

Honolulu, Hawaii

March 3, 2006

RE: H.B. No. 2708
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2708, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ADVERTISING,"

begs leave to report as follows:

The purpose of this bill is to promote traffic safety and protect the natural beauty of Hawaii by prohibiting individuals and organizations from operating or parking motor vehicles that display advertisements to the public, for consideration or other economic benefit.

The Outdoor Circle, Na Leo Pohai, Scenic Hawaii, Inc., and Sierra Club, Hawaii Chapter, testified in support of this bill. A concerned citizen testified in opposition to this measure. The Department of the Attorney General (AG) submitted comments.

Your Committee was concerned about possible constitutional challenges arising from any distinction between commercial and non-commercial speech, and therefore feels the approach and language proposed by the AG and Outdoor Circle was better because it related to content neutral "vehicular advertising devices."

Additionally, your Committee finds that a distinction should be made between an economic benefit derived by a person or organization that provides a space or device for advertisements and publicity, and the benefit derived by an owner or operator of a business through advertisement of their product on their own




vehicles. Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the prohibition on vehicular advertising does not apply to an owner or operator of any vehicular advertising device from which the owner or operator derives any benefit from the public exposure effect of the advertising;
- (2) Defining "person" to mean any person, corporation, partnership, or other entity conducting business in the state;
- (3) Defining "vehicular advertising device" to mean a sign, writing, picture, poster, painting, notice, bill, model, display, symbol, emblem, or similar device, which is so designed that it draws the attention of persons in any public street, roadway, or other public place;
- (4) Deleting the definitions of "advertising vehicle" and "consideration";
- (5) Changing the amount of the fine to an indeterminate amount to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2708, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2708, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



SYLVIA LUKE, Chair



State of Hawaii
House of Representatives
The Twenty-third Legislature

HSCR 755-06

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB2708 HD1 (HSCR75-06)	Date: <div style="text-align: center; font-size: 1.5em;">2/9/06</div>			
Committee Referral: EDB, JUD	<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.			
The recommendation is to: <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended <input type="checkbox"/> Hold </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Recommit </div> </div>				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. LUKE, Sylvia (C)	✓			
2. OSHIRO, Blake K. (VC)	✓			
3. CALDWELL, Kirk	✓			
4. KANOHO, Ezra R.				✓
5. KARAMATSU, Jon Riki				✓
6. MORITA, Hermina M.	✓			
7. SONSON, Alex M.	✓			
8. SOUKI, Joseph M.	✓			
9. MARUMOTO, Barbara C.	✓			
10. THIELEN, Cynthia	✓			
TOTAL	8	0	0	2
The recommendation is: <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div> </div> <p style="text-align: center;">If joint referral, _____ did not support recommendation. committee acronym(s)</p>				
Vice Chair's or designee's signature: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;"> </div>				
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