

Administrative Rules on Prohibited Behavior on County of
Hawai'i Buses

Sec. I. Activities prohibited on County of Hawai'i buses
and other transit service vehicles.

(a) It shall be a violation of this section for a person, who is doing or has done any of the following activities on a County bus or vehicle, to either refuse or fail to immediately cease and desist from doing any of the following activities after being requested to do so by the driver, transit personnel, or any police officer, or to fail or refuse to immediately exit a County bus if requested to do so by the driver of the bus or vehicle, transit personnel, or a police officer:

(1) Consuming any form of food or beverage or carrying or possessing any food or beverage in a container other than a container that is tightly closed, covered or packaged so as to minimize the possibility of accidental spillage when the container is shaken or dropped; provided that nothing contained in this subdivision shall be construed as prohibiting the carrying or possession of groceries in a suitable bag or other container;

(2) Using or playing any electronic device, musical instrument, or other sound-producing or sound-emitting device:

(A) Unless the device is connected to a headphone or earphone which limits the sound produced or emitted to the individual user; or

(B) In the case of a telephone, cell phone, pager, or other two-way communication device, unless it is placed on "silent" or "vibrate" mode which prevents the sound produced or emitted from being audible to other passengers.

Nothing contained in this subdivision shall be construed as prohibiting the driver of the bus or vehicle from using or playing such devices for official business, or as prohibiting passengers from using telephones and pagers for communication purposes; provided they are used in accordance with subdivision (2) (A) and (B). As used in this subdivision, "electronic device" includes but is not limited to televisions, radios, recording devices, portable stereos, electronic games, telephones, cell phones, walkie-talkies, and pagers;

(3) Carrying or possessing any live animals, except a service animal properly harnessed and accompanied by the individual with a disability owning the service animal or to whom the service animal has been furnished, and except for small animals properly kept in enclosed containers; provided that nothing contained in this subdivision shall be construed as prohibiting a police officer from carrying or possessing an animal used for law enforcement purposes;

(4) Discarding, disposing of, placing, throwing, or dropping any litter, as defined in HRS Section 339-1, in or from the bus or vehicle, except into receptacles designated for that purpose;

(5) Failing or refusing to vacate seats designated as priority seating for elderly or disabled passengers or the fold-down or other movable seat area designated for wheelchair securement, when requested to do so by the driver or a police officer; provided that nothing contained in this subdivision shall be construed as requiring other elderly or disabled passengers to vacate seats designated as priority seating for elderly or disabled passengers; and provided further that nothing contained in this subdivision shall be construed as requiring the driver to enforce a

request that other passengers move from the priority seating area or wheelchair securement area;

(6) Carrying or possessing any flammable, combustible, explosive, corrosive, or highly toxic liquid or other substance, article or material which is likely to cause harm to others or to emit any foul or noxious dust, mist, fume, gas, vapor, or odor; provided that nothing contained in this subdivision shall be construed as prohibiting a person from carrying or possessing any match or any cigar, cigarette, or pipe lighter, which is not lighted or smoldering;

(7) Spitting, expectorating, urinating or defecating in, on or from the bus or vehicle; provided that nothing contained in this subdivision shall be construed as applying to any person who cannot comply with this subdivision as a result of a disability, age, or a medical condition;

(8) Distracting, obstructing, impeding, hindering, interfering with or otherwise disrupting the safe and efficient operation of the bus or vehicle or any driver or other agent of the transit system in the performance of that individual's official duties;

(9) Boarding the bus through the rear exit door, unless directed to do so by the driver, any other agent of the transit system, or a police officer; or

(10) When boarding a bus or special transit vehicle:

(A) Knowingly failing or refusing to pay the applicable fare for transportation on the bus or vehicle or in cash or, if available, through use of tokens, coupons or approved cards in the required manner; or

(B) Presenting a pass, transfer, badge or other fare medium for transportation on such bus or special

transit vehicle, when the person presenting such fare medium knows it has not been provided, authorized, or sold by or for the transit system, or knows that the pass, transfer, badge or other fare medium is not valid for the place, time and manner in which it is presented, or knows that presentation of the pass, transfer, badge or other fare medium violates a restriction on the transfer or use of such fare medium imposed by county ordinances or rules.

(b) The driver of any county bus or operator of any special transit service vehicle or any other agent of the transit system or any police officer may refuse to allow any person to board the bus or vehicle:

(1) When the person appears to be intoxicated on liquor or drugs;

(2) When the person is engaged in activities that, if such activities occurred in the bus or vehicle, would violate the provisions of subsection (a) if conducted in violation of the request of the driver, agent, or police officer;

(3) When the person is engaged in activities that, if such activities occurred in the bus or vehicle, would violate any other law or ordinance; or

(4) When it appears that the person intends to engage in any of the activities referred to in subdivision (2) or (3) in the bus or vehicle.

