

JAN 22 2008

A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. In 1989, the legislative reference bureau
2 published a study entitled *Roads in Limbo: An Analysis of the*
3 *State-County Jurisdictional Dispute*. In that study, it was
4 found that "[t]here is a considerable and uncatalogued number of
5 public highways in the State whose ownership, as between the
6 State and the counties, is in dispute, as the State holds paper
7 title to these roads but contends that ownership of these roads
8 has passed to the counties by the operation of law." The study
9 further noted that among the causes for this jurisdictional
10 dispute are that neither the State nor the counties want to be
11 responsible for the cost of maintaining the roads and the
12 potential liability that would arise from ownership of the
13 roads.

14 A result of this ownership dispute is that both the State
15 and the counties are reluctant to enforce laws and rules
16 regarding the use of roads in limbo by private parties.
17 Consequently, individuals have improperly blocked access to



1 these roads, believing that neither the State nor the counties
2 will enforce laws and rules that would otherwise allow the
3 public to use them to access coastal and inland recreational
4 areas.

5 The purpose of this Act is to establish that the respective
6 county, through its authorized agents, has the power to enforce
7 laws and rules applicable to the use of such roads in limbo.

8 This Act is further intended to ensure that the general
9 public retains the right to use roads in limbo to access coastal
10 and inland recreational areas, including beaches, shores, parks,
11 and trails.

12 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
13 by adding a new section to Part I to be appropriately designated
14 and to read as follows:

15 "§46- Traffic regulation and control over roadway of
16 which ownership is in question. (a) Any provision of law to
17 the contrary notwithstanding, any county and its authorized
18 personnel shall impose and enforce traffic laws and shall
19 enforce chapters 286 and 291C on public streets or highways in
20 the State whose ownership is in dispute between the State and
21 the county, so-called roads in limbo.



1 (b) No presumption that a county owns a particular street
2 or highway shall arise as a result of the county's performance
3 of the duties established by subsection (a).

4 (c) The general public shall have the unrestricted right
5 to use roads in limbo to access the shoreline and other public
6 recreational areas.

7 (d) As used in this section:

8 "Public recreational area" means coastal and inland
9 recreational areas, including beaches, shores, public parks,
10 public lands, public trails, and bodies of water opened to the
11 public for recreational use."

12 SECTION 3. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.

14

INTRODUCED BY:

[Handwritten signatures]

[Handwritten signature]
[Handwritten signature]
[Handwritten signature]
[Handwritten signature]



Report Title:

Roadway Jurisdiction; Right to Use or Possess

Description:

Establishes that there is no private right to possess any public roadway arising from the fact that the ownership of the roadway is disputed between the State and county in which the roadway exists. Gives counties the power to enforce traffic laws on these roadways without a presumption of ownership being created.

