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January 22, 2026

MEMO TO: DRIP-9(9) File

F R O M: Tamara Paltin, Chair *Tamara A. M. Paltin*  
Disaster Recovery, International Affairs, and Planning Committee

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO  
SOCIAL HOST LIABILITY (DRIP-9(9))**

The attached informational document pertains to Item 9(9) on the Committee's agenda.

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Attachment



# POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, MAUI, HAWAII 96793  
TELEPHONE: (808) 244-6400  
FAX: (808) 244-6411



**JOHN PELLETIER**  
CHIEF OF POLICE

**WADE M. MAEDA**  
DEPUTY CHIEF OF POLICE

January 15, 2026

Honorable Richard T. Bissen, Jr.  
Mayor, County of Maui  
200 S. High Street  
Wailuku, HI 96793

For Transmittal To:

Councilmember Tamara Paltin  
And Members of the Council  
200 S. High Street  
Wailuku, HI 96793

**SUBJECT: CHAPTER 9.40, MAUI COUNTY CODE, "SOCIAL HOST LIABILITY"**

Dear Councilmember Paltin:

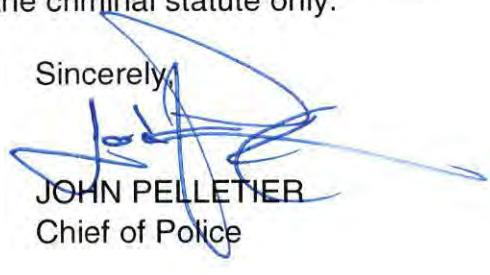
As previously discussed, and as I have also communicated to Councilmember U'u-Hodgins, the Social Host ordinance was enacted prior to my tenure as Chief of Police for the Maui Police Department. I have consistently expressed concerns that this ordinance contains significant administrative deficiencies and, in my view, raises constitutional issues.

I am attaching my prior correspondence outlining the legal concerns associated with this ordinance. In addition to those concerns, I want to emphasize that the administrative challenges alone are substantial. Since its inception, this ordinance has not been enforced.

One of the fundamental issues is that law enforcement does not conduct Terry stops for civil infractions. We are not authorized to use force of any kind for civil infractions, nor can we detain or restrain individuals for civil violations.

There is currently an applicable criminal statute under HRS Sec. 281-1-01.5, which is attached for reference. We cannot simultaneously enforce a criminal statute through citation or arrest while also issuing a civil penalty for the same conduct. Doing so would create a potential constitutional conflict. As a result, enforcement would be limited to the criminal statute only.

Sincerely,

  
**JOHN PELLETIER**  
Chief of Police

Enclosures



# POLICE DEPARTMENT COUNTY OF MAUI

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JOHN PELLETIER  
CHIEF OF POLICE



WADE M. MAEDA  
DEPUTY CHIEF OF POLICE

August 11, 2025

Honorable Richard T. Bissen, Jr.  
Mayor, County of Maui  
200 S. High Street  
Wailuku, HI 96793

For Transmittal To:

Councilmember Nohelani U'u-Hodgins  
County Council  
200 S. High Street  
Wailuku, HI 96793

**SUBJECT: CHAPTER 9.40, MAUI COUNTY CODE, "SOCIAL HOST LIABILITY"**  
(PAF 24-264)

Dear Councilmember U'u-Hodgins:

The Social Host Ordinance (9.40.010) was created prior to my tenure as Chief of Police for the Maui Police Department. I have previously expressed that this ordinance is unconstitutional, and as such, the Maui Police Department cannot support or enforce it for the following reasons:

This ordinance violates both the Fourth and Fourteenth Amendments to the United States Constitution, as well as established case law, specifically Terry v. Ohio and Graham v. Connor. These landmark cases govern law enforcement's authority regarding searches, seizures, and use of force. The core issue is that this ordinance addresses a civil matter, not a criminal one. As a law enforcement agency, we do not enforce civil matters, and without a criminal component, we lack the legal authority to stop or detain individuals.

Law enforcement can only detain an individual through:

1. **Consent**
2. **Reasonable suspicion** that a crime has been, is being, or is about to be committed, and the individual is connected to that crime
3. **Probable cause** to believe, based on articulable facts and circumstances, that a crime has been committed and the individual in question committed it

In the absence of a crime, neither reasonable suspicion nor probable cause can exist. The Fourth Amendment is explicit in requiring one of these conditions for a lawful stop. The **reasonable suspicion** standard for detention is established in Terry v. Ohio, and Graham v. Connor confirms that investigative stops and arrests must be analyzed under the Fourth Amendment, with consideration for the severity of the crime.

Councilmember Nohelani U'u-Hodgins  
County Council  
August 11, 2025  
Page 2

While pretextual stops are permissible within the Ninth Circuit, officers cannot prolong or expand an encounter without developing reasonable suspicion of another crime. Because the Social Host Ordinance addresses a civil matter, officers cannot lawfully enter a residence or use another enforcement action to address it. Doing so would be a constitutional violation.

