

JAN 27 2021

A BILL FOR AN ACT

RELATING TO PERMITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the right to
2 peaceably assemble and peacefully protest are valuable and vital
3 components of public engagement in the State. The right to
4 assemble and protest are not absolute, however. Oftentimes
5 participants at protests ignore traffic signs or block traffic
6 in an unsafe manner. The right of demonstrators to assemble and
7 express their position must be fairly and justly balanced
8 against the government's interest in providing for the safety
9 and security of the public.

10 The purpose of this Act is to encourage any person engaging
11 in any protest to obey existing laws and not obstruct traffic.

12 SECTION 2. Section 711-1105, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§711-1105 **Obstructing.** (1) A person commits the offense
15 of obstructing if, whether alone or with others and having no
16 legal privilege to do so, the person knowingly or recklessly:

17 (a) Obstructs any highway or public passage; or



1 (b) Provides less than thirty-six inches of space for
2 passage on any paved public sidewalk.

3 (2) A person in a gathering commits the offense of
4 obstructing if the person refuses to obey a reasonable request
5 or order by a law enforcement officer:

6 (a) To move to prevent or to cease any activity prohibited
7 under subsection (1); or

8 (b) To move to maintain public safety by dispersing those
9 gathered in dangerous proximity to a public hazard.

10 (3) An order to move under subsection (2)(a), addressed to
11 a person whose speech or other lawful behavior attracts an
12 obstructing audience, is not reasonable if the obstruction can
13 be readily remedied by police control.

14 (4) A person is not guilty of violating subsection (1)
15 solely because persons gather to hear the person speak or
16 because the person is a member of such a gathering.

17 (5) Obstructing is a petty misdemeanor if the person
18 persists in the conduct specified in subsection (1) after a
19 warning by a law enforcement officer; otherwise it is a
20 violation[-] subject to a fine of \$100 in addition to any other
21 penalties."



1 SECTION 3. For any permit or special use permit for a
2 parade, public gathering, protest, or activity:

3 (a) The department of accounting and general services, the
4 department of transportation, the police department of the
5 respective county, and any other agency or organization that has
6 responsibility for the issuance of permits for parades, public
7 gatherings, protests, or other activities shall require, along
8 with a completed application, an attestation from the permittee
9 that during the protest or activity all laws will be obeyed,
10 including all traffic laws, that vehicular traffic will not be
11 hindered, obstructed, or delayed for the duration of the protest
12 or activity, and that any participant in the protest or activity
13 who obstructs traffic will be in violation of section 711-1105,
14 Hawaii Revised Statutes.

15 (b) Any permit for a protest or other activity shall
16 require approval by:

- 17 (1) The department to whom the application is submitted;
18 (2) A representative from the county in which the protest
19 or activity is to take place; and
20 (3) The chief of police of the respective county.

21 (c) For the purpose of this section:



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1 (1) "Activity" means the occupation, use or participation
2 in any endeavor other than a parade that requires the
3 exclusive use of streets as defined in section 15-
4 2.23, Revised Ordinances of Honolulu.

5 (2) "Chief of police" means the chief of police of the
6 city, or the chief's authorized subordinate.

7 (d) The department of accounting and general services, the
8 department of transportation, the police department, and any
9 other agency shall adopt rules pursuant to section 91, Hawaii
10 Revised Statutes, or adopt ordinances, as applicable, to provide
11 for the enforcement of this Act.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Thomas R. Inoué*



S.B. NO. 1358

Report Title:

Permits; Department of Accounting and General Services;
Department of Transportation

Description:

Requires an applicant for a permit for a protest or activity to submit an attestation that all law, including traffic laws, will be obeyed. Any permit application requires approval from the department, the county, and the police. Amends the offense of disorderly conduct to include a fine of \$100 for obstruction.

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