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

September 18, 2020

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

2020 SEP 18 AM 10:13

OFFICE OF THE  
COUNTY CLERK

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

Dear Chair Lee:

**SUBJECT: CONSIDERING 2020 LEGISLATIVE PACKAGE BILLS  
FOR 2021 SESSION (PAF 20-240)**

May I request the attached proposed resolution, entitled "APPROVING FOR INCLUSION IN THE 2021 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Takaya King".

KELLY TAKAYA KING  
Councilmember

paf:kmatt:20-240d

Attachment

COUNTY COMMUNICATION NO. 20-479

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2021  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL  
RELATING TO THE USE OF INTOXICANTS  
WHILE OPERATING A VEHICLE

WHEREAS, according to the National Transportation Safety Board, a driver with a Blood Alcohol Concentration of 0.05 would be affected by exaggerated behavior, loss of small-muscle control and eye focus, impaired judgment, lowered alertness, and release of inhibition; and

WHEREAS, a Blood Alcohol Concentration of 0.05 would result in reduced coordination, reduced ability to track moving objects, difficulty steering, and reduced response to emergency driving situations; and

WHEREAS, lowering the threshold of Blood Alcohol Concentration to 0.05 for the offense of operating a vehicle while under the influence of an intoxicant would save lives, prevent catastrophic injuries, and decrease medical costs; now, therefore,

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

1. That the proposed State bill, attached as Exhibit "A," relating to the use of intoxicants while operating a vehicle is approved for inclusion in the 2021 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

paf:kmatt:20-240e

Attachment

\_\_\_\_.B. NO. \_\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

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

1           SECTION 1. The legislature finds that in 2013, the  
2 National Transportation Safety Board recommended that all fifty  
3 states adopt a Blood Alcohol Concentration (BAC) cutoff of 0.05  
4 compared to the 0.08 standard. According to the National  
5 Transportation Safety Board, lowering the rate to 0.05 would  
6 save about five hundred to eight hundred lives annually.

7           According to the National Transportation Safety Board, a  
8 driver with a BAC of 0.05 would be affected by exaggerated  
9 behavior, loss of small-muscle control and eye focus, impaired  
10 judgment, lowered alertness, and release of inhibition. This  
11 would result in reduced coordination, reduced ability to track  
12 moving objects, difficulty steering, and reduced response to  
13 emergency driving situations.

14           The legislature further finds that lowering the threshold  
15 of BAC cutoff to 0.05 would save lives, prevent catastrophic  
16 injuries, and decrease medical costs.

17

\_\_\_\_.B. NO.\_\_\_\_

1 The purpose of this Act is to lower the threshold of blood-  
2 alcohol content for the offense of operating a vehicle while  
3 under the influence of an intoxicant.

4 SECTION 2. Section 291E-3, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**~~§291E-3~~ Evidence of intoxication.** (a) In any criminal  
7 prosecution for a violation of section 291E-61 or 291E-61.5 or  
8 in any proceeding under part III:

9 (1) [~~.08~~] .05 or more grams of alcohol per one hundred  
10 milliliters or cubic centimeters of the person's  
11 blood;

12 (2) [~~.08~~] .05 or more grams of alcohol per two hundred ten  
13 liters of the person's breath; or

14 (3) The presence of one or more drugs in an amount  
15 sufficient to impair the person's ability to operate a  
16 vehicle in a careful and prudent manner,  
17 within three hours after the time of the alleged violation as  
18 shown by chemical analysis or other approved analytical  
19 techniques of the person's blood, breath, or urine shall be  
20 competent evidence that the person was under the influence of an  
21 intoxicant at the time of the alleged violation.

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(b) In any criminal prosecution for a violation of section 291E-61 or 291E-61.5, the amount of alcohol found in the defendant's blood or breath within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant's blood or breath shall be competent evidence concerning whether the defendant was under the influence of an intoxicant at the time of the alleged violation and shall give rise to the following presumptions:

- (1) If there were [~~.05~~] .02 or less grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or [~~.05~~] .02 or less grams of alcohol per two hundred ten liters of defendant's breath, it shall be presumed that the defendant was not under the influence of alcohol at the time of the alleged violation; and
- (2) If there were in excess of [~~.05~~] .02 grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or [~~.05~~] .02 grams of alcohol per two hundred ten liters of defendant's breath, but less than [~~.05~~] .05 grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood

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1 or [~~.00~~] .05 grams of alcohol per two hundred ten  
2 liters of defendant's breath, that fact may be  
3 considered with other competent evidence in  
4 determining whether the defendant was under the  
5 influence of alcohol at the time of the alleged  
6 violation, but shall not of itself give rise to any  
7 presumption.

8 (c) Nothing in this section shall be construed as limiting  
9 the introduction, in any criminal proceeding for a violation  
10 under section 291E-61 or 291E-61.5 or in any proceeding under  
11 part III, of relevant evidence of a person's alcohol  
12 concentration or drug content obtained more than three hours  
13 after an alleged violation; provided that the evidence is  
14 offered in compliance with the Hawaii rules of evidence."

15 SECTION 3. Section 291E-61, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) A person commits the offense of operating a vehicle  
18 under the influence of an intoxicant if the person operates or  
19 assumes actual physical control of a vehicle:

20 (1) While under the influence of alcohol in an amount  
21 sufficient to impair the person's normal mental

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1           faculties or ability to care for the person and guard  
2           against casualty;

3           (2) While under the influence of any drug that impairs the  
4           person's ability to operate the vehicle in a careful  
5           and prudent manner;

6           (3) With [~~0.08~~] 0.05 or more grams of alcohol per two  
7           hundred ten liters of breath; or

8           (4) With [~~0.08~~] 0.05 or more grams of alcohol per one  
9           hundred milliliters or cubic centimeters of blood."

10          SECTION 4. Section 291E-61.5, Hawaii Revised Statutes, is  
11          amended by amending subsection (a) to read as follows:

12          "(a) A person commits the offense of habitually operating a  
13          vehicle under the influence of an intoxicant if:

14           (1) The person is a habitual operator of a vehicle while  
15           under the influence of an intoxicant; and

16           (2) The person operates or assumes actual physical control  
17           of a vehicle:

18           (A) While under the influence of alcohol in an amount  
19           sufficient to impair the person's normal mental  
20           faculties or ability to care for the person and  
21           guard against casualty;

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- 1 (B) While under the influence of any drug that  
2 impairs the person's ability to operate the  
3 vehicle in a careful and prudent manner;  
4 (C) With [~~0.8~~] 0.05 or more grams of alcohol per two  
5 hundred ten liters of breath; or  
6 (D) With [~~0.8~~] 0.05 or more grams of alcohol per one  
7 hundred milliliters or cubic centimeters of  
8 blood."

9 SECTION 5. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

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

16 BY REQUEST

17

18 paf:kmatt:20-240f



\_\_\_\_.B. NO. \_\_\_\_\_

**Report Title:**

Lowers the threshold of Blood Alcohol Concentration to 0.05 for the offense of operating a vehicle while under the influence of an intoxicant.

**Description:**

A driver with a Blood Alcohol Concentration of 0.05 would be affected by exaggerated behavior, loss of small-muscle control and eye focus, impaired judgment, lowered alertness, and release of inhibition, resulting in reduced coordination, reduced ability to track moving objects, difficulty steering, and reduced response to emergency driving situations. Lowering the threshold of Blood Alcohol Concentration to 0.05, from 0.08, would save lives, prevent catastrophic injuries, and decrease medical costs.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*