

ACT 173

H.B. NO. 1173

A Bill for an Act Relating to Traffic.

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

SECTION 1. Although the legislature, with the passage of Act 358 of 1988 extended to the counties the ability to apply the statewide traffic code to certain private streets, certain language in chapter 291C, Hawaii Revised Statutes, has led to a contrary judicial interpretation. It is the purpose of this Act to make clear that the counties by ordinance, may extend the code to such private roads, open to the public for six months or more, as they see fit.

SECTION 2. Section 46-16, Hawaii Revised Statutes, is amended to read as follows:

“§46-16 Traffic regulation and control over private streets. Any provision of law to the contrary notwithstanding, any county and its authorized personnel may impose and enforce traffic regulations and place appropriate traffic control devices, and may enforce chapters 286 and 291C, on the following categories of private streets, highways, or thoroughfares, except private roads used primarily for agricultural and ranching purposes:

- (1) Any private street, highway, or thoroughfare which has been used continuously by the general public for a period of not less than six months; provided that the county shall not be responsible for the maintenance and repair of the private street, highway, or thoroughfare when it imposes or enforces traffic regulations and highway safety laws or places or permits to be placed appropriate traffic control devices on

that street, highway, or thoroughfare; provided further that no adverse or prescriptive rights shall accrue to the general public when the county imposes or enforces traffic regulations and highway safety laws or places appropriate traffic control devices on that street, highway, or thoroughfare; [and] nor shall county consent to the placement of traffic control signs or markings on a private street be deemed to constitute control over that street; and

- (2) Any private street, highway, or thoroughfare which is intended for dedication to the public use as provided in section 264-1 and is open for public travel but has not yet been accepted by the county."

SECTION 3. Section 291C-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "highway" to read:

""Highway" means the entire width between the boundary lines of every way publicly maintained and those private streets, as defined in section 46-16, over which the application of this chapter has been extended by ordinance, when any part thereof is open to the use of the public for purposes of vehicular travel."

2. By amending the definition of "official traffic-control devices" to read:

""Official traffic-control devices" mean all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority or with the consent of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic."

SECTION 4. Section 291C-36, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) [No] Except as provided in subsection (c), no person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal."

2. By amending subsection (c) to read:

"(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs[.], nor the placement on privately owned highways, by the owners of the highways, of signs, of a design and at places approved by the county official responsible for traffic control."

SECTION 5. Section 291C-111, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director of transportation [and], the counties, and owners of private highways, with the consent of the county official responsible for traffic control with respect to highways under their respective jurisdictions shall place signs which are

clearly visible to an ordinarily observant person prohibiting or restricting the stopping, standing, or parking of vehicles on the highway. Such signs shall be official signs and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 14, 1995.)