

# Resolution

No. 23-228

## APPROVING PROPOSALS FOR INCLUSION IN THE 2024 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE

WHEREAS, Section 13C of the Hawaii State Association of Counties' ("HSAC") bylaws provide for the submittal to the State Legislature of an annual HSAC Legislative Package composed of measures approved for inclusion by all four county councils; and

WHEREAS, by correspondence dated October 27, 2023, attached as Exhibit "1," HSAC President Bernard Carvalho, Jr. informed the Council of the four proposals approved by the HSAC Executive Committee for possible inclusion in the 2024 HSAC Legislative Package, subject to concurrence by all county councils; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it approves the following proposals, attached as Exhibit "1," for inclusion in the 2024 Hawaii State Association of Counties Legislative Package:
  - A. "A BILL FOR AN ACT RELATING TO FAMILY LEAVE";
  - B. "A BILL FOR AN ACT RELATING TO TOBACCO PRODUCTS";
  - C. "A BILL FOR AN ACT RELATING TO TRAFFIC REGULATION"; and
  - D. "A BILL FOR AN ACT RELATING TO EMERGENCY MANAGEMENT"; and
2. That a certified copy of this Resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

INTRODUCED BY:

*Tamara M. Paltin*

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TAMARA PALTIN



October 27, 2023

Aloha Chair,

Attached for your consideration are proposals to be included in the 2024 Hawai'i State Association of Counties (HSAC) Legislative Package, which were approved by the HSAC Executive Committee on October 26, 2023. Please note that pursuant to Section 10C of the Bylaws of the Hawai'i State Association of Counties, Inc., proposals must be approved by all four County Councils in order to be included in the final package.

2024 HSAC LEGISLATIVE PACKAGE

1. A Bill For An Act Relating to Family Leave. *(Proposed by the County of Maui).*
2. A Bill For An Act Relating to Tobacco Products. *(Proposed by the Honolulu City and County).*
3. A Bill For An Act Relating to Traffic Regulation. *(Proposed by the County of Hawai'i).*
4. A Bill For An Act Relating to Emergency Management. *(Proposed by the County of Hawai'i).*

**Legislative Priorities:**

1. Legislation related to allowing counties to enact and enforce ordinances regulating persons who own, harbor, or keep any dog that has injured, maimed, or killed a person or an animal belonging to another person,
2. Legislation related to supporting efforts to legally sell or donate wild-caught ungulate meat including, but not limited to, increasing meat inspectors on rural islands,
3. Legislation related to supporting additional pathways for midwifery licensure and legalization of traditional midwifery,
4. Legislation related to supporting extended producer responsibility with regards to solid waste,



5. Legislation related to increasing the number of mental health service providers for children and adolescents in rural counties,
6. Legislation related to financing residential cesspool conversions,
7. Legislation related to insurance coverage concerns for Hawai'i communities, especially those located in Lava Zones 1 and 2,
8. Legislation related to insurance coverage concerns for Hawai'i communities impacted by natural disasters including wildfires, hurricanes, and flooding,
9. Legislation related to effectively mitigating and managing invasive species to safeguard ecosystems, agriculture, and public health and safety.

Your attention to this matter is greatly appreciated. Should you have any questions please contact [hsac@hawaiicounties.org](mailto:hsac@hawaiicounties.org).

Mahalo,

Bernard Carvalho, Jr.

HSAC President

Exhibit "A"

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## A BILL FOR AN ACT

RELATING TO FAMILY LEAVE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii's state and  
2 county employed workforce are not adequately supported during  
3 times of birth, adoption, or fostering a new child and  
4 caregiving a family member during illness. While the Federal  
5 Employee Paid Leave Act of 2019 allows twelve weeks of paid  
6 leave to federal employees, Hawaii's state and county employees  
7 are not given the same opportunity and can struggle to afford to  
8 take unpaid leave to care for a child or an elderly family  
9 member with a serious health condition. Hawaii state and county  
10 employees are currently covered by the Federal Medical Leave Act  
11 and the Hawaii Family Leave Law, which allows for a leave time  
12 period of twelve weeks and four weeks, respectively; however,  
13 the leave is unpaid. State and county employees have the option  
14 to use up accrued vacation or sick pay, the amount of which will  
15 depend on time of service or prior use.

