

ACT 222

H.B. NO. 2708

A Bill for an Act Relating to Advertising.

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

SECTION 1. The legislature finds that vehicles displaying advertisements or other material for compensation pose a significant threat to the State's compelling interests in maintaining traffic safety, limiting traffic congestion and vehicle emissions, and protecting the outstanding natural beauty of Hawaii's islands.

Such vehicles are designed to attract the attention of drivers and pedestrians and thus, by their very nature, they increase the risks of traffic accidents by:

- (1) Distracting the attention of drivers and pedestrians;
- (2) Adding to the congestion of Hawaii's roads, thus increasing the possibility of accidents; and
- (3) Increasing emissions that degrade the quality of air.

The world-renowned aesthetic beauty of Hawaii is important to the health and happiness of Hawaii's residents and crucial to Hawaii's economy because it attracts visitors and serves as a foundation of the visitor industry. By their very

nature, vehicles displaying advertisements or other materials for compensation have the effect of obscuring and detracting from Hawaii's valuable natural scenery.

In 1978, the people of Hawaii emphasized the importance of protecting Hawaii's natural beauty by adding article XI, section 1 to the State Constitution, which states:

“For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources....”

A prohibition on paid vehicular signs carries out the mandate laid out in article XI, section 1 of the State Constitution.

The purpose of this Act is to advance the State's compelling interests in traffic safety and aesthetics by prohibiting the operation or parking of vehicles displaying advertisements or other materials for compensation.

SECTION 2. Chapter 445, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§445-A Vehicular advertising prohibited; penalty. (a) It is unlawful for any person to operate or park, or cause to be operated or parked, on any street, roadway, or other public place, or on any private property that can be seen from any street, roadway, or other public place, any vehicle or trailer carrying a vehicular advertising device for consideration or any other economic benefit if the vehicle or trailer is used primarily to display a vehicular advertising device. The phrase “for consideration or any other economic benefit” shall not include any benefit derived by the owner or operator of the vehicle or trailer from the effect of the advertising.

(b) Every day of continued violation of this section shall constitute a separate offense.

(c) Any person convicted of violating this section shall be fined:

- (1) Not less than \$200 or more than \$1,000, for the first offense;
- (2) Not less than \$500 or more than \$2,000 for the second offense; and
- (3) Not less than \$1,000 or more than \$5,000 for the third and subsequent offense.

(d) As used in this section:

“Trailer” means a vehicle or conveyance with or without motive power designed to be pulled or propelled by a vehicle or other form of power.

“Vehicular advertising device” means any sign, writing, picture, poster, painting, notice, bill, model, display, symbol, emblem, or similar device, which is so designed that it draws the attention of persons in any public street, roadway, or other public place.”

SECTION 3. Section 445-112, Hawaii Revised Statutes, is amended to read as follows:

“§445-112 Where and when permitted. No person shall erect, maintain, or use a billboard or display any outdoor advertising device, except as provided in this section:

- (1) 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 law or rule having the force of law;
- (2) 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 regardless of

- whether open to the public or conducted for profit and includes but is not limited to sports events, conventions, fairs, rallies, plays, lectures, concerts, motion pictures, dances, and religious services;
- (3) 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;
 - (4) Any outdoor advertising device that advertises property or services that may be bought, rented, sold, or otherwise traded in on the premises or in the building on which the outdoor advertising device is displayed;
 - (5) 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;
 - (6) 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;
 - (7) Any outdoor advertising device carried by persons or placed upon vehicles used for the transportation of persons or goods[;], except as provided under section 445-A, relating to vehicular advertising devices;
 - (8) Any outdoor advertising device warning the public of dangerous conditions that they may encounter in nearby sections of streets, roads, paths, public places, power lines, gas and water mains, or other public utilities;
 - (9) Signs serving no commercial purpose that indicate places of natural beauty, or of historical or cultural interest and that are made according to designs approved by the department of business, economic development, and tourism;
 - (10) 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 has been approved by the department of business, economic development, and tourism;
 - (11) Signs urging voters to vote for or against any person or issue, may be erected, maintained, and used, except where contrary to or prohibited by law;
 - (12) Signs stating that a residence that is offered for sale, lease, or rent is open for inspection at the actual time the sign is displayed and showing the route to the residence; provided that the 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;
 - (13) The erection, maintenance, and use of billboards if the billboard is used solely for outdoor advertising devices not prohibited by this section;
 - (14) The continued display and maintenance of outdoor advertising devices actually displayed on July 8, 1965, in accordance with all laws and ordinances immediately theretofore in effect;
 - (15) The continued maintenance of any billboard actually maintained on July 8, 1965, and the display thereon of the same or new advertising devices, all in accordance with all laws and ordinances in effect immediately prior to July 9, 1965;
 - (16) Any outdoor advertising device displayed with the authorization of the University of Hawaii on any scoreboard of any stadium owned by the

university. An outdoor advertising device displayed under this paragraph shall be on the front of the scoreboard and face the interior of the stadium;

- (17) Any temporary outdoor advertising device attached to or supported by the structure of any stadium owned by the University of Hawaii, located within and facing the interior of the stadium, and authorized to be displayed by the university. For the purpose of this paragraph, "temporary" means displayed for a short period before the official start of organized athletic competition, during the organized athletic competition, and for a short period after the official end of the organized athletic competition; and
- (18) Any outdoor advertising device displayed with the authorization of the stadium authority on any scoreboard of any stadium operated by the stadium authority. An outdoor advertising device displayed under this paragraph shall be on the front of the scoreboard and face the interior of the stadium."

SECTION 4. In codifying the new section added by section 2 of this Act, the revisor of statutes shall substitute an appropriate section number for the letter used in designating the new section in this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 22, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.