

# S.B. NO. 2900

JAN 23 2014

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## A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1           SECTION 1. Chapter 291-3.3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§291-3.3 Storage of opened container containing**  
4 **intoxicating liquor or consumption at scenic lookout.** (a) No  
5 person shall keep in a motor vehicle, or on a moped when such  
6 vehicle or moped is upon any public street, road, or highway or  
7 at any scenic lookout, any bottle, can, or other receptacle  
8 containing any intoxicating liquor which has been opened, or a  
9 seal broken, or the contents of which have been partially  
10 removed or fully removed, unless such container is kept in the  
11 trunk of the vehicle, or ~~[kept in some other area of the vehicle~~  
12 ~~not normally occupied by the driver or passengers, if the~~  
13 ~~vehicle is not equipped with a trunk.]~~ if the vehicle is not  
14 equipped with a trunk, unless such container is kept in an area  
15 of the vehicle not normally occupied by the driver or  
16 passengers, including the area behind the last designed upright  
17 seat in the vehicle, or any locked vehicle compartments. A

1 utility or glove compartment shall be deemed to be within the  
2 area occupied by the driver and passengers.

3 (b) No person shall consume any intoxicating liquor at any  
4 scenic lookout.

5 (c) Subsection (a) shall not apply to [~~a recreational or~~  
6 ~~other vehicle not having a separate trunk compartment.~~] the  
7 storage of any bottle, can, or other receptacle containing any  
8 intoxicating liquor which has been opened, or a seal broken, or  
9 the contents of which have been partially removed or fully  
10 removed within the living quarters of a recreational vehicle,  
11 house coach, house trailer or the possession of such bottle,  
12 can, or other receptacle in the living quarters of a  
13 recreational vehicle, house coach, house trailer by a passenger  
14 of such a vehicle.

15 (d) Any person violating this section shall be guilty of a  
16 violation."

17 SECTION 2. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun, before its effective date.

20 SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *Anna Mercedes K.*

BY REQUEST

# S.B. NO. 2900

**Report Title:**

Highway; Safety; Motor Vehicle

**Description:**

Amends the law relating to the storage of opened container that contains intoxicating liquor or the consumption at the scenic lookout. Clarifies where intoxicating liquor may be kept in a motor vehicle. Further clarifies who and where an opened container may be possessed in a recreational vehicle, house coach or house trailer.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

# SB. NO. 2900

## JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.

PURPOSE: To amend the law relating to the storage of opened container that contains intoxicating liquor or the consumption at a scenic lookout. To clarify where intoxicating liquor may be kept in a motor vehicle and recreational vehicle, house coach, or house trailer.

MEANS: Amend section 291-3.3, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii has depended upon federal funding to keep its highways safe from traffic deaths. One of the main causes of highway traffic deaths is the drinking driver. In order that the State of Hawaii protects its people from deaths on its highways, laws are enacted to prevent such crashes by controlling or removing the presence of alcohol while traveling on the highway. To accomplish this, clear laws are enacted to prevent the presence of alcohol in a motor vehicle while traveling on a public highway or parked at a scenic lookout. To enforce the storage of open alcohol containers in motor vehicles and prevent drivers and passengers from consuming alcohol while on a public highway, the state applies for federal funding. However, to obtain federal funds, certain requirements must be met to qualify for this federal funding. Although Hawaii's open container law was passed in 1980, federal grant requirements were recently brought to the department of transportation's attention. The National Highway Traffic Safety Administration has notified the State Department of Transportation that Hawaii law does not meet the requirements for an open container grant. Hawaii's alcohol open container law prohibits the storage of the

open container in a motor vehicle unless the container is kept in the trunk of the vehicle or, if the vehicle is not equipped with a trunk, in an area not normally occupied by the driver or passenger. However, the state exempts from these requirements any "recreational or other vehicle not having a separate trunk compartment." This has created two grant compliance issues. Hawaii law impermissibly exempts from coverage all vehicles without a trunk. The federal requirements apply to vehicle without trunks and specify that, for such vehicles, open containers may be stored only in locked vehicle compartments (e.g. a locked glove box) or in specified areas (i.e., behind the last upright seat or in an area not normally occupied by the driver or a passenger of these vehicle. The second issue is that Hawaii law neither limits where open containers may be possessed in recreational vehicles nor who in those vehicles may possess them. The federal requirements specify that open containers may be stored only in the living quarters of a recreational vehicle and may be possessed only by passengers (not by the driver). In the absence meeting the federal requirements of an open container law, the transfer of federal highway funds by the Federal Highway Administration will be diverted to other areas, impaired driving countermeasures. Although this may be good, it would deprive the general highway funding. In 2013, the amount that was transferred was \$7,000,000 and for 2014 a total of \$6,600,000 will be transferred to other areas of highway construction.

Impact on the public: For the lack of highway construction funding, highway projects may be held.

Impact on the department and other agencies: For the lack of money in highway construction, projects may be held.

GENERAL FUND:

None.

OTHER FUNDS: None.

PBS PROGRAM  
DESIGNATION: TRN 595

OTHER AFFECTED  
AGENCIES: All county police departments.

EFFECTIVE DATE: Upon approval.