
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:

- 6 (1) Establish that any county has the power to enforce
7 laws and rules applicable to the use of public streets
8 or highways whose ownership is in dispute between the
9 State and county; and
- 10 (2) Ensure that the general public retains the right to
11 use these roads to access coastal and inland
12 recreational areas, including beaches, shores, parks,
13 and trails.

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

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



1 ownership is in dispute between the State and the county,
2 so-called roads in limbo.

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

6 (c) The general public shall have the unrestricted right
7 to use public streets or highways whose ownership is in dispute
8 between the State and the county in order to access the
9 shoreline and other public recreational areas; provided that
10 this subsection shall not apply to any private street or highway
11 whose ownership is in dispute.

12 (d) As used in this section:

13 "Public recreational area" means coastal and inland
14 recreational areas, including beaches, shores, public parks,
15 public lands, public trails, and bodies of water opened to the
16 public for recreational use."

17 SECTION 3. New statutory material is underscored.

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



Report Title:

Roadway Jurisdiction; Right to Use or Possess

Description:

Establishes that any county has the power to enforce laws and rules applicable to the use of public streets or highways whose ownership is in dispute between the State and county; ensures that the general public retains the right to use public road whose ownership is in dispute to access coastal and inland recreational areas, including beaches, shores, parks, and trails. (SD1)

