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

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

August 20, 2019

Mr. Don S. Guzman, Prosecuting Attorney  
Department of the Prosecuting Attorney  
County of Maui  
Wailuku, Hawaii 96793

Dear Mr. Guzman:

SUBJECT: **ROADWAY SAFETY** (MT-10(8))

At its meeting of August 19, 2019, the Multimodal Transportation Committee discussed roadway safety.

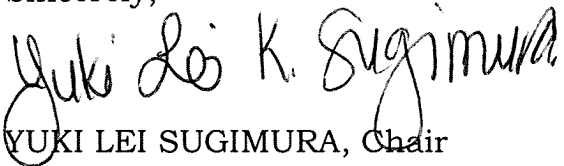
Please respond to the following:

1. Provide your Department's short-term, intermediate, and long-term goals to create safer roadways and prevent traffic fatalities.
2. Would it be beneficial to have a designated team of Deputy Prosecuting Attorneys assigned to impaired driving-related cases?
3. Attached is a copy of County of Hawaii Ordinance 11 102. The bill allows County of Hawaii police officers to have vehicles towed if the owner violates certain laws, including operating a vehicle under the influence of an intoxicant.
  - a. Has the law been effective in deterring impaired driving in the County of Hawaii?
  - b. Would a similar law be effective for the County of Maui?

I would appreciate receiving your response by **Tuesday, September 3, 2019**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

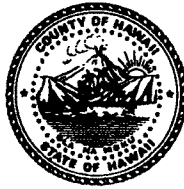
uestions, please contact me or the Committee staff  
or Stacey Vinoray at ext. 8006).

Sincerely,

A handwritten signature in black ink that reads "Yuki Lei K. Sugimura". The signature is fluid and cursive, with the first name "Yuki" being the most prominent.

YUKI LEI SUGIMURA, Chair  
Multimodal Transportation Committee

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 11 102 BILL NO. 98  
(DRAFT 3)

**AN ORDINANCE AMENDING CHAPTER 24, ARTICLE 2, SECTION 24-12 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO VEHICLES AND TRAFFIC.**

**BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:**

**SECTION 1. Purpose.**

The County of Hawai'i has the highest percentage of fatalities caused by drivers under the influence of alcohol in the State of Hawai'i and in the nation (U.S. Department of Transportation, 2009). Our residents and visitors who while drive under the influence of an intoxicant or continue to drive while under the influence of an intoxicant after being arrested one or more times need a more immediate form of enforcement to stop this dangerous and deadly habit.

Immediate repercussions for violating these laws may instill a greater wariness about violating any of the seven laws listed in this ordinance. Hopefully, drivers who do not have a license or registration may choose to preemptively pay for those fees rather than have their vehicle towed and stored. Those individuals who refuse to comply with the laws and also refuse to pay for the towing and storage of their vehicle after violating the law will have their vehicle sold after 30 days of being given written notice by the tow company.

The policy of the Police Department shall change regarding towing for driving while under the influence of an intoxicant and for the other six violations of law. Registered owners of such vehicles operated by violators shall be charged for towing and storage.

The possibility that committing these violations may deprive the violator's family of the use of the towed vehicle may cause the potential violator to use other transportation means instead of an unregistered vehicle, driving without a license, or driving while under the influence of an intoxicant.

This policy change will not cost the County any money since these vehicles will be impounded at private tow yards at the expense of the violators or registered owners who allow violators use their vehicles in an illegal manner. Furthermore, this ordinance may actually save the County untold expense.

As we lower fatalities and crashes on our roadways, we also reduce the need for County employees on regular time and overtime to respond to these crashes. In crashes and crash fatalities, the County pays the first responders: Fire Fighters, EMS personnel, and Police Officers. The County pays the second responder which is the Department of Public Works - Traffic Division to clear the road. Thereafter, the County pays the Office of the Prosecutor to

prosecute the case. Additionally, the County might be required to pay for medical expenses for the uninsured parties. These County expenses, potentially millions of dollars, will be reduced as the public becomes aware of our intolerance to driving while under the influence or any of the other violations in this ordinance. Finally and most importantly, we will save lives by reducing driving while under the influence of an intoxicant.

In other states, laws have been enacted for victims of crime. This ordinance is named in memory of 17-month-old Aliyah Braden who was killed on May 23, 2009 by a driver who was driving while under the influence of an intoxicant. Collectively, any violations identified under subsection (b) shall be named "Aliyah's Law".

The effective date is six months from the date the ordinance is passed to allow the Police Department to negotiate new towing and storage contracts or to negotiate addendums to the existing towing and storage contracts. This period of time may be used for public service announcements regarding this policy change in the County.

