
2           places of natural beauty, or of historical or cultural  
3           interest and that are made according to designs  
4           approved by the department of business, economic  
5           development, and tourism;
- 6           (10) Any outdoor advertising device or billboard erected,  
7           placed, or maintained upon a state office building, if  
8           erected, placed, or maintained by authority of a state  
9           agency, department, or officer for the sole purpose of  
10          announcing cultural or educational events within the  
11          State, and if the design and location thereof has been  
12          approved by the department of business, economic  
13          development, and tourism;
- 14          (11) Signs urging voters to vote for or against any person  
15          or issue, may be erected, maintained, and used, except  
16          where contrary to or prohibited by law;
- 17          (12) Signs stating that a residence that is offered for  
18          sale, lease, or rent is open for inspection at the  
19          actual time the sign is displayed and showing the  
20          route to the residence; provided that the sign  
21          contains no words or designs other than the words  
22          "Open House", the address of the residence, the name



1 of the person or agency responsible for the sale, and  
2 an arrow or other directional symbol and is removed  
3 during such time as the residence is not open for  
4 inspection;

5 (13) The erection, maintenance, and use of billboards if  
6 the billboard is used solely for outdoor advertising  
7 devices not prohibited by this section;

8 (14) The continued display and maintenance of outdoor  
9 advertising devices actually displayed on July 8,  
10 1965, in accordance with all laws and ordinances  
11 immediately theretofore in effect;

12 (15) The continued maintenance of any billboard actually  
13 maintained on July 8, 1965, and the display thereon of  
14 the same or new advertising devices, all in accordance  
15 with all laws and ordinances in effect immediately  
16 prior to July 9, 1965;

17 (16) Any outdoor advertising device displayed with the  
18 authorization of the University of Hawaii on any  
19 scoreboard of any stadium owned by the university. An  
20 outdoor advertising device displayed under this  
21 paragraph shall be on the front of the scoreboard and  
22 face the interior of the stadium;





1           (17) Any temporary outdoor advertising device attached to  
2                    or supported by the structure of any stadium owned by  
3                    the University of Hawaii, located within and facing  
4                    the interior of the stadium, and authorized to be  
5                    displayed by the university. For the purpose of this  
6                    paragraph, "temporary" means displayed for a short  
7                    period before the official start of organized athletic  
8                    competition, during the organized athletic  
9                    competition, and for a short period after the official  
10                  end of the organized athletic competition; and

11           (18) Any outdoor advertising device displayed with the  
12                    authorization of the stadium authority on any  
13                    scoreboard of any stadium operated by the stadium  
14                    authority. An outdoor advertising device displayed  
15                    under this paragraph shall be on the front of the  
16                    scoreboard and face the interior of the stadium."

17           SECTION 4. In codifying the new sections added by section  
18 2 of this Act, the revisor of statutes shall substitute  
19 appropriate section numbers for the letters used in designating  
20 the new sections in this Act.

21           SECTION 5. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

1 SECTION 6. This Act shall take effect upon its approval.

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JAN 24 2006



**Report Title:**

Vehicular Advertising

**Description:**

Prohibits commercial advertising for consideration on vehicles.