16           Seven in ten keiki have both married parents or a single  
17 parent in the workforce, leaving no full-time caregiver. Women,  
18 as primary caregivers of infants, children, and elderly parents,

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1 are affected disproportionately by the unavailability of paid  
2 family and medical leave. According to the Hawaii Children's  
3 Action Network, paid family leave is associated with a 20 per  
4 cent decrease in infant mortality.

5 Hawaii has the fastest growing population of individuals  
6 over the age of sixty-five in the nation, and that number is  
7 expected to grow even further by the year 2030. Of those who  
8 would benefit from paid family leave, nearly one-third would  
9 take those leave benefits to care for an ill spouse or elderly  
10 parent. In short, most workers, at some point, will need to take  
11 time off to care for an ill or aging family member, the majority  
12 of which are women, but very few can afford it.

13 The legislature further finds that providing these benefits  
14 to state and county employees could enhance recruitment and  
15 retention of employees, fulfill the government's role as a model  
16 employer, significantly impact the bonding between a newborn,  
17 adopted, or new foster child and its parent, and reduce stress  
18 and the negative impacts of not guaranteeing parental and family  
19 paid leave to mothers and low-income and economically  
20 disadvantaged employees and their children or elderly or sick  
21 loved ones.



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1 "Reduced leave schedule" means a leave schedule that  
2 reduces the usual number of hours per workweek or hours per  
3 workday of a qualified employee.

4 "Serious health condition" means an illness, injury,  
5 impairment, or physical or mental condition that involves:

- 6 (1) Inpatient care at a hospital, hospice, or residential  
7 medical care facility; or  
8 (2) Continuing treatment by a health care provider.

9 "Sibling" means an individual who is a biological, adopted,  
10 or foster brother or sister; or a stepbrother or stepsister of  
11 an employee.

12 **§78-B Paid family leave; general requirements.** (a) A  
13 qualified employee shall be entitled to a total of twelve weeks  
14 of paid leave during any twelve-month period for one or more of  
15 the following:

- 16 (1) The birth of a child of the qualified employee and in  
17 order to care for the child;  
18 (2) The placement of a child with the qualified employee  
19 for adoption or foster care; or  
20 (3) To care for the qualified employee's spouse,  
21 reciprocal beneficiary, child, grandchild, parent, or  
22 sibling if the spouse, reciprocal beneficiary, child,

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1 grandchild, parent, or sibling has a serious health  
2 condition.

3 (b) The entitlement to leave under subsection (a) (1) or  
4 (2) shall expire at the end of the twelve-month period beginning  
5 on the date of birth or placement of the child.

6 (c) Leave under subsection (a) (1), (2), and (3) may be  
7 taken intermittently or on a reduced leave schedule when  
8 medically necessary; provided that:

9 (1) Any hours of leave taken shall be subtracted from the  
10 total amount of leave remaining available to the  
11 qualified employee under subsection (a), for purposes  
12 of the twelve-month period involved, on an hour-for-  
13 hour basis;

14 (2) If a qualified employee requests intermittent leave or  
15 leave on a reduced leave schedule that is foreseeable  
16 based on planned medical treatment, the employer may  
17 require the qualified employee to transfer temporarily  
18 to an available alternative position offered by the  
19 employing agency for which the qualified employee is  
20 qualified and that:

21 (A) Has equivalent pay and benefits; and

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1           (B) Better accommodates recurring periods of leave  
2           than the regular employment position of the  
3           qualified employee; and  
4           (3) The qualified employee complies with subsection (j)  
5           and section 78-C(a)(5).  
6           (d) A qualified employee taking leave under this section  
7 may elect to use one of the following types of paid leave:  
8           (1) Twelve administrative workweeks of paid family leave  
9           under this paragraph in connection with the birth or  
10          placement involved; or  
11          (2) During the twelve-month period referred to in  
12          subsection (a), and in addition to the twelve  
13          administrative workweeks under paragraph (1), any  
14          leave accrued or accumulated by the qualified  
15          employee;  
16 provided that nothing in this subsection shall be construed to  
17 require that a qualified employee first use all or any portion  
18 of the leave described in paragraph (2) before being allowed to  
19 use paid parental leave described in paragraph (1); provided  
20 further that nothing in this section shall require an employer  
21 to provide paid sick leave in any situation in which the  
22 employer would not normally provide paid leave.

