

ACT 46

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 II of said Act provided for the control of junkyards which are within 1,000 feet of the nearest edge of the right of way and which are visible from the main traveled way of the federal-aid interstate and primary highway systems. At the present time, an estimated \$30,000 is available to the State for such junkyard control, and unless the Department of Transportation is authorized to control junkyards by June 30, 1966, this amount will lapse and be lost to the State.

In addition, any such junkyards which legally came into being after October 22, 1965, and which may legally come into existence prior to January 1, 1968 must be moved or screened as the case may be, by the State without the use of federal-aid funds. Federal aid cannot be used for junkyards legally coming into existence between October 22, 1965 and January 1, 1968, except those that legally exist and are made non-conforming because of a realignment of or the construction of a new federal-aid highway. It is therefore necessary to provide for the immediate regulation of junkyards along federal-aid highways to insure full federal participation and to prevent the lapsing of the \$30,000 Federal appropriation. Federal-aid highway funds apportioned on or after January 1, 1968, to any state which the Secretary of Commerce determines has not made provision for effective control of the establishment and maintenance of junkyards shall be reduced by amounts equal to ten (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. There is hereby added to chapter 111 of Title 15 of the Revised Laws of Hawaii 1955, as amended, a new part to be numbered Part VII, and to read as follows:

"PART VII. JUNKYARD CONTROL

Section 111-70. Short Title. This part may be cited as the 'Junkyard Control Act.'

Section 111-71. Purposes. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is hereby declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junk-

yards in areas adjacent to federal-aid or state highways within the State. The Legislature hereby finds, determines and declares that junkyards which do not conform to the requirements of this part are public nuisances.

Section 111-72. Definitions. For the purpose of this part, if not inconsistent with the context:

(a) 'Automobile graveyard' means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(b) 'Department' means the department of transportation.

(c) 'Director' means the director of transportation.

(d) 'Junk' means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(e) 'Junkyard' means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

Section 111-73. Control of Junkyards. No person shall establish, operate, or maintain a junkyard, any portion of which is within 1,000 feet of the nearest edge of the right of way of any federal-aid or state highways within the State, except the following:

(a) Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of a federal-aid or state highway.

(b) Those which are not visible from the main traveled way of a federal-aid or state highway.

Section 111-74. Junkyards Lawfully in Existence. Any junkyard lawfully in existence on the effective date of this part which is within 1,000 feet of the nearest edge of the right of way and visible from the main traveled way of any federal-aid or state highway shall be screened, if feasible, by the department at locations on the highway right of way or in areas acquired for such purposes outside the right of way so as not to be visible from the main traveled way of such highway.

Section 111-75. Requirement as to Screening. The director may promulgate rules and regulations governing the location, planting, construction and maintenance, including the materials used in the screening required by this part.

Section 111-76. Authority to Acquire Interest in Land for Removal and Screening of Existing Junkyards. When the director determines that the topography of the land will not permit the adequate screening of existing junkyards or that the screening of such junkyards would not be economically feasible, the director may acquire by gift, purchase, exchange, or condemnation, such interests in lands as may be necessary to secure the relocation, removal, or disposal of such junkyards, and to pay for the costs of relocation, removal, or disposal thereof. When the director determines that it is in

the best interest of the State, he may acquire such lands, or interests in lands, as may be necessary to provide adequate screening of such junkyards.

Section 111-77. Injunction. The department may apply to the circuit court in the county in which said junkyards may be located for an injunction to abate the nuisance of a non-conforming junkyard.

Section 111-78. Interpretation. Nothing in this part shall be construed to abrogate or affect the provisions of any lawful ordinance or regulation which are more restrictive than the provisions of this part.

Section 111-79. 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 the control of junkyards 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 agreements."

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. This Act shall take effect upon its approval.
(Approved May 4, 1966.) **H.B. 344.**