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Director of Council Services  
Traci N. T. Fujita, Esq.

Deputy Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

July 26, 2021

Dr. Elizabeth Char, Director  
State of Hawai'i  
Department of Health  
Main Office: Kīna'u Hale  
1250 Punchbowl Street  
Honolulu, Hawai'i 96813

Via E-mail: [liddy.char@doh.hawaii.gov](mailto:liddy.char@doh.hawaii.gov); [Sharon.tangonan@doh.hawaii.gov](mailto:Sharon.tangonan@doh.hawaii.gov)

Dear Dr. Char:

SUBJECT: **SUNSCREEN** (CARE-54)

Please see a copy of the attached proposed bill entitled "A BILL FOR AN ORDINANCE TO PROHIBIT THE SALE, USE, OR DISTRIBUTION OF SUNSCREEN CONTAINING OXYBENZONE AND OCTINOXATE."

The purpose of the proposed bill is to preserve the health, safety, welfare, and scenic underwater and natural beauty of Maui County by regulating the sale, use, and distribution of sunscreen containing oxybenzone and octinoxate.

The Maui County Council's Climate Action, Resilience, and Environment Committee (CARE) intends to continue discussion of this matter at a CARE Committee meeting on **Wednesday, August 4, 2021, at 9:00 a.m.**, via the BlueJeans online platform (<https://bluejeans.com/470076045>).

May I please request the following:

- Please provide information on how the Department is administering and enforcing HRS §342D-21.
- Please provide the Department's comments on the proposed bill.

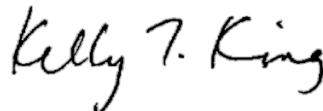
Dr. Elizabeth Char  
July 26, 2021  
Page 2

- Please provide information on whether counties can enact regulatory restriction to prohibit the sale, use, labeling, packaging, handling, distribution, or advertisement of sunscreens containing oxybenzone, octinoxate, or any other ingredients considered to have significant negative impacts on the environment.
- Please provide information on whether counties can enact regulatory restrictions to allow the sale, use, labeling, packaging, handling, distribution, or advertisement of sunscreens containing zinc oxide or titanium dioxide only as active ingredients.
- Please confirm that you or a designated representative attend the August 4<sup>th</sup> meeting as it relates to this item.

May I further request you transmit your written response and confirm your attendance via an email to the CARE Committee no later than **Monday, August 2, 2021**. To ensure efficient processing, please transmit your response to [care.committee@mauicounty.us](mailto:care.committee@mauicounty.us), and include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Nicole Siegel at 808-270-8008, or Rayna Yap at 808-270-8007).

Sincerely,



KELLY TAKAYA KING, Chair  
Climate Action, Resilience, and  
Environment Committee

care:ltr:054adoh01:nas

Attachment

cc: Governor David Y. Ige

West's Hawai'i Revised Statutes Annotated  
Division 1. Government  
Title 19. Health  
Chapter 342D. Water Pollution (Refs & Annos)  
Part I. Definitions and General Provisions

HRS § 342D-21

[§ 342D-21]. Sale and distribution of sunscreen  
containing oxybenzone or octinoxate, or both; prohibition

Effective: July 1, 2018

[Currentness](#)

(a) Beginning January 1, 2021, it shall be unlawful to sell, offer for sale, or distribute for sale in the State any sunscreen that contains oxybenzone or octinoxate, or both, without a prescription issued by a licensed healthcare provider.

(b) No county shall enact any ordinance or regulatory restriction to prohibit the sale, use, labeling, packaging, handling, distribution, or advertisement of sunscreens containing oxybenzone or octinoxate, or both, prior to January 1, 2021.

(c) For purposes of this section:

“Licensed healthcare provider” means a physician or osteopathic physician licensed pursuant to chapter 453, or an advanced practice registered nurse licensed pursuant to chapter 457.

“Octinoxate” refers to the chemical (RS)-2-Ethylhexyl (2E)-3-(4-methoxyphenyl)prop-2-enoate under the International Union of Pure and Applied Chemistry chemical nomenclature registry; that has a chemical abstract service registry number 5466-77-3; the synonyms of which include but are not limited to ethylhexyl methoxycinnamate, octyl methoxycinnamate, Eusolex 2292, Neo Heliopan AV, NSC 26466, Parsol MOX, Parsol MCX, and Uvinul MC80; and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from 370 nanometers to 220 nanometers in a sunscreen.

“Oxybenzone” refers to the chemical (2-Hydroxy-4-methoxyphenyl)-phenylmethanone under the International Union of Pure and Applied Chemistry chemical nomenclature registry; that has a chemical abstract service registry number 131-57-7; the synonyms of which include but are not limited to benzophenone-3, Escalol 567, Eusolex 4360, KAHSCREEN BZ-3, Uvasorb MET/C, Syntase 62, UV 9, Uvinul 9, Uvinul M-40, Uvistat 24, USAF Cy-9, Uniphenone-3U, 4-methoxy-2-hydroxybenzophenone and Milestab 9; and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from 370 nanometers to 220 nanometers in a sunscreen.

“Prescription” means an order for medication, that is dispensed to or for an ultimate user. “Prescription” shall not include an order for medication that is dispensed for immediate administration to the ultimate user, such as a chart order to dispense a drug to a bed patient for immediate administration in a hospital. “Prescription” includes an order for a sunscreen.

“Sunscreen” means a product marketed or intended for topical use to prevent sunburn. Sunscreen does not include products marketed or intended for use as a cosmetic, as defined in [section 328-1](#), for the face.

**Credits**

[Laws 2018, ch. 104, § 2](#), eff. July 1, 2018.