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- 1 (e) Paid family leave taken under subsection (d) (1):  
2 (1) Shall be payable from any appropriation or fund  
3 available for salaries or expenses for positions  
4 within the employing agency;  
5 (2) Shall not be considered to be vacation leave or any  
6 other type of leave; and  
7 (3) If not used by the qualified employee before the end  
8 of the twelve-month period described in subsection (a)  
9 to which it relates, shall not accumulate for any  
10 subsequent use.

11 Nothing in this subsection shall be construed to modify the  
12 requirement that the qualified employee complete at least twelve  
13 months of service as an employee, as described in the definition  
14 of "qualified employee" in section 78-A, before becoming  
15 eligible to take leave pursuant to this part.

16 (f) If a qualified employee fails to return from paid  
17 leave provided under subsection (e) (1) after the date the leave  
18 concludes, the employing agency may recover from the qualified  
19 employee an amount equal to the total amount of government  
20 contributions paid by the agency on behalf of the qualified  
21 employee for maintaining the qualified employee's health  
22 coverage during the period of the leave; provided that this

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1 subsection shall not apply to a qualified employee who fails to  
2 return from leave due to:

3 (1) The continuation, recurrence, or onset of a serious  
4 health condition, including a mental health condition;  
5 or

6 (2) Any other circumstance beyond the control of the  
7 qualified employee.

8 (g) In any case in which the necessity for leave under  
9 subsection (a) (1) or (2) is foreseeable based upon an expected  
10 birth or placement, the qualified employee shall provide the  
11 employer with not less than thirty days' notice before the date  
12 the leave is to begin of the qualified employee's intention to  
13 take leave, except that if the date of the birth or placement  
14 requires leave to begin in less than thirty days, the qualified  
15 employee shall provide as much notice as is practicable.

16 (h) In any case in which the necessity for leave under  
17 subsection (a) (3) is foreseeable based on planned medical  
18 treatment, the qualified employee:

19 (1) Shall make a reasonable effort to schedule the  
20 treatment so as not to disrupt unduly the operations  
21 of the employer, subject to the approval of the health

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1 care provider of the child, spouse, parent, or sibling  
2 of the qualified employee, as appropriate; and

3 (2) Shall provide the employer with not less than thirty  
4 days' notice before the date the leave is to begin of  
5 the qualified employee's intention to take leave,  
6 except that if the date of the treatment requires  
7 leave to begin in less than thirty days, the qualified  
8 employee shall provide as much notice as is  
9 practicable.

10 (i) The State or county may establish regulations to  
11 increase the amount of leave available to an employee under  
12 subsection (a) to a total of not more than 16 administrative  
13 workweeks, based on the consideration of:

- 14 (1) The benefits provided to the State or county  
15 government of increasing such leave, including  
16 enhanced recruitment and retention of employees;
- 17 (2) The government's role as a model employer;
- 18 (3) The impact of increased leave on lower-income and  
19 economically disadvantaged employees, the majority of  
20 those affected being women;
- 21 (4) The benefits of parental bonding provided to the  
22 child; and

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1           (5) Such other factors as the State or county considers  
2                           necessary.

3           **§78-C Paid family leave; certification requirements. (a)**

4 An employing agency may require that a request for leave under  
5 section 78-B(a)(3) be supported by certification issued by the  
6 health care provider of the child, spouse, parent, or sibling of  
7 the qualified employee. The qualified employee shall provide,  
8 in a timely manner, a copy of the certification to the employing  
9 agency. A certification shall be sufficient if it states:

10           (1) The date on which the serious health condition  
11                           commenced;

12           (2) The probable duration of the condition;

13           (3) The appropriate medical facts within the knowledge of  
14                           the health care provider regarding the condition;

15           (4) A statement that the qualified employee is needed to  
16                           care for the child, spouse, parent, or sibling, and an  
17                           estimate of the amount of time that the qualified  
18                           employee is needed to care for the child, spouse,  
19                           parent, or sibling; and

20           (5) In the case of certification for intermittent leave,  
21                           or leave on a reduced leave schedule, for planned  
22                           medical treatment, the dates on which the treatment is

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1           expected to be given and the duration of the  
2           treatment.