In addition, the driver of any county bus or special transit service vehicle or any other agent of the transit system may refuse to transport any such person who has already boarded the bus or vehicle and the driver, operator, agent or any police officer may cause such person to be ejected from the bus or vehicle. It shall be a violation of this section for a person to board a county

bus or special transit service vehicle after being requested not to do so by the driver, operator, another agent of the transit system or police officer for the reasons specified in this subsection, or for a person to refuse or fail to immediately exit a county bus or special transit vehicle when requested by the driver, operator, another agent of the transit system, or police officer to do so for any of the reasons specified in this subsection.

Sec. II. Signs required.

The Mass Transportation Administrator shall require the conspicuous display within each county bus and special transit service vehicle of a sign clearly setting forth all of the prohibitions of these Administrative Rules.

Sec. III. Removal or defacing of signs.

No person shall remove or deface signs required to be erected by or under the authority of this article.

Sec. IV. Placing lighted objects close to combustible matter.

No person shall throw or place hot burning substances or objects such as cigars, cigarettes or the contents of a burning pipe in, upon or in close proximity to any object or structure in a county bus or special transit service vehicle which is combustible or liable to damage by heat, fire or explosion.

Sec. V. Penalty.

(a) Any person violating Administrative Rule(s), or aiding, abetting or assisting in any manner whatsoever another person in violating any of such provisions shall be suspended from using any County of Hawai'i public transit service for a period to be determined by the Mass Transit Administrator.

(b) Any person violating any Administrative Rule(s) , or aiding, abetting or assisting in any manner whatsoever another person to violate any of such provisions shall, upon conviction thereof, be fined in an amount not exceeding \$500.00 or be imprisoned for a period not exceeding one month or be both so fined and imprisoned.

(c) Each day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section.

(d) Any authorized police officer, upon arresting a person for a violation of this article, shall take the name and address of the alleged violator and shall issue thereto in writing a summons or citation hereinafter described, notifying such person to answer to the complaint to be entered against such person at a place and at a time provided in the summons or citation, except that the officer may make a physical arrest in instances when:

(1) The alleged violator refused to provide the officer with such person's name and address or any proof thereof as may be reasonably available to the alleged violator;

(2) The alleged violator fails or refuses to immediately cease and desist from such person's prohibited activity or to immediately exit the county bus or special transit service vehicle, as determined by the driver of the bus or vehicle, and/or other agent of the transit system, or a police officer if the officer is on the bus or vehicle, after the alleged violator is issued a summons or citation; or

(3) The alleged violator has previously been issued a summons or citation for a substantially similar offense within a one-year period.

(e) There shall be provided for use by agents of the transit system a form of summons or citation for use in citing violators of this article where the circumstances do not mandate the physical arrest of such violators. The form of the summons or citation shall be commensurate with the form of the summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and rules of the State of Hawai'i and the county. ~~The form and~~ content of such summons or citation shall be adopted or prescribed by the administrative judge of the district court; provided that the administrative judge may approve the use of a form of summons or citation previously adopted or prescribed for other offenses and such approval shall be deemed to meet the requirements of this subsection. In every case where a citation is issued, the original of the same shall be given to the alleged violator; provided that the administrative judge of the district court may prescribe that the alleged violator be given a carbon copy of the citation and provide for the disposition of the original and any other copies. Every citation shall be consecutively numbered, and each carbon copy shall bear the same number as its original.

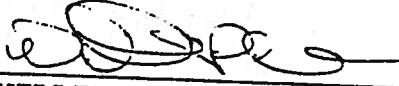
(f) The provisions of this article are in addition to and shall in no way limit the provisions of any other federal, state, or county law, ordinance, or rule.

Sec. VI. Effective Date

This rule shall become effective ten days after filing with the County Clerk.

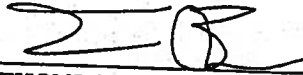
APPROVED BY:

COUNTY OF HAWAI'I

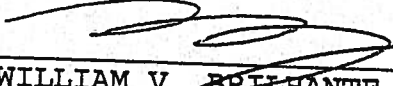
BY: 
WILLIAM P. KENOI
Its Mayor

Date: DEC 24 2008

RECOMMENDED APPROVAL:

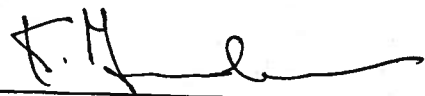

THOMAS BROWN
Mass Transit Administrator
Date: 12/23/08

APPROVED AS TO FORM & LEGALITY:


WILLIAM V. BRILHANTE JR.
Deputy Corporation Counsel
Date: 12-23-08

Notices of the public hearings on the changes to the Administrative Rules were published in the Hawai'i Tribune Herald and West Hawai'i Today on 10/04/08. The public hearings were held on 11/06/08-Kona, 11/12/08-Hilo.

I hereby certify that the foregoing Administrative Rules was received and filed in my office this 24th day of December 2008.


County Clerk, County of Hawai'i