

DEPARTMENT OF TRANSPORTATION

Adoption of Chapter 19-152
Hawaii Administrative Rules

Adoption Date

1. Chapter 19-152, Hawaii Administrative Rules, entitled "State Highway Enforcement Program", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 5

MOTOR VEHICLE SAFETY OFFICE

CHAPTER 152

STATE HIGHWAY ENFORCEMENT PROGRAM

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§19-152-1 Purpose. The purpose of this chapter is to establish the state highway enforcement program, which adds a surcharge for illegal parking to existing penalties for violations of the statewide traffic code that involve stopping, standing or parking on state highways. Fifty percent of the surcharge shall be deposited into the state highway fund, while the remaining balance shall be distributed to the respective police departments of the county from which the surcharge was collected and shall be used to enforce laws and ordinances pertaining to illegal parking on state highways.

[Eff _____] (Auth: HRS §291C-111; SLH 2019, Act 250) (Imp: HRS §291C-111; SLH 2019, Act 250)

§19-152-2 Definitions. As used in this chapter:

“Community Groups” means organization aimed at making desired improvements to a community’s social health, well-being, and overall functioning.

“County” means the City and County of Honolulu, County of Hawaii, County of Kauai, or County of Maui.

“County Official” means one who administers the rules of a county.

“Curb Markings” means color, text, or both placed on the curb, or on the pavement where no curb exists to indicate parking regulations.

“Department” means state department of transportation.

"Director" means state director of transportation or an authorized representative.

"Highway" means the entire width between the boundary lines of every way publicly maintained and private streets when any part thereof is open to the use of the public for purposes of vehicular travel.

"Illegal Parking" means not according to or authorized by law to bring a vehicle to a stop and keep standing at the edge of a public way.

"Jurisdiction" means the power, right, or authority to interpret and apply the law.

"Law Enforcement" means the department of police who enforces laws, investigate crimes, and make arrests.

"Ordinance" means a law set forth by a county.

"Parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

"Police Department" means a governmental department concerned with the administration of the police force.

"Private Highway" means every highway in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Public Way" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"State" means State of Hawaii

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"Statewide Traffic Code" means chapter 291C, Hawaii Revised Statutes.

"Surcharge" means an additional tax, cost, or impost.

"T-Shaped Intersection" means an intersection with three approaches.

"Traffic Control" means all signs, signals, markings, and devices not inconsistent with chapter 291C, Hawaii Revised Statutes, 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.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including mopeds and bicycles, but excluding toy bicycles, devices other than bicycles moved by human power, and devices used exclusively upon stationary rails or tracks. [Eff]
HRS §291C-111; SLH 2019, Act 250] (Auth: HRS §291C-111; SLH 2019, Act 250) (Imp: HRS §291C-111; SLH 2019, Act 250)

§19-152-3 Applicability. This chapter shall be applicable to highways under the jurisdictions specified in Section 19-152-6. [Eff] (Auth: HRS §291C-111; SLH 2019, Act 250) (Imp: HRS §291C-111; SLH 2019, ACT 250)

§19-152-4 State highway enforcement program and establishment. There is established the state highway enforcement program within the department

of transportation for administrative purposes. The purpose of the state highway enforcement program is to enable the State and counties, in consultation with the director of transportation, to:

- (1) Enforce violations for illegal parking under section 291C-111(c); and
- (2) Provide for parking management improvements.

Implementation of the state highway enforcement program shall include partnering with law enforcement, other state departments, other county agencies, and community groups to increase health and safety along state highways. [Eff] (Auth: HRS §291C-111; SLH 2019, Act 250) (Imp: HRS §291C-111; SLH 2019, Act 250)

§19-152-5 State highway enforcement report. The director of transportation shall submit an annual report to the legislature on the status and progress of the state highway enforcement program, including update of all moneys deposited into and expended from the state highway fund, on behalf of the state highway enforcement program no later than twenty days prior to the convening of each regular legislative session. [Eff] (Auth HRS §291C-111(c); SLH 2019, Act 250) (Imp: HRS §291C-111(c); SLH 2019, Act 250)

§19-152-6 Non-compliance with stopping, standing or parking requirements. Section 291C-

111, Hawaii Revised Statutes, was amended by Act 250 Session Laws of Hawaii 2019 to read as follows:

(a) With respect to highways under their respective jurisdictions, the director of transportation is authorized to and the counties by ordinance may prohibit or restrict the stopping, standing, or parking of vehicles where the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would interfere unduly with the free movement of traffic; provided that the violation of any law or any ordinance, regardless of whether established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles shall constitute a traffic infraction. The counties shall not provide any other penalty, civil or criminal, or any other charge, in the form of rental or otherwise, in place of or in addition to the fine to be imposed by the district court for any violation of any ordinance prohibiting or restricting the stopping, standing, or parking of vehicles.

This section shall not be construed as prohibiting the authority of the director of transportation or the counties to allow the stopping, standing, or parking of motor vehicles at a "T-shaped" intersection on highways under their respective jurisdictions; provided that such stopping, standing, or parking of motor vehicles is not dangerous to those using the highway or where the stopping, standing, or parking of motor vehicles would not unduly interfere with the free movement of traffic.

The appropriate police department and county or prosecuting attorney of the various counties shall enforce any law or ordinance prohibiting or restricting the stopping, standing, or parking of vehicles, including but not limited to the issuance of parking tickets. Any person committing a violation of any law or ordinance, regardless of whether established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles shall be subject to a fine to be enforced and collected by the district courts of this State and to be deposited into the state general fund for state use.

(b) The director of transportation, the counties, and owners of private highways, with the consent of county official responsible for traffic control with respect to highways under their respective jurisdictions shall place signs or curb markings that are clearly visible to an ordinarily observant person prohibiting or restricting the stopping, standing, or parking of vehicles on the highway. Such signs or curb markings shall be official signs and markings and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs or markings.

(c) Any person committing a violation of any law or ordinance prohibiting or restricting the stopping, standing, or parking of vehicles on state highways or designated county highways shall be charged, in addition to any other applicable penalties and fines, a state highway enforcement program surcharge of \$200 to be enforced and collected by the district courts and to be deposited into the state highway fund;

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provided that fifty per cent of each surcharge collected shall be disbursed to the police department of the county in which the violation occurred. [Eff] (Auth: HRS §291C-111; SLH 2019, Act 250) (Imp: HRS §291C-111; SLH 2019, Act 250, SLH 2023, Act 239)

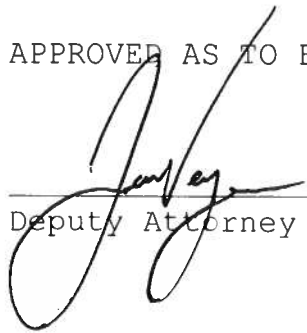
§19-152-7 Severability. If any provision of this chapter is held invalid, the invalidity shall not affect the remaining provisions of this chapter." [Eff] (Auth: HRS §291C-111; SLH 2019, Act 250) (Imp: HRS §291C-111; SLH 2019, Act 250)

2. The adoption of Chapter 19-152, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on Month xx, 2023, and filed with the Office of the Lieutenant Governor.

EDWIN H. SNIFFEN
Director of Transportation

APPROVED AS TO FORM:



Deputy Attorney General