3           (b) In any case in which the employer has reason to doubt  
4 the validity of the certification provided under subsection (a),  
5 the employer may require, at the expense of the agency, that the  
6 qualified employee obtain the opinion of a second health care  
7 provider designated or approved by the employing agency  
8 concerning any information certified under subsection (a) for  
9 the leave. Any health care provider designated or approved  
10 pursuant to this subsection shall not be employed on a regular  
11 basis by the employing agency.

12           (c) In any case in which the second opinion described in  
13 subsection (b) differs from the original certification provided  
14 under subsection (a), the employing agency may require, at the  
15 expense of the agency, that the qualified employee obtain the  
16 opinion of a third health care provider designated or approved  
17 jointly by the employing agency and the qualified employee  
18 concerning the information certified under subsection (a). The  
19 opinion of the third health care provider concerning the  
20 information certified under subsection (a) shall be considered  
21 to be final and shall be binding on the employing agency and the  
22 qualified employee.

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1 (d) The employer may require, at the expense of the  
2 agency, that the qualified employee obtain subsequent  
3 recertifications on a reasonable basis.

4 **§78-D Paid family leave; protection of employment and**  
5 **benefits.** (a) Any qualified employee who takes leave under  
6 section 78-B for the intended purpose of the leave shall be  
7 entitled, upon return from the leave:

- 8 (1) To be restored by the employer to the position held by  
9 the qualified employee when the leave commenced; or  
10 (2) To be restored to an equivalent position with  
11 equivalent benefits, pay, status, and other terms and  
12 conditions of employment.

13 (b) The taking of leave under section 78-B shall not  
14 result in the loss of any employment benefit accrued prior to  
15 the date on which the leave commenced.

16 (c) Except as otherwise provided by law, nothing in  
17 subsections (a) or (b) shall be construed to entitle any  
18 restored qualified employee to:

- 19 (1) The accrual of any employment benefits during any  
20 period of leave; or  
21 (2) Any right, benefit, or position of employment other  
22 than any right, benefit, or position to which the

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1 qualified employee would have been entitled had the  
2 qualified employee not taken the leave.

3 (d) Nothing in this section shall be construed to prohibit  
4 an employing agency from requiring a qualified employee on leave  
5 under this section to report periodically, but no more than  
6 twice a month, to the employer on the status and intention of  
7 the qualified employee to return to work.

8 **§78-E Paid family leave; prohibition of coercion.** (a) An  
9 employee shall not directly or indirectly intimidate, threaten,  
10 or coerce, or attempt to intimidate, threaten, or coerce, any  
11 other employee for the purpose of interfering with the exercise  
12 of any rights that the other employee may have under this part.

13 (b) For purposes of this section:

14 "Intimidate, threaten, or coerce" includes promising to  
15 confer or conferring any benefit, such as appointment,  
16 promotion, or compensation; or taking or threatening to take any  
17 reprisal, such as deprivation of appointment, promotion, or  
18 compensation.

19 **§78-F Paid family leave; health insurance.** A qualified  
20 employee enrolled in a health benefits plan who is placed in a  
21 leave status pursuant to this part shall continue to be enrolled  
22 in that plan while in the leave status; provided that the

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1 qualified employee continues to pay any required employee  
2 contributions.

3       **§78-G Construction.** The benefits and protections  
4 established by this part shall be in addition to any other  
5 benefits or protections offered by other federal, state, or  
6 county laws, including the federal Family and Medical Leave Act  
7 and chapter 398. Nothing in this part shall be construed to  
8 modify, eliminate, or otherwise abrogate any existing leave  
9 policies, employment benefits, or protections that employees may  
10 have pursuant to any other laws, employment contracts or  
11 collective bargaining agreements, to the extent that the laws,  
12 contracts, and agreements provide greater protections than those  
13 afforded under this part.

14       **§78-H Rules.** The director shall adopt rules necessary for  
15 the administration of this part.

16       **§78-I Paid family leave for state and county employees.**  
17 By January 1, 2025, the State and counties shall establish a  
18 paid family leave program for state and county employees."

19       SECTION 3. Chapter 78, Hawaii Revised Statutes, is amended  
20 by designating sections 78-1 to section 78-65 as Part I, and  
21 inserting a title before section 78-1 to read as follows:

22                       "PART I. GENERAL PROVISIONS"

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1 SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 2024.

