

## ACT 233

## A Bill for an Act Relating to Outdoor Advertising.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 155, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding the following new sections to be designated and to read as follows:

**"Sec. 155-120. Definitions.** As used in this chapter:

(a) 'Outdoor advertising device' means any device which is:

(i) A writing, picture, painting, light, model, display, emblem, sign, or similar device situated outdoors, which is so designed that it draws the attention of persons in any public highway, park, or other public place to any property, services, entertainment or amusement, bought, sold, rented, hired, offered, or otherwise traded in by any person, or to the place or person where or by whom such buying, selling, renting, hiring, offering or other trading is carried on;

(ii) A sign, poster, notice, bill or word or words in writing situated outdoors and so designed that it draws the attention of and is read by persons in any public highway, park or other public place; or

(iii) A sign, writing, symbol or emblem made of lights, or a device or design made of lights so designed that its primary function is not giving light, which is situated outdoors and draws the attention of persons in any public highway, park or other public place.

(b) 'Billboard' is any board, fence or similar structure, whether free-standing or supported by or placed against any wall or structure, which is designed or used for the principal purpose of having outdoor advertising devices placed, posted or fastened upon it.

(c) Any person who, by himself or through any agent or independent contractor, maintains or displays any outdoor advertising device, or any person who knowingly causes any outdoor advertising device advertising his products, merchandise or services to be displayed by himself or any agent or independent contractor; or any person who, being in possession of any land, building, or part of a building, permits any outdoor advertising device on said land, building or part of a building, shall be deemed to be displaying an outdoor advertising device.

(d) Any person, who, by himself or through any agent or independent contractor, erects or maintains a billboard or places any outdoor advertising device upon a billboard, or any person who knowingly causes any of his products, merchandise or services to be advertised upon a billboard by himself or through any agent or independent contractor; or any person who, being in possession of any land, building or part of a building, knowingly permits a billboard to be erected or to remain on said land, building or part of a building, shall be deemed to be maintaining a billboard.

**"Sec. 155-121. Where and when permitted.** No person shall erect, maintain or use a billboard or display any outdoor advertising device, except as herein provided:

(a) The display of official notices and signs, posted by order of any court or public office, or posted by any public officer in the performance of a public duty, or posted by any person required to do so by any statute or ordinance or regulation having the force of law.

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

(c) Any outdoor advertising device indicating that the building or premises on which it is displayed is the residence, office or place of business, commercial or otherwise, of any individual, partnership, joint venture, association, club or corporation, and stating the nature of the business.

(d) Any outdoor advertising device which advertises property or services which may be bought, rented, sold or otherwise traded in on the premises or in the building on which the outdoor advertising device is displayed.

(e) The offering for sale of merchandise bearing incidental advertising, including books, magazines and newspapers, in any store, newsstand, vending machine, rack or other place where such merchandise is regularly sold.

(f) Any outdoor advertising device offering any land, building or part of a building for sale or rent if displayed on the property so offered, or on the building of which part is so offered.

(g) Any outdoor advertising device carried by persons or placed upon vehicles used for the transportation of persons or goods.

(h) Any outdoor advertising device warning the public of dangerous conditions which they may encounter in nearby sections of streets, roads, paths, public places, power lines, gas and water mains or other public utilities.

(i) Signs serving no commercial purpose, which indicate places of natural beauty, or of historical or cultural interest, and are made according to designs approved by the department of planning and economic development.

(j) Any outdoor advertising device or billboard erected, placed or maintained upon a state office building, if erected, placed or maintained by authority of a state agency, department or officer for the sole purpose of announcing cultural or educational events within the State, and if the design and location thereof have been approved by the department of planning and economic development.

(k) Signs urging voters to vote for or against any person or issue, if erected not more than 45 days before, and removed not less than 10 days after, the election in which such person is a candidate or in which such issue is to be voted upon.

(l) Signs stating that a residence which is offered for sale, lease or rent is open for inspection at the actual time the sign is displayed and showing the route to such residence, provided such sign contains no words or designs other than the words 'Open House', the address of the residence, the name of the person or agency responsible for the sale and an arrow or other directional symbol, and is removed during such time as the residence is not open for inspection.

(m) The erection, maintenance and use of billboards if such billboard is used solely for outdoor advertising devices not prohibited by this section.

(n) The continued display and maintenance of outdoor advertising devices actually displayed on the effective date of this Act in accordance with all laws and ordinances immediately theretofore in effect.

(o) The continued maintenance of any billboard actually maintained on the effective date of this Act, and the display thereon of the same or new advertising devices, all in accordance with all laws and ordinances in effect immediately prior to the effective date of this Act.