Additionally, the ordinance violates the Fourteenth Amendment, which prohibits states from enforcing laws that deny equal protection under the law. Applying this ordinance in certain geographic regions but not in others, such as excluding Moloka'i, creates unequal treatment and is therefore unconstitutional.

Under the ordinance, the County Council is required to review this chapter every two years, and the Chief of Police must provide an annual report. Since the ordinance's creation, the Maui Police Department has never issued citations or violations under it, as we have deemed it unconstitutional. Consequently, there have been no appeals or recorded monetary penalties.

For these reasons, I respectfully and humbly request that the County Council repeal this ordinance.

Sincerely,

  
JOHN PEHUETEA  
Chief of Police

[Go to Previous Versions of this Section ▾](#)

# 2024 Hawaii Revised Statutes

## Title 16. Intoxicating Liquor

### 281. Intoxicating Liquor

#### 281-101.5 Prohibitions involving minors; penalty.

**Universal Citation:**HI Rev Stat § 281-101.5 (2024) [◀ Previous](#)[Next ▶](#)

**§281-101.5 Prohibitions involving minors; penalty.** (a) Any adult who provides or purchases liquor for consumption or use by a person under twenty-one years of age shall be guilty of the offense under section 712-1250.5.

(b) No minor shall consume or purchase liquor and no minor shall consume or have liquor in the minor's possession or custody in any public place, public gathering, or public amusement, at any public beach or public park, or in any motor vehicle on a public highway; provided that notwithstanding any other law to the contrary, this subsection shall not apply to:

(1) Possession or custody of liquor by a minor in the course of delivery, pursuant to the direction of the minor's employer lawfully engaged in business necessitating the delivery;

(2) Possession, custody, or consumption of liquor by a minor in connection with the minor's authorized participation in religious ceremonies requiring such possession,

custody, or consumption; or

(3) Any person between the ages of eighteen and twenty, who is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the department of health to determine the level of incidence of liquor sales to minors.

(c) No minor shall falsify any identification or use any false identification or identification of another person or of a fictitious person for the purpose of buying or attempting to buy liquor or for the purpose of obtaining employment to sell or serve liquor on licensed premises.

(d) Any person under age eighteen who violates this section shall be subject to the jurisdiction of the family court. Any person age eighteen to twenty-one who violates subsection (b) or (c) shall be guilty of a petty misdemeanor. The court shall order that any person under twenty-one years of age found to be in violation of this section shall have, in addition to any other disposition or sentencing provision permitted by law, the person's license to operate a motor vehicle, or the person's ability to obtain a license to operate a motor vehicle, suspended as follows:

(1) For licensed drivers, the driver's license shall be suspended for not less than one hundred and eighty days with exceptions to allow, at the discretion of the sentencing court, driving to and from school, school-sponsored activities, and employment;

(2) For persons with a provisional license, the provisional license shall be suspended for not less than one hundred and eighty days with exceptions to allow, at the discretion of the sentencing court, driving to and from school, school-sponsored activities, and employment;

(3) For persons with an instruction permit, the instruction permit shall be suspended for not less than one hundred and eighty days with exceptions to allow, at the discretion of the sentencing court, driving to and from school, school-sponsored activities, and employment; or

(4) For persons not licensed to drive, eligibility to obtain a driver's license, provisional license, or instruction permit shall be suspended until the age of seventeen or for one hundred and eighty days, at the discretion of the court; and

(5) Chapter 571 notwithstanding, in any case where a person under the age of eighteen violates this section, the family court judge may suspend the driver's license, provisional

license, or instruction permit, or suspend the eligibility to obtain a driver's license, provisional license, or instruction permit in accordance with this section; provided that the requirement to provide proof of financial responsibility pursuant to section 287-20 shall not be based upon a sentence imposed under paragraphs (1) and (2). In addition, all persons whether or not licensed, found to be in violation of this section shall be sentenced to seventy-five hours of community service work, and an eight to twelve hour program of alcohol education and counseling the costs of which shall be borne by the offender or the offender's parent or guardian.

(e) As used in this section, "consume" or "consumption" includes the ingestion of liquor. [L 1971, c 79, §1; gen ch 1985; am L 1987, c 207, §1; am L 1999, c 228, §1; am L 2003, c 69, §2; am L 2006, c 202, §2 and c 203, §1]

## Cross References

Overdose prevention; limited immunity, see §329-43.6.

Sale of confectionery with alcohol to minor, see §328-6.

## Case Notes

There was substantial circumstantial evidence to show that defendant had consumed liquor and to support defendant's conviction for under age consumption of liquor under subsection (b) where both the school principal and vice-principal testified that they smelled alcohol emanating from defendant, officer testified that officer smelled alcohol on defendant's breath and possibly emanating from defendant's pores, indicating to officer that defendant had ingested alcohol, and officer observed defendant's unsteadiness and belligerent and defiant behavior. 122 H. 347 (App.), 226 P.3d 517 (2010).

[◀ Previous](#)

[Next ▶](#)

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