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7 INTRODUCED BY: \_\_\_\_\_

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## A BILL FOR AN ACT

RELATING TO TOBACCO PRODUCTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that tobacco use remains  
2 the leading cause of preventable death in the United States,  
3 including Hawaii. The legislature further finds that there has  
4 been a precipitous increase in recent consumer sales of  
5 electronic smoking devices, sometimes called "vapes" or "e-  
6 cigarettes," which contain significantly higher levels of  
7 nicotine per inhalation compared to conventional cigarettes.  
8 The escalating use of electronic smoking devices has led to a  
9 significant rise in youth nicotine addiction. These devices  
10 have been linked to severe lung disease, potential harm to brain  
11 development, and acute nicotine poisoning.

12           The legislature finds that the rate of tobacco use among  
13 youth has increased to epidemic levels. According to the 2019  
14 Hawaii State and Counties Youth Risk Behavior Surveys, 30.6 per  
15 cent of public middle school students and 48.3 per cent of  
16 public high school students have tried using electronic smoking

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1 devices. The survey also revealed that 17.7 per cent of middle  
2 school students and 30.6 per cent of high school students  
3 currently vape, numbers which have likely only increased.

4 The legislature also finds that counties are uniquely  
5 positioned to quickly address the health habits of their  
6 communities, such as youth vaping, and have been utilizing that  
7 ability to great success. Historically, Hawaii has passed  
8 forward-thinking legislation to address the high usage of  
9 tobacco products. These policies were first adopted at the  
10 county level to quickly address the counties' need to protect  
11 their communities from the relentless promotional targeting by  
12 tobacco companies. Regulations to raise the minimum age for the  
13 purchase of tobacco products to twenty-one years of age was  
14 first passed in the county of Hawaii, followed by other  
15 counties, and finally by the State to create uniformity.  
16 Likewise, laws that prohibit smoking in certain locations, as  
17 well as in motor vehicles when a keiki is present, were also  
18 initially adopted at the county level before the State took  
19 action.

20 The legislature also finds that the tobacco companies have  
21 spent millions of dollars to ensure that they are developing and  
22 marketing products to young people to increase their sales and

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1 boost their yearly profits into the tens of billions of dollars.  
2 These companies have boundless resources to pour into targeting  
3 a new generation of addicts. Furthermore, the United States  
4 Food and Drug Administration, which is responsible for  
5 regulating tobacco products containing nicotine, has a lengthy  
6 authorization process with loopholes, long waiting periods, and  
7 little ability to regulate the ever-changing strategies of  
8 profit-focused tobacco companies.

9 The legislature acknowledges that section 328J-11.5(a),  
10 Hawaii Revised Statutes, provides that "[s]ales of cigarettes,  
11 tobacco products, and electronic smoking devices are a statewide  
12 concern" and that it is "the intent of the legislature to  
13 regulate the sale of cigarettes, tobacco products, and  
14 electronic smoking devices in a uniform and exclusive manner."  
15 Section 328J-11.5(b), Hawaii Revised Statutes, preempts "[a]ll  
16 local ordinances or regulations that regulate the sale of  
17 cigarettes, tobacco products, and electronic smoking devices"  
18 and voids "existing local laws and regulations conflicting with"  
19 chapter 328J, Hawaii Revised Statutes, which is the State law  
20 that regulates smoking. The tobacco industry has historically  
21 used preemption as a tactic to prevent local governments from

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1 adopting stronger tobacco control measures; thereby protecting  
2 its interests at the expense of public health.

3 Section 328J-11.5(c), Hawaii Revised Statutes, carves out  
4 an exception to the exclusivity of state regulations by setting  
5 forth that nothing in chapter 328J, Hawaii Revised Statutes,  
6 "shall be construed to limit a county's authority" to adopt  
7 ordinances; provided that the ordinance is more stringent than  
8 state law. The legislature acknowledges that the language in  
9 section 328J-11.5, Hawaii Revised Statutes, read together with  
10 section 328J-15, Hawaii Revised Statutes, may create an  
11 ambiguity in the effectiveness of county ordinances that are not  
12 in conflict with chapter 328J, Hawaii Revised Statutes, and the  
13 authority given to the counties in adopting ordinances that  
14 regulate the sale of cigarettes, tobacco products, and  
15 electronic smoking devices in their communities.