**"Sec. 155-122. Regulation by counties.** The several counties may adopt ordinances regulating billboards and outdoor advertising devices not prohibited by this Act. Such ordinances may:

(a) Classify said billboards and outdoor advertising in the classes set forth in section 155-121, or in any other reasonable manner of classification;

(b) Regulate the size, manner of construction, color, illumination, location and appearance of any class of billboard or outdoor advertising device;

(c) Prohibit the erection or maintenance of any class of billboard or the displaying of outdoor advertising device in particular parts, or in all parts, of the county, provided however, that such prohibition shall not apply to any official notice or sign described in section 155-121(a);

(d) Control and license the business of making, erecting, posting, renting and maintaining outdoor advertising devices and billboards as a business providing advertising for others, and require each person engaging in such business to obtain an annual license, the fee for which shall not exceed \$100. Such license shall be conditioned upon the maintenance of all outdoor advertising devices and billboards in a safe state, and the observance of this Act and all applicable ordinances and shall be revocable by the licensing authority upon breach of such condition;

(e) Require that no person, whether licensed under subsection (d) hereof or not, shall erect or maintain any billboard unless it is licensed by a permit issued by the county, the issuance of which permit shall be conditioned upon compliance with this chapter and all applicable ordinances and the payment to the county of an annual fee not to exceed \$25 per billboard; and

(f) Provide for such other regulation of billboards and outdoor advertising devices as will promote the public health, welfare, safety and convenience; encourage and promote the tourist and visitor trade; conserve and develop the natural beauty of the State, as well as objects and places of historic and cultural interest; foster sightliness and physical good order; and promote the purposes and provisions of this Act.

**“Sec. 155-123. Unlawful posting in public places.** It shall be unlawful for any person, except a public officer in performance of a public duty, or a private person in giving legal notice, to paste, post, paint, print, nail, tack or otherwise fasten any card, banner, handbill, sign, poster, outdoor advertising device or notice of any kind or cause the same to be done, on any curbstone, lamp-post, pole, hitching post, watering trough, hydrant, bridge, tree, street sign, traffic sign or traffic light upon any public property in the State, except as may be required by the ordinances of the county where it is posted, or by the laws of this State or of the United States.

**“Sec. 155-124. Same; consent of owner.** It shall be unlawful for any person, except a public officer or employee in performance of a public duty, or a private person in giving legal notice, to paste, post, paint, print, nail or tack or otherwise fasten any card, banner, handbill, sign, poster, outdoor advertising device or notice of any kind upon any property without the oral or written consent of the owner, holder, lessee, agent or trustee thereof.

**“Sec. 155-126. [sic] Scattering debris.** No person shall scatter, daub or leave any paint, paste, glue or other substance used for painting or affixing outdoor advertising devices upon any public street or sidewalk or scatter or throw or permit to be scattered or thrown any bills, waste matter, paper, cloth or materials of whatsoever kind removed from billboards on any public street or on private property.

**“Sec. 155-126. Name of owner must appear.** There shall be placed and maintained on the top of each billboard the name, plainly printed, of the person owning or who is in possession, charge or control of the same, for advertising purposes.

**“Sec. 155-127. Offensive signs.** It shall be unlawful for any person to display, or cause to be displayed, upon any billboard or outdoor advertising device, any statement, words or signs of an obscene, indecent or immoral nature, or any picture, illustration or delineation of any human figure in such detail as to offend public morality or decency, or of any lewd, lascivious act, or any other matter or thing of an obscene, indecent or immoral nature, or offensive to the moral sense.

**“Sec. 155-128. Advertising certain medicines.** No person shall display any outdoor advertising device giving or purporting to give information from whom or where medicines may be obtained for the cure, prevention or treatment of diseases peculiar to females, venereal diseases or impotence, sterility, gonorrhoea, gleet, stricture, syphilis, abortion or miscarriage, or articles or means of preventing conception, or containing pictures or illustrations of an immoral character.

**“Sec. 155-129. Enforcement by civil suit.** Injunction forbidding the erection, maintenance or display of, or commanding the removal or alteration of any outdoor advertisement or billboard which does not comply with this statute or any ordinance enacted under the authority of this statute shall be granted upon the suit of the State by the attorney general, or of the county in which said outdoor advertisement or billboard is or probably will be erected, maintained or displayed, or of the owner of any land, building or part of a building from which such outdoor advertisement is or will be visible and so conspicuous as to draw attention. Any owner of a freehold or leasehold in such property shall be deemed such owner and entitled to bring such suit.

**“Sec. 155-130. Penalty.** Any person violating any provision of this Act shall be fined not less than \$25 nor more than \$500, or imprisoned not more than one month, or both.

**“Sec. 155-131. Severability.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the remainder of this Act and each and every portion of this Act shall not be affected thereby.”

**SECTION 2. Repeal.** Sections 154-1 through 154-15, inclusive, and sections 155-70 through 155-75, inclusive, of the Revised Laws of Hawaii 1955 relating to the regulation of outdoor advertising are hereby repealed.

**SECTION 3. Effective date.** This Act shall take effect upon its approval.

(Approved July 8, 1965.) **S.B. 949.**