

A Bill for an Act Relating to Transportation.

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

SECTION 1. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . HIGH OCCUPANCY VEHICLE LANES

§291C- Definitions. As used in this part unless the context otherwise requires:

“High occupancy vehicle” means a vehicle carrying at least two persons.

“High occupancy vehicle lane” means a designated lane of a laned roadway where use of the designated lane is restricted to high occupancy vehicles and to other vehicles as provided by county ordinance.

§291C- Designation of high occupancy vehicle lane. (a) The director of transportation by order, and the counties by ordinance, may designate high occupancy vehicle lanes as to roadways under their respective jurisdictions.

(b) Signs and other official traffic-control devices that designate high occupancy vehicle lanes shall be placed and maintained to advise drivers of the high occupancy vehicle requirement and the hours of usage. When the high occupancy vehicle lane also serves as a contra-flow lane, the hours of usage as a high occupancy vehicle lane shall be the time when the lane is coned for use as a high occupancy vehicle lane.

(c) No motor vehicle shall be operated upon these lanes except in conformance with the instructions on the signs and other official traffic-control devices.

(d) A motorcycle may use any high occupancy vehicle lane, regardless of the number of occupants.

§291C- Summons or citation for illegal use of high occupancy vehicle lane. Whenever any motor vehicle is observed operating in a high occupancy vehicle lane without the prescribed number of passengers, the officer observing the vehicle shall:

- (1) Cause a summons or citation as described in section 291C-165 to be issued at the scene of the violation to the operator of the vehicle; or
- (2) Make every reasonable effort to be seen by the operator of the vehicle and record evidence of the violation by taking any information displayed on the vehicle that may identify its registered owner and cause a summons or citation as described in section 291C-165 to be sent by certified or registered mail, with a return receipt that is postmarked within forty-eight hours of the time of the incident, to the registered owner of the vehicle at the address on record at the vehicle licensing division. If the end of the forty-eight hour period falls on a Saturday, Sunday, or holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or holiday. Upon

receipt, the registered owner shall be given fourteen days to respond to the summons or citation by:

- (A) Paying a fine by mail; or
- (B) Requesting that a hearing be set on the matter. A mail receipt signed by the registered owner is prima facie evidence of notification.

§291C- Registered owner's responsibility for a summons or citation.

In any proceeding for a violation of this part, the information contained in the summons or citation issued in accordance with section 291C- shall be deemed evidence that the registered vehicle was violating the use of the high occupancy lane and the registered owner is responsible for its illegal operation. The registered owner shall be determined by the identification of the vehicle's registration plates.

§291C- Failure to comply with summons or citation.

If a violator of this part does not return an answer in response to a summons or citation within a period of fourteen days upon receipt of the summons or citation, the traffic violations bureau shall issue to the registered owner of the vehicle a penal summons ordering the registered owner's appearance in court.

§291C- Liability for rental or U-drive vehicle.

Notwithstanding any other law to the contrary, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2 pursuant to a written lease agreement, the lessee at the time of the violation shall be responsible for the summons or citation. However, the lessor shall be responsible for the summons or citation if the lessor does not provide the court, having jurisdiction over the summons or citation, with the name and address of the lessee within forty-five days after a notice containing the date, time, and location of the violation and the license number of the vehicle is sent to lessor; provided further that the administrative judge of the court having jurisdiction over the summons or citation may waive the requirement of providing the name and address of the lessee and impose on the lessor an administrative fee of \$50 per citation.

§291-1 Penalty.

A person who violates any provision of this part shall not be guilty of a violation for which points shall be assessed pursuant to section 286-128 but shall for a first conviction thereof be fined \$75; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined \$150; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined \$200."

SECTION 2. Section 26-19, Hawaii Revised Statutes, is amended to read as follows:

“§26-19 Department of transportation. The department of transportation shall be headed by a single executive to be known as the director of transportation.

The department shall establish, maintain, and operate transportation facilities of the State, including highways, airports, harbors, and such other transportation facilities and activities as may be authorized by law.

The department shall plan, develop, promote, and coordinate various transportation systems management programs that shall include, but not be limited to, alternate work and school hours programs, bicycling programs, and ridesharing programs.

The department shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist

organizations interested in promoting similar programs, arrange for contracts with private organizations to manage and operate these programs, and assist in the formulation of ridesharing arrangements. Ridesharing programs include informal arrangements in which [three] two or more persons ride together in a motor vehicle [for four or more days a week to or from work or school].

The functions and authority heretofore exercised by the department of public works with respect to highways are transferred to the department of transportation established by this chapter.

On July 1, 1961, the Hawaii aeronautics commission, the board of harbor commissioners and the highway commission shall be abolished and their remaining functions, duties, and powers shall be transferred to the department of transportation.

Upon the abolishment of the Hawaii aeronautics commission, the board of harbor commissioners, and the highway commission, there shall be established within the department of transportation a commission to be known as the commission on transportation which shall sit in an advisory capacity to the director of transportation on matters within the jurisdiction of the department of transportation. The commission on transportation shall consist of not more than eleven members, with the number of members from each county insofar as practicable being approximately proportional to the population of the respective counties to the population of the State; provided that each of the four counties shall be represented by at least one member."

SECTION 3. Section 291C-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The director of transportation by order, and the counties by ordinance, may regulate or prohibit the use of any controlled-access roadway or highway within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic. Persons operating motorcycles which are otherwise permitted on a controlled-access roadway or highway shall be permitted to use any [carpool] high occupancy vehicle lane designated on such roadway or highway. For the purposes of this subsection, ["carpool lane"] "high occupancy vehicle lane" means a designated lane of a laned roadway where the use of such designated lane is restricted to vehicles carrying at least two persons and to other vehicles enumerated by order or ordinance."

SECTION 4. Section 291C-165, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In every case when a citation is issued, the original of the [same] citation shall be given to the violator, or in the case of an unattended vehicle, the original of the [same] citation shall be affixed to [said] the vehicle as provided for in section 291C-167 [herein]; or in the case of a vehicle utilizing the high occupancy vehicle lane illegally, the original of the citation shall be sent by certified or registered mail, with a return receipt that is postmarked within forty-eight hours of the time of the incident, to the registered owner of the vehicle at the address on record at the vehicle licensing division as provided in section 291C- If the end of the forty-eight hour period falls on a Saturday, Sunday, or holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or holiday; provided that the administrative judge of the district courts may [prescribe the giving to the violator or affixing to said vehicle,] allow a carbon copy of the citation[,] to be given to the violator or affixed to the vehicle

and provide for the disposition of the original and any other copies[.] of the citation.”

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

SECTION 6. This Act shall take effect upon its approval and shall be repealed on June 30, 1995.

(Approved June 18, 1993.)

Note

1. So in original.