16 The legislature finds that an adaptive regulation system is  
17 needed to address the multibillion-dollar marketing campaigns of  
18 tobacco companies focused on our youth. All levels of  
19 government, including counties, need to collaborate with youth,  
20 their parents, and educational institutions, to quickly address  
21 the tobacco companies' predatory practices through the

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1 implementation of reasonable restrictions on the sale of and  
2 access to these addictive products.

3         Accordingly, the purpose of this Act is to:

4           (1) Repeal existing law that provides that all local  
5 ordinances or regulations that regulate the sale of cigarettes,  
6 tobacco products, and electronic smoking devices are preempted  
7 and that existing local laws and regulations conflicting with  
8 the State law on smoking are null and void; and

9           (2) Clarify that counties retain the authority to adopt  
10 ordinances that regulate the sale of cigarettes, tobacco  
11 products, and electronic smoking devices, as long as the  
12 ordinances do not conflict with and are more stringent than the  
13 State law on smoking.

14         SECTION 2. Section 328J-11.5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "[+]§328J-11.5[+] Statewide concern. (a) Sales of  
17 cigarettes, tobacco products, and electronic smoking devices are  
18 a statewide concern. It is the intent of the legislature to  
19 regulate the sale of cigarettes, tobacco products, and  
20 electronic smoking devices in a uniform [~~and exclusive~~]  
21 manner[-] to the extent reasonably possible.

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1       ~~[(b) All local ordinances or regulations that regulate the~~  
2 ~~sale of cigarettes, tobacco products, and electronic smoking~~  
3 ~~devices are preempted, and existing local laws and regulations~~  
4 ~~conflicting with this chapter are null and void.~~

5       ~~(e)]~~ (b) Nothing in this chapter shall be construed to  
6 limit a county's authority ~~[under]~~ to enact ordinances that  
7 regulate the sale of cigarettes, tobacco products, and  
8 electronic smoking devices within the county in accordance with  
9 section 328J-15."

10       SECTION 3. Section 328J-15, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12       "(b) Nothing in this chapter shall prohibit a county from  
13 enacting ordinances that regulate the sale of cigarettes,  
14 tobacco products, and electronic smoking devices within the  
15 county; provided that the ordinances do not directly conflict  
16 with and are more stringent than the provisions of this  
17 chapter."

18       SECTION 4. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.

21       SECTION 5. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

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1 SECTION 6. This Act shall take effect upon approval.

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INTRODUCED BY: \_\_\_\_\_

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REVISED:  
1ST DRAFT DATE:

\_\_\_B. NO. \_\_\_

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# A BILL FOR AN ACT

RELATING TO TRAFFIC REGULATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The Legislature hereby finds over time, the  
2 counties have received ownership of various streets, highways,  
3 thoroughfares, and roadways through conveyance, dedication, or  
4 other means, which were not originally constructed to meet the  
5 rigorous safety standards required and lack the necessary safety  
6 standards for unregulated use. Despite efforts undertaken by the  
7 counties to uphold the safety of these streets, highways,  
8 thoroughfares, and roadways, these efforts cannot wholly  
9 mitigate the inherent risks posed by their non-standard designs.  
10 It is incumbent upon the State to ensure the safety and well-  
11 being of its residents and visitors. It is the intent of this  
12 legislation to grant counties the authority to impose  
13 restrictions on the manner of use of such roadways to mitigate  
14 safety hazards.  
15 In instances where the counties determine that public safety  
16 hazards exist due to the non-standard design of streets,  
17 highways, thoroughfares, and roadways, the counties may, with  
18 the goal of ensuring public safety, impose specific restrictions

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19 on the manner of use of said streets, highways, thoroughfares,  
20 and roadways. Such restrictions may include, but are not limited  
21 to, requirements for four-wheel drive vehicles, covered  
22 transportation, or mandatory viewing of safety videos.

23 The legislature further finds that the increased utilization of  
24 certain streets, highways, thoroughfares, and roadways and their  
25 surrounding areas has resulted in an influx of traffic that  
26 exceeds their original design capacity, thereby endangering both  
27 travelers and the culturally significant and environmentally  
28 sensitive sites that they traverse. Recognizing the peril posed  
29 by increased traffic on certain roadways to culturally and  
30 environmentally sensitive sites, the counties are hereby  
31 empowered to establish access limits to safeguard these sites.  
32 However, it is explicitly stated that properties exclusively  
33 accessible via these roadways shall remain accessible without  
34 undue impediment.

