

## **PART IV. OUTDOOR ADVERTISING**

**Sections 445-111 to 445-121 designated as Part IV by L 1990, c 164, §28.**

### **§445-111 Definitions. As used in this chapter:**

(1) "Outdoor advertising device" means any device which is:

(A) 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;

(B) 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

(C) 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.

(2) "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.

(3) Any person who, by oneself 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 the person's products, merchandise, or services to be displayed by oneself 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 the land, building, or part of a building, shall be deemed to be displaying an outdoor advertising device.

(4) Any person, who, by oneself 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 the person's products, merchandise, or services to be advertised upon a billboard by oneself 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 the land, building, or part of a building, shall be deemed to be maintaining a billboard. [L 1965, c 233, pt of §1; Supp, §155-120; HRS §445-111; gen ch 1985]

**§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 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 445-112.5, 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;

(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; and

(19) Any outdoor advertising device, displayed with the authorization of the city and county of Honolulu, on the scoreboard of the Waipio peninsula soccer stadium. The outdoor advertising device shall be:

(A) Attached to the bottom of the scoreboard;

(B) No longer than the width of the scoreboard; and

(C) No higher than twenty-five per cent of the scoreboard height.

The scoreboard shall be no larger than twenty-eight feet by ten feet. Any outdoor advertising device displayed pursuant to this paragraph shall be on the front of the scoreboard and face the interior of the stadium; provided that the outdoor advertising device shall not be visible from any thoroughfare. [L 1965, c 233, pt of §1; Supp, §155-121; HRS §445-112; am L 1986, c 245, §1; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 1994, c 118, §1; am L 2003, c 194, §4; am L 2006, c 222, §3; am L 2015, c 37, §2]

## Attorney General Opinions

Paragraph (11) (prior to 2003 amendment), regulating political signs, was unconstitutional and unenforceable. Att. Gen. Op. 96-4.

**[\$445-112.5] 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. [L 2006, c 222, §2]

**§445-113 Regulation by counties.** Except for outdoor advertising devices authorized under section 445-112(16) and (17), the several counties may adopt ordinances regulating billboards and outdoor advertising devices not prohibited by sections 445-111 to 445-121. The ordinances may:

(1) Classify billboards and outdoor advertising devices in the classes set forth in section 445-112, or in any other reasonable manner of classification;

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

(3) Prohibit the erection or maintenance of any type of billboard or the displaying of any outdoor advertising device in particular parts, or in all parts, of the county; provided that the prohibition shall not apply to any official notice or sign described in section 445-112(1); and provided further that, unless a county ordinance specifies otherwise, the prohibition shall extend to billboards or outdoor advertising devices located in the airspace or waters beyond the boundaries of the county that are visible from any public highway, park, or other public place located within the county;

(4) 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. The license shall be conditioned upon the maintenance of all outdoor advertising devices and billboards in a safe state, and the observance of sections 445-111 to 445-121 and all applicable ordinances and shall be revocable by the licensing authority upon breach of such condition;

(5) Require that no person, whether licensed under paragraph (4) 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

(6) 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

sections 445-111 to 445-121. [L 1965, c 233, pt of §1; Supp, §155-122; HRS §445-113; am L 1986, c 245, §2; am L 2005, c 188, §1]

**§445-114 Unlawful posting in public places.** Except for a public officer in performance of a public duty, or a private person in giving legal notice on other than utility poles, it shall be unlawful for any person 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, lamppost, utility pole, streetlight pole, 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. [L 1965, c 233, pt of §1; Supp, §155-123; HRS §445-114; am L 1998, c 181, §1]

**§445-115 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. [L 1965, c 233, pt of §1; Supp, §155-124; HRS §445-115]

**§§445-116 to 445-119 REPEALED.** L 1982, c 236, §1.

**§445-120 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 the 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. [L 1965, c 233, pt of §1; Supp, §155-129; HRS §445-120]

**§445-121 Penalty.** (a) Any person violating any provision of sections 445-111 to 445-121 shall be fined not less than \$25 nor more than \$500, or imprisoned not more than one month, or both.

(b) In addition to subsection (a), any person acting knowingly, who is either:

- (1) Responsible for posting material in violation of section 445-114; or
- (2) The person organizing the event or the owner or operator of the business advertised on the posted material,

shall remove the material within seventy-two hours after receipt of written notice of the posting or seventy-two hours after the date of the event advertised on the posted material, whichever occurs first. Failure to remove the posted material within the time specified shall be punishable by an additional fine of not less than \$100 nor more than \$200 per posted material, or community service of not less than ten hours nor more than twenty hours, or both. Such additional penalties shall not be imposed unless the person received written notice of the posting or was responsible for posting material in violation of section 445-114. [L 1965, c 233, pt of §1; Supp, §155-130; HRS §445-121; am L 1998, c 181, §2]

#### **Cross References**

Classification of offense and authorized punishment, see §§701-107, 706-640, and 706-663.