



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE

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# POLICE DEPARTMENT

COUNTY OF MAUI

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October 10, 2017



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OFFICE OF THE MAYOR

TIVOLI S. FAAUMU  
CHIEF OF POLICE

DEAN M. RICKARD  
DEPUTY CHIEF OF POLICE

Honorable Alan M. Arakawa  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Yuki Lei K. Sugimura  
Chair, Policy, Economic Development &  
Agriculture Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

*Alan Arakawa* 10/13/17  
Mayor Date

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

Dear Chair Sugimura:

We received your letter dated September 27, 2017 and below is our response to your questions regarding the proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8.20, MAUI COUNTY CODE, TO PROHIBIT SMOKING IN VEHICLES WHEN PERSONS UNDER THE AGE OF EIGHTEEN ARE PRESENT."

1. How will enforcement be handled in Maui County? How will police officers determine the age of a minor present in a vehicle? Do you have any concerns with the cut-off age of 18 for a minor? Why or why not?

Enforcement of this ordinance will be conducted as other ordinances, through routine enforcement on all public (County/State) roadways or properties. This ordinance SHALL NOT be enforced on any private roadways or properties as other traffic infractions or County Ordinances.

Police will use discretion, training, and experience in determining a minor's age when observing a possible violation of this ordinance. Once the determination is made that the minor appears under age and a violation of this ordinance is occurring, police will conduct an interview with the vehicle's operator in order to determine the minor's age.

We do not have any concerns with the cut off age of minors being 18-years-old. Once reaching the age of 18, the individual is considered "an adult."

2. The proposed bill addresses a health concern relating to exposure to second-hand smoke. Do you foresee any safety or traffic issues tied to this proposed bill? Please explain.

Traffic enforcement is always done in the most reasonable and safest way possible. Enforcing this ordinance will be no different. We do not see any safety or traffic issues tied to the enforcement of this bill.

3. How will the law apply when:

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

Being that the driver is under age 18, that would be a violation of HRS §321-212 Tobacco products; possession or consumption prohibited. This ordinance would not be enforced in this situation as: 1. only the operator is present, 2. he/she is exposing himself/herself to first hand smoke and not second hand smoke, and 3. no other minors are present within the vehicle.

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

As with other ordinances, this ordinance would not be enforced on private property. Should the adult operator move from the private driveway onto a public roadway and continue to smoke, then the ordinance will be enforced.

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

In this example, this ordinance would not be enforced. The minors are in the bed of the truck and not considered within the vehicle or "present" where the smoking is occurring.

- iv. The motor vehicle is a convertible.

This ordinance would be enforced in cases involving convertibles.

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

If the vehicle is parked on a public roadway or public property, this ordinance would be enforced.

- 4. How will the current fine structure (not less than \$25 and not more than \$50) help or hinder enforcement?

A monetary fine of not less than \$25 and not more than \$50 would hinder enforcement of this ordinance. In general, low violation fines are not deterring motorists from repeatedly committing violations. For example, the Mobile Electronic Device monetary fine is \$297.00, but motorists continue to use these devices while driving. Traffic Officers are repeatedly citing violators for second and even third offenses. It is the hope that a higher monetary fine would hinder a violation of this ordinance.

If you have further questions regarding this proposed bill, please contact Lieutenant William Gannon of our Traffic Section at extension 6346.

Sincerely,

  
TIVOLI S. FAUMU  
Chief of Police