35

36 SECTION 2. Section 46-16, Hawaii Revised Statutes, is  
37 amended to read as follows:

38 "§46-16 Traffic regulation and control over private  
39 streets[-], hazardous roads, and roads in sensitive areas.

40 (a) Any provision of law to the contrary notwithstanding, any  
41 county and its authorized personnel may impose and enforce  
42 traffic regulations and place appropriate traffic control  
43 devices, and may enforce chapters 249; 286; 287; 291; 291C;  
44 291E; 431, articles 10C and 10G; and 486, part III on the  
45 following categories of private streets, highways, or  
46 thoroughfares, except private roads used primarily for  
47 agricultural and ranching purposes:

48 (1) Any private street, highway, or thoroughfare which has  
49 been used continuously by the general public for a  
50 period of not less than six months; provided that the  
51 county shall not be responsible for the maintenance  
52 and repair of the private street, highway, or  
53 thoroughfare when it imposes or enforces traffic  
54 regulations and highway safety laws or places or  
55 permits to be placed appropriate traffic control  
56 devices on that street, highway, or thoroughfare;  
57 provided further that no adverse or prescriptive  
58 rights shall accrue to the general public when the  
59 county imposes or enforces traffic regulations and

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60 highway safety laws or places appropriate traffic  
61 control devices on that street, highway, or  
62 thoroughfare; nor shall county consent to the  
63 placement of traffic control signs or markings on a  
64 private street be deemed to constitute control over  
65 that street; and

66 (2) Any private street, highway, or thoroughfare which is  
67 intended for dedication to the public use as provided  
68 in section 264-1 and is open for public travel but has  
69 not yet been accepted by the county.

70 (b) Any county, by ordinance, may regulate or restrict  
71 access to a street, highway, thoroughfare, or roadway which:

72 (1) Is known to be hazardous or hazardous under certain  
73 conditions, provided that the hazard **does not arise**  
74 **due to an act, omission, or gross negligence of the**  
75 **county; or**

76 (2) May have a negative impact on a sensitive area,  
77 including a **critical habitat for threatened or**  
78 **endangered species or lands containing cultural or**  
79 **archaeological sites or resources.**

80 No ordinance shall be enacted until a public hearing has been  
81 conducted on the proposed ordinance and provided further that



REVISED:  
1ST DRAFT DATE:

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# A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 127A-13, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) In the event of a state of emergency declared by the  
4 governor pursuant to section 127A-14, the governor may exercise  
5 the following additional powers pertaining to emergency  
6 management during the emergency period:

7           (1) Provide for and require the quarantine or segregation  
8           of persons who are affected with or believed to have  
9           been exposed to any infectious, communicable, or other  
10          disease that is, in the governor's opinion, dangerous  
11          to the public health and safety, or persons who are  
12          the source of other contamination, in any case where,  
13          in the governor's opinion, the existing laws are not  
14          adequate to assure the public health and safety;  
15          provide for the care and treatment of the persons;  
16          supplement the provisions of sections 325-32 to 325-38  
17          concerning compulsory immunization programs; provide  
18          for the isolation or closing of property which is a

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1 source of contamination or is in a dangerous condition  
2 in any case where, in the governor's opinion, the  
3 existing laws are not adequate to assure the public  
4 health and safety, and designate as public nuisances  
5 acts, practices, conduct, or conditions that are  
6 dangerous to the public health or safety or to  
7 property; authorize that public nuisances be summarily  
8 abated and, if need be, that the property be  
9 destroyed, by any police officer or authorized person,  
10 or provide for the cleansing or repair of property,  
11 and if the cleansing or repair is to be at the expense  
12 of the owner, the procedure therefor shall follow as  
13 nearly as may be the provisions of section 322-2,  
14 which shall be applicable; and further, authorize  
15 without the permission of the owners or occupants,  
16 entry on private premises for any such purposes;  
17 (2) Relieve hardships and inequities, or obstructions to  
18 the public health, safety, or welfare, found by the  
19 governor to exist in the laws and to result from the  
20 operation of federal programs or measures taken under  
21 this chapter, by suspending the laws, in whole or in  
22 part, or by alleviating the provisions of laws on such

