

HOLD FOR MEETING  
December 12, 2019 Special Council meeting

CR 19-151

MAUI COUNTY COUNCIL  
Amendment Summary Form

Legislation: A BILL FOR AN ORDINANCE RELATING TO POLICE  
AUTHORITY TO HAVE MOTOR VEHICLES TOWED.

Proposer: Yuki Lei K. Sugimura, Chair, Multimodal Transportation  
Committee.

*Yuki Lei K. Sugimura*

Description:

- Amends Section 10.08.010(F) of the bill by deleting a reference to fraudulent use of plates, tags, or emblems in violation of HRS Section 249-11, based on further discussion with the Department of Police; and
- Amends Section 10.08.010(I) of the bill by reinserting two exemptions that were removed at the December 2, 2019 Multimodal Transportation Committee meeting, based on further discussion with the Department of the Corporation Counsel.

Motion: First, I move to amend Section 10.08.010(F) of the bill by deleting item 7 relating to the “fraudulent use of plates, tags, or emblems in violation of HRS section 249-11.”

Second, I move to amend Section 10.08.010(I) of the bill to read as follows, with deleted content in brackets and added content underscored:

I. This section does not authorize the towing or impoundment of vehicles if the:

1.        vehicle is parked on private property that is the lawful residence of the registered owner or the operator or if the owner of the property where the vehicle is parked does not object[.];

2.        registered owner or a passenger present in the vehicle at the time of the stop has a valid driver’s license and is willing and legally able to drive the vehicle at the time of the stop;  
or

3. vehicle is legally parked at a time  
and place where traffic or public safety is not  
impeded.

Reasons: Fraudulent use of plates, tags, or emblems is a traffic violation, and is not an arrestable offense according to the Department of Police.

Reinserting the two exemptions under Section I addresses concerns from Corporation Counsel regarding the legality of empowering police to tow and impound vehicles in potential violation of an individual's rights under the U.S. Constitution, and possibly the Constitution of the State of Hawaii. The bill, as revised, would model the exemptions as noted in Hawaii County's legislation.

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