H R S § 342D-21, HI ST § 342D-21

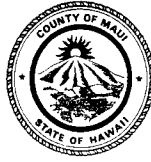
Current through Act 31 of the 2021 Regular Session, pending text revision by the revisor of statutes. Some statute sections may be more current; see credits for details.

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KATHY L. KAOHU  
County Clerk



JAMES G.M. KRUEGER  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**

COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/county/clerk](http://www.mauicounty.gov/county/clerk)

July 6, 2021

RECEIVED  
2021 JUL -6 PM 11:44  
OFFICE OF THE  
COUNTY CLERK

Honorable Kelly T. King, Chair  
Climate Action, Resilience, and Environment Committee  
Council of the County of Maui  
Wailuku, Hawaii 96793

Dear Chair King:

Respectfully transmitted is a copy of COUNTY COMMUNICATION  
NO. 21-305, from Councilmember Tamara Paltin, that was referred to your  
Committee by the Council of the County of Maui at its meeting of July 2, 2021.

Respectfully,

A handwritten signature in cursive script that reads "Kathy L. Kaohu".

KATHY L. KAOHU  
County Clerk

/jym

Enclosure

cc: Director of Council Services

Council Chair  
Alice L. Lee

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

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[www.MauiCounty.us](http://www.MauiCounty.us)

June 25, 2021

Director of Council Services

Traci M. T. Fujita, Esq.

RECEIVED

2021 JUN 25 AM 9:57

OFFICE OF THE  
COUNTY CLERK

The Honorable Alice L. Lee  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair Lee:

SUBJECT: **SUNSCREEN** (PAF 21-144)

May I request the attached proposed bill, entitled "A BILL FOR AN ORDINANCE TO PROHIBIT THE SALE, USE, OR DISTRIBUTION OF SUNSCREEN CONTAINING OXYBENZONE AND OCTINOXATE," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink that reads "Tamara M. Paltin".

TAMARA PALTIN  
Councilmember

paf:nas:21-144c

Enclosure

COUNTY COMMUNICATION NO. 21-305

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE TO PROHIBIT THE SALE, USE, OR  
DISTRIBUTION OF SUNSCREEN CONTAINING OXYBENZONE AND  
OCTINOXATE

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The Council finds that under Act 104 (2018), counties were temporarily prohibited from imposing enacting ordinances to prohibit the sale, use, or distribution of sunscreens containing oxybenzone or octinoxate. The prohibition expired January 1, 2021.

The Council further finds oxybenzone and octinoxate have significant negative impacts on the environment—especially the marine environment—such as:

- causing mortality in coral planula and gametes,
- increasing the susceptibility of coral to undergo coral bleaching at temperatures lower than 87.8 degrees Fahrenheit, and
- causing potential damage to coral and other marine organisms' genomic integrity.

Oxybenzone and octinoxate also have been shown to degrade coral physiology and coral reef community integrity, which reduce acclimation and resiliency to climate change factors and degrade coral reefs by inhibiting recruitment. Oxybenzone and octinoxate have been shown to increase the

probability of endocrine disruption in marine invertebrate species, such as sea urchins; vertebrate species, including fish such as wrasses, eels, and parrotfish; and mammals, such as in species similar to the Hawaiian monk seal.

Contamination of oxybenzone and octinoxate in Maui County coastal waters acts as a pollutant, with environmental contamination levels refreshed and renewed, every day, by swimmers and beachgoers.

The Council finds that, to preserve the health, safety, welfare, and scenic underwater and natural beauty of Maui County, the sale, use, and distribution of sunscreen containing oxybenzone and octinoxate must be regulated.

SECTION 2. Title 20, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

## **"Chapter 20.42**

### **SUNSCREEN**

#### Sections:

- 20.42.010 Prohibitions.
- 20.42.020 Permit-application forms.
- 20.42.030 Definitions.
- 20.42.040 Administration.
- 20.42.050 Penalties.

**20.42.010 Prohibitions.** A. A person must not sell, offer for sale, or distribute for sale sunscreen containing oxybenzone or octinoxate, unless the sunscreen is from a prescription.

B. Sunscreen containing oxybenzone or octinoxate must not be sold, provided, or offered for use at any County facility, County-authorized concession, County-sponsored or County-permitted event, or County program, unless the sunscreen is from a prescription.

C. Sunscreen containing oxybenzone or octinoxate must not be used or applied by any person, unless the sunscreen is from a prescription.



**20.42.020 Permit-application forms.** Each agency must include this chapter's prohibitions on all permit-application forms for County facilities, County-managed concessions, County-sponsored and County-permitted events, and County programs.

**20.42.030 Definitions.** Whenever used in this chapter, unless the context otherwise requires, "octinoxate," "oxybenzone," "prescription," and "sunscreen" mean the same as defined in section 342D-21, Hawai'i Revised Statutes.

**20.42.040 Administration.** The department of environmental management must administer this chapter and may adopt administrative rules in accordance with chapter 91, Hawai'i Revised Statutes.

**20.42.050 Penalties.** A. Violations of this chapter are subject to the penalties and enforcement procedures of section 19.530.030.

B. Money from fines collected for violation of this chapter must be deposited into the environmental protection and sustainability fund."

SECTION 3. Section 3.55.040, Maui County Code, is amended to read as follows:

**"3.55.040 Deposits to the fund.** [There shall] The following must be deposited into the environmental protection and sustainability fund:

1. [Monies]Money transferred from the wastewater reclamation division of the department of environmental management related to the processing, handling, or disposal of sewage sludge.
2. Any fees or portions [thereof]of fees as set forth in the annual budget ordinance.
3. Supplemental transfers as set forth in the annual budget ordinance.
4. Money from fines collected for violations of chapter 20.42."

SECTION 4. This Ordinance takes effect upon its approval.

paf:nas:21-144d