

**Harry Kim**  
Mayor



**Paul K. Ferreira**  
Police Chief

**Kenneth Bugado Jr.**  
Deputy Police Chief

September 29, 2017

## County of Hawai`i

### POLICE DEPARTMENT

349 Kapiolani Street • Hilo, Hawai`i 96720-3998  
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Ms. Yuki Lei K. Sugimura  
Chair  
Policy, Economic Development, and Agriculture Committee  
County Council  
County of Maui  
200 S. High Street  
Wailuku, Maui, Hawaii 96793

Dear Chair Sugimura and Committee members:

**SUBJECT: PROHIBITING SMOKING IN VEHICLES WHEN PERSONS UNDER THE AGE OF EIGHTEEN ARE PRESENT (PEA-41)**

This responds to your questions (listed with responses appearing in italics following each question) regarding Hawaii County Ordinance 10-33, which prohibits smoking in any motor vehicle whenever occupied by a person less than 18 years of age.

1. How is enforcement handled in Hawaii County? How many citations have been issued since the law went into effect? What challenges have you faced?

*Enforcement is based upon on-view observations by Patrol Officers. Since January 1, 2014, a total of 100 citations have been issued for violations of Hawaii County Code 14-21. Unfortunately we do not specifically differentiate the various subsections of this law and, therefore, the total number of individuals cited for this specific violation of the law cannot be determined. Challenges in enforcement include determination of age and proper identification of the individuals involved.*

2. How do police officers determine the age of a minor present in a vehicle? Are there reasons why Hawaii County chose age 18 as the cut-off rather than another age such as 13?

*A variety of means are used by law enforcement to determine age, such as through questioning the adults and minors present in the vehicle at the time of the contact, identification cards, personal knowledge and observations.*

*The determination of the age cut-off of this law was made by the Hawaii County Council and, therefore, we are unable to present the rationale.*

3. What documented safety issues, if any, are tied to the law? Please explain and provide statistics.

*There is no specific law enforcement related safety issues tied to this law outside of those normally encountered in day to day operations. We are supporters of this law in that our*

Ms. Yuki Lei K. Sugimura, Chair

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Subject: Prohibiting Smoking In Vehicles When Persons Under The Age Of Eighteen  
Are Present (Pea-41)

*vulnerable Keiki are often unable to leave or even voice their concern when faced with an adult smoking within the enclosed confines of a motor vehicle.*

4. How does the law apply when:

- i. The licensed driver is under the age of eighteen and is smoking in his or her own vehicle.

*A licensed driver under the age of 18 smoking in their vehicle may be cited under this section. It should be noted that in order to legally possess tobacco requires one to be age 21 or over in the State of Hawaii.*

- ii. The motor vehicle is parked in a private driveway, and is occupied by a minor and an adult who is smoking.

*Occupants of vehicles on private property may not be cited under this law.*

- iii. The occupants of a truck cab are over age 18 and smoking, and minors (over 12, but under age 18) are riding in the bed of the truck.

*Trucks are considered motor vehicles and thus this would seemingly be a violation and they may be cited under this section.*

- iv. The motor vehicle is a convertible.

*A convertible is still a motor vehicle and subject to the ordinance.*

- v. The motor vehicle is used for habitation purposes.

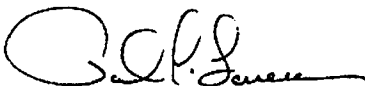
*A motor vehicle utilized for habitation would still be subject to the ordinance.*

5. How has the current fine structure (not less than \$25 and not more than \$50) helped or hindered the enforcement of the law.

*We are not aware as to any bearing that the fine amount may have with respect to this ordinance on our island.*

I hope our response is sufficient to assist you in your deliberative process with respect to your ordinance. Should you have any questions or in need of additional information, please feel free to contact Captain Andrew Burian at (808) 775-7533 or via email at [Andrew.Burian@hawaiicounty.gov](mailto:Andrew.Burian@hawaiicounty.gov).

Sincerely,



PAUL K. FERREIRA  
POLICE CHIEF

## PEA Committee

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**From:** Petersen, Lynn <Lynn.Petersen@hawaiiicounty.gov>  
**Sent:** Monday, October 02, 2017 8:12 AM  
**To:** PEA Committee  
**Subject:** For PEA Chair Sugimura  
**Attachments:** PEA-41.pdf

Aloha,

Please find attached a letter to PEA Chair Yuki Sugimura.

Thank you.

Lynn V. Petersen  
Secretary to Police Chief Paul K. Ferreira  
Hawaii Police Department  
349 Kapiolani Street  
Hilo, HI 96720  
Phone No.: (808) 961-2243