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1           terms and conditions as the governor may impose,  
2           including licensing laws, quarantine laws, and laws  
3           relating to labels, grades, and standards;

4           (3) Suspend{:]

5           (A) [~~any~~]Any law that impedes or tends to impede or be  
6           detrimental to the expeditious and efficient  
7           execution of, or to conflict with, emergency  
8           functions, including laws which by this chapter  
9           specifically are made applicable to emergency  
10          personnel;

11          [~~(4)~~] (B) [~~Suspend the~~]The provisions of any regulatory law  
12          prescribing the procedures for out-of-state  
13          utilities to conduct business in the State  
14          including any licensing laws applicable to out-  
15          of-state utilities or their respective employees,  
16          as well as any order, rule, or regulation of any  
17          state agency, if strict compliance with the  
18          provisions of any such law, order, rule, or  
19          regulation would in any way prevent, hinder, or  
20          delay necessary action of a state utility in  
21          coping with the emergency or disaster with

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1                    assistance that may be provided under a mutual  
2                    assistance agreement; and

3                    (C) The mortgage foreclosure provisions of chapter  
4                    667 up to thirty-six months on any property with  
5                    substantial damage resulting from a disaster  
6                    under a state of emergency proclaimed by the  
7                    governor pursuant to section 127A-14.

8    ~~(4)~~ (4) In the event of disaster or emergency beyond local  
9                    control, or an event which, in the opinion of the  
10                    governor, is such as to make state operational control  
11                    necessary, or upon request of the local entity, assume  
12                    direct operational control over all or any part of the  
13                    emergency management functions within the affected  
14                    area;

15    ~~(5)~~ (5) Shut off water mains, gas mains, electric power  
16                    connections, or suspend other services, and, to the  
17                    extent permitted by or under federal law, suspend  
18                    electronic media transmission;

19    ~~(6)~~ (6) Direct and control the mandatory evacuation of the  
20                    civilian population;

21    ~~(7)~~ (7) Exercise additional emergency functions to the extent  
22                    necessary to prevent hoarding, waste, or destruction

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1           of materials, supplies, commodities, accommodations,  
2           facilities, and services, to effectuate equitable  
3           distribution thereof, or to establish priorities  
4           therein as the public welfare may require; to  
5           investigate; and notwithstanding any other law to the  
6           contrary, to regulate or prohibit, by means of  
7           licensing, rationing, or otherwise, the storage,  
8           transportation, use, possession, maintenance,  
9           furnishing, sale, or distribution thereof, and any  
10          business or any transaction related thereto;

11    ~~[-9]~~ (8) Suspend section 8-1, relating to state holidays,  
12           except the last paragraph relating to holidays  
13           declared by the president, which shall remain  
14           unaffected, and in the event of the suspension, the  
15           governor may establish state holidays by proclamation;

16    ~~[-10]~~ (9) Adjust the hours for voting to take into consideration  
17           the working hours of the voters during the emergency  
18           period, and suspend those provisions of section 11-131  
19           that fix the hours for voting, and fix other hours by  
20           stating the same in the election proclamation or  
21           notice, as the case may be;

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1 [~~(11)~~] (10) Assure the continuity of service by critical  
2 infrastructure facilities, both publicly and privately  
3 owned, by regulating or, if necessary to the  
4 continuation of the service thereof, by taking over  
5 and operating the same; and  
6 [~~(12)~~] (11) Except as provided in section 134-7.2, whenever in the  
7 governor's opinion, the laws of the State do not  
8 adequately provide for the common defense, public  
9 health, safety, and welfare, investigate, regulate, or  
10 prohibit the storage, transportation, use, possession,  
11 maintenance, furnishing, sale, or distribution of, as  
12 well as any transaction related to, explosives,  
13 firearms, and ammunition, inflammable materials and  
14 other objects, implements, substances, businesses, or  
15 services of a hazardous or dangerous character, or  
16 particularly capable of misuse, or obstructive of or  
17 tending to obstruct law enforcement, emergency  
18 management, or military operations, including  
19 intoxicating liquor and the liquor business; and  
20 authorize the seizure and forfeiture of any such  
21 objects, implements, or substances unlawfully  
22 possessed, as provided in this chapter."

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1 SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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BY REQUEST

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**Report Title:**

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**Description:**

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