

ACT 45

A Bill for an Act Relating to Highways and Amending Chapter 111, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

The Beautification Act of 1965 was passed by Congress and enacted into law on October 22, 1965. Title I of said Act provided for the control of outdoor advertising. One of the pertinent parts of Title I states that any outdoor advertising sign lawfully in existence after October 22, 1965 and which lies within 660 feet of the nearest edge of the right of way and which is visible from the main-traveled way of a federal-aid highway must be removed by the State without the use of federal-aid funds. Federal aid will not participate in the removal of signs legally coming into existence between October 22, 1965 and January 1, 1968, with the exception of those signs legally in existence though becoming nonconforming by reason of a new alignment of or a new federal-aid highway. Section 111-5.5 provides for the control of outdoor advertising only along the Interstate and Defense Highways, and Act 233, Session Laws of Hawaii 1965, appears to allow signs for broader purposes than the Beautification Act of 1965, thus our statutes may not provide the "effective control" required by such Act. Therefore, it is necessary to amend chapter 111 to so regulate at this time outdoor advertising signs along all federal-aid highways to insure maximum federal participation in such control. In addition, federal-aid funds apportioned on or after January 1, 1968, to any state which the Secretary of Commerce determines has not made provisions for effective control of the erection and maintenance of signs shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such state under 23 U.S.C., section 104, until such time as such state shall provide for such effective control.

SECTION 2. Chapter 111 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by repealing section 111-5.5 and by adding a new part thereto, to read as follows:

"PART IV. OUTDOOR ADVERTISING

Section 111-60. Declaration of policy. The legislature finds and declares that outdoor advertising is a form of commercial use of the public highways. In order to prevent unreasonable distraction of

operators of motor vehicles, to prevent confusion with regard to traffic lights, signs, or signals or otherwise interfere with the effectiveness of traffic regulations, attract tourists and promote the prosperity, economic well-being, and general welfare of the State, promote the safety, convenience and enjoyment of travel on, and protection of the public investment in highways within the State, and to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, the legislature declares it to be the policy of the State that the erection and maintenance of outdoor advertising in areas adjacent to a federal-aid or state highway system within the State shall be regulated in accordance with the terms of this part and the regulations promulgated by the department of transportation pursuant thereto and finds that all outdoor advertising which do not conform to the requirements of this part are public nuisances.

Section 111-61. Definitions. For the purpose of this part, if not inconsistent with the context:

- (a) 'Department' means the department of transportation.
- (b) 'Director' means the director of transportation.
- (c) 'Outdoor advertising' means any device which is:

(1) A writing, picture, painting, light, model, display, emblem, sign, billboard, or similar device situated outdoors, which is so designed that it draws the attention of persons on any federal-aid or state highway, 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;

(2) A sign, billboard, 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 on any federal-aid or state highway; or

(3) A sign, billboard, writing, symbol or emblem made of lights, or a devise 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 on any federal-aid or state highway.

Section 111-62. Control of outdoor advertising. No person shall erect or maintain any outdoor advertising within 660 feet of the right-of-way boundary and visible from the main-traveled way of any federal-aid or state highway within the State, except the following:

(a) Directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions as authorized or required by law.

(b) Signs, displays and devices advertising the sale or lease of the property upon which they are located.

(c) Signs, displays and devices advertising activities conducted on the property upon which they are located.

Section 111-63. Regulations. The director may promulgate rules and regulations governing the erection and maintenance of outdoor advertising permitted under section 111-62, consistent with the safety and welfare of the traveling public and with the national standards

promulgated by the Secretary of Commerce pursuant to Title 23, United States Code.

Section 111-64. Removal of nonconforming outdoor advertising. Any outdoor advertising lawfully in existence on the effective date of this part and which is not in conformity with the provisions contained herein shall be required to be removed by July 1, 1970. Any other outdoor advertising lawfully erected which subsequently does not conform to this part shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

Section 111-65. Compensation for removal of outdoor advertising. The director may acquire by purchase, gift or condemnation, and to pay just compensation upon the removal of the following outdoor advertising:

- (a) Those lawfully in existence on October 22, 1965.
- (b) Those lawfully on any federal-aid or state highway on or after October 22, 1965, and before January 1, 1968.
- (c) Those lawfully erected on or after January 1, 1968.

Such compensation will be paid only for the following:

- (a) The taking from the owner of such outdoor advertising of all right, title, leasehold, and interest therein; and
- (b) The taking from the owner of the real property on which such outdoor advertising is located, of the right to erect and maintain such outdoor advertising thereon.

Section 111-66. Unlawful outdoor advertising. Any outdoor advertising which violates the provisions of this part is hereby declared to be a public nuisance.

Section 111-67. Penalty. Any person violating any provisions of this part shall be fined not less than \$25 nor more than \$500, or imprisoned not more than one month, or both.

Section 111-68. Interpretation. Nothing in this part shall be construed to abrogate or affect the provisions of any law, ordinance, or regulation which are more restrictive than the provisions of this part.

Section 111-69. Agreements with the United States authorized. The director may enter into agreements with the Secretary of Commerce of the United States as provided by Title 23, United States Code, relating to control of outdoor advertising in areas adjacent to any federal-aid highway, and to take action in the name of the State to comply with the terms of such agreement."

SECTION 3. Severability. The provisions of this Act are declared to be severable, and if any portion of this Act or the application thereof is held to be invalid for any reason, the validity of the remainder of this Act or the application of such portion shall not be affected thereby.

SECTION 4. Effective date. This Act shall take effect upon its approval.

(Approved May 4, 1966.) H.B. 343.