**SECTION 2.** Chapter 24, article 2, section 24-12 of the Hawai'i County Code 1983 (2005 Edition, as amended) is amended to read as follows:

**"Section 24-12. Duty of police to enforce traffic laws.**

- (a) It shall be the duty of the officers of the police department and such officers as are assigned by the chief of police to enforce all street traffic laws of this County and all of the State vehicle laws applicable to street traffic in this County.
- (b) Any police officer citing or arresting any driver for the following traffic violations may have the motor vehicle towed to a private tow yard at the registered owner's expense pursuant to Hawai'i Revised Statutes ("HRS") 291C-165.5(a):
  - (1) Driving without a license pursuant to HRS 286-102;
  - (2) Driving while license is suspended or revoked pursuant to HRS 286-132;
  - (3) Operating a vehicle under the influence of an intoxicant pursuant to 291E-61;
  - (4) Habitually operating a vehicle under the influence of an intoxicant pursuant to HRS 291E-61.5;
  - (5) Operating a vehicle after license and privilege has been suspended or revoked for operating a vehicle under the influence of an intoxicant pursuant to HRS 291E-62;
  - (6) Operating a vehicle after consuming a measurable amount of alcohol; persons under the age of twenty-one pursuant to HRS 291E-64; or
  - (7) Fraudulent use plates, tags, or emblems pursuant to HRS 249-11.
- (c) Pursuant to HRS section 291C-165.5(b), tow companies shall give notice to the registered owners and lien holders for vehicles towed under this section.
- (d) Pursuant to HRS section 291C-165.5(b), any motor vehicle not recovered within 30 days of the notice being mailed for any violation of section (b) above, shall be deemed abandoned and may be sold or disposed of as junk.


- (e) Community caretaking considerations: Vehicles are not to be towed and/or impounded under the authority of this section under any of the following circumstances:
- (1) The vehicle is parked on private property on which the registered owner or operator is legally residing, or the property owner does not object to the vehicle being left in the parked location;
  - (2) The registered owner and/or a passenger present in the vehicle at the time of the stop has a valid driver's license and are willing and legally able to drive the vehicle at the time after the stop; or
  - (3) The vehicle is legally parked at a time and place where the likelihood of it being subject to theft and/or vandalism is remote and traffic or public safety is not impeded.
- (f) The police department is not responsible to protect any vehicle left on any road or property after the driver has been arrested for a violation as provided in subsection (b)."

**SECTION 3.** Severability. If any provision of this ordinance or the application thereof to any person or circumstance, is held invalid, such invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are to be severable.

**SECTION 4.** Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material and underscoring need not be included.

**SECTION 5.** This ordinance shall take effect six months after its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: October 5, 2011  
Date of 1st Reading: October 5, 2011  
Date of 2nd Reading: October 19, 2011  
Effective Date: May 3, 2012

REFERENCE, Comm. 356.8

OFFICE OF THE COMMISSIONER  
County of Hawaii  
Kona, Hawaii

Introduced By: Brenda Ford  
Date Introduced: October 5, 2011  
First Reading: October 5, 2011  
Published: October 15, 2011

REMARKS: \_\_\_\_\_  
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\_\_\_\_\_  
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Second Reading: October 19, 2011  
To Mayor: October 27, 2011  
Returned: November 3, 2011  
Effective: May 3, 2012  
Published: November 18, 2011

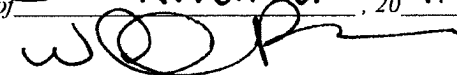
REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
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*I DO HEREBY CERTIFY that the foregoing BILL was  
indicated above.*

APPROVED AS TO  
FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date OCT 31 2011

Approved/Disapproved this 3rd day  
of November, 2011  
  
MAYOR, COUNTY OF HAWAII

COUNTY CLERK  
HAWAII  
HAWAII

COUNTY CLERK  
COUNTY OF HAWAII

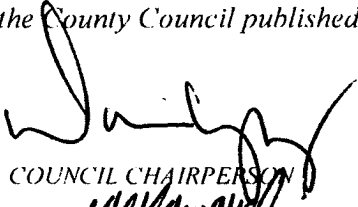
2011 NOV -3 PM 3: 53


(Draft 3)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda			X	
Onishi			X	
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto	X			
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Onishi			X	
Pilago	X			
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Yagong	X			
Yoshimoto	X			
	7	0	2	0

adopted by the County Council published as

  
COUNCIL CHAIRPERSON

  
COUNTY CLERK

Bill No.:

98 (Draft 3)

Reference:

C-356.8/PWPRC-49

Ord No.:

**11 102**