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## **POLICE DEPARTMENT COUNTY OF KAUAI**

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October 05, 2017

Chair Yuki Lei K. Sugimura  
Policy, Economic Development, and  
Agriculture Committee  
200 S. High Street  
Wailuku, Maui, HI 96793

RE: PROHIBITED SMOKING IN VEHICLES WHEN PERSONS UNDER THE AGE OF EIGHTEEN ARE PRESENT (PEA-41)

Dear Chair Sugimura:

The Kauai Police Department is in receipt of your request for information regarding Kauai County Bill 2629 (22-8.2 Smoking Prohibited in Certain Areas).

Enforcement efforts are assigned to our Patrol Services Bureau. Since its passage, no citations have been issued. Some of the inherent challenges to prove the charges include determining the age of the passenger, and issues concerning electronic cigarettes (impossible to know what liquid is contained within).

Unless the officer has had previous interactions or knows the minor, the only way to determine his or her age is to stop the vehicle and ask the vehicle operator. The crafters of the ordinance selected the age of 13 and you should know that the Kauai Police Department did not make a recommendation.

With regard to your other inquires, unfortunately we were not able to secure definitive answers from the authors of the ordinance, but with regard to enforcement, below were our findings:

How does the law apply when:

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

**Response:** The driver would be charged with prohibitions

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

**Response:** If it was private property that was not open to the public KPD would not be able to pursue this offense. If the vehicle was parked on private property that was open to the public KPD would be able to pursue the offense.

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? The motor vehicle is a convertible? The motor vehicle is used for habitation purposes?

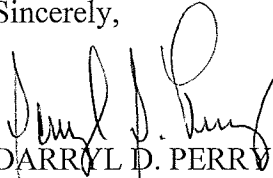
**Response:** There would be no violation as the minors are not "in" the vehicle where the smoking is taking place. This type of vehicle would be treated the same as a regular sedan. Kauai County has an Ordinance prohibiting the use of vehicles for habitation (16-12.3). This would be investigated similar to above.

How has the current fine structure (\$50 per calendar day for each violation) helped or hindered the enforcement of the law?

**Response:** As no citations have been issued for this offense we are unable to determine if the fine schedule has effects enforcement.

I hope this helps, however, should you have any questions regarding this matter, please contact Sergeant Jason Overmyer at 241-1611.

Sincerely,

  
DARRYL D. PERRY  
Chief of Police

## PEA Committee

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**From:** Darryl Perry <dperry@kauai.gov>  
**Sent:** Thursday, October 05, 2017 11:28 AM  
**To:** PEA Committee  
**Cc:** Jason Overmyer  
**Subject:** PEA-41 Request For Information  
**Attachments:** Request For Information PEA 41 Maui.pdf

Aloha,  
Pursuant to your request. Mahalo. Chief Perry