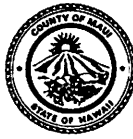


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Vice-Chair
Keani N.W. Rawlins-Fernandez

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Councilmembers
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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

September 9, 2021

Director of Council Services
Traci N. T. Fujita, Esq.
Deputy Director of Council Services
David M. Raatz, Jr., Esq.

RECEIVED
2021 SEP -9 AM 11:45
OFFICE OF THE
COUNTY CLERK

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

Dear Chair Lee:

**SUBJECT: HAWAII STATE ASSOCIATION OF COUNTIES (2022
HSAC LEGISLATIVE PACKAGE) (GREAT-3(1))**

May I request the attached proposed resolutions be placed on the next Council meeting agenda:

1. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2022 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ESTABLISH CRIMINAL OFFENSES OF UNLAWFUL CHOP SHOP ACTIVITY;" and
2. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2022 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ALLOW COUNTY REGULATION OF NOISE NUISANCES STRICTER THAN DEPARTMENT OF HEALTH RULES."

Sincerely,

A handwritten signature in black ink that reads "Michael J. Molina".

MICHAEL J. MOLINA, Chair
Government Relations, Ethics, and
Transparency Committee

great:ltr:003(1)ach01:ske

Enclosure

COUNTY COMMUNICATION NO. 21-443

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2022
HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A STATE BILL TO
ESTABLISH CRIMINAL OFFENSES OF
UNLAWFUL CHOP SHOP ACTIVITY

WHEREAS, a “chop shop” is a place of criminal activity, often mimicking a legitimate auto body or repair shop, where stolen motor vehicles or motor vehicle parts are taken to be altered to conceal their true identity; and

WHEREAS, chop shop activity may include the theft of motor vehicles and motor vehicle parts, defacing vehicle identification numbers, re-stamping false vehicle identification numbers into stolen vehicles, and re-sale of these stolen vehicles to unsuspecting, innocent buyers; and

WHEREAS, according to a “Crime in the U.S. 2019” report by the Federal Bureau of Investigation’s Criminal Justice Information Services Division, Hawai‘i had the third-highest motor vehicle theft rate in the nation at 371.1 per 100,000 people; and

WHEREAS, in 2019, the Maui Police Department reported 661 motor vehicle theft offenses and \$4,421,246 in stolen motor vehicle property; and

WHEREAS, there is no State statute covering the criminal misconduct of chop shop activity, and the need for such a statute has been established through numerous auto theft investigations that led to the discovery of chop shop activity as part of the criminal misconduct; now, therefore,

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

1. That the proposed State bill, attached as Exhibit “A,” to establish criminal offenses of unlawful chop shop activity, is approved for inclusion in the 2022 Hawai‘i State Association of Counties Legislative Package; and

Resolution No. _____

2. That certified copies of this Resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

paf:kmat:21-216c

____.B. NO.____

A BILL FOR AN ACT

RELATING TO UNLAWFUL CHOP SHOP ACTIVITY.

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

1 SECTION 1. The legislature finds that a chop shop is street
2 vernacular for a location where stolen motor vehicles or motor
3 vehicle parts are taken to be altered to conceal their true
4 identity. Chop shop activity may include the theft of motor
5 vehicles and motor vehicle parts, defacing vehicle identification
6 numbers, re-stamping false vehicle identification numbers into
7 stolen vehicles, and the re-sale of these stolen vehicles to
8 unsuspecting, innocent buyers.

9 The purpose of this Act is to establish the criminal offenses
10 of unlawful chop shop activity in the first and second degree, and
11 to provide for the forfeiture of property connected with chop shop
12 activity.

13 SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended
14 by adding a new part to be appropriately designated and to read as
15 follows:

16 **"PART**

17 **UNLAWFUL CHOP SHOP ACTIVITY**

18 **§708- Definitions.** As used in this part:

____.B. NO. _____

1 "Chop shop" means:

2 (1) Any building, lot, or other premises that is used to
3 store, destroy, dismantle, disassemble, or reassemble a motor
4 vehicle or two or more motor vehicle parts that the person knows
5 to have been stolen; or

6 (2) Any building lot, or other premises that is used to
7 alter, conceal, disguise, or remove the vehicle identification
8 number of at least one motor vehicle or two or more motor vehicle
9 parts from at least one motor vehicle that the person knows to
10 have been stolen.

11 "Motor vehicle" means any automobile, motorcycle, motorboat,
12 or other motor-propelled vehicle.

13 "Vehicle identification number" means the number that the
14 manufacturer or a governmental agency assigns to a motor vehicle
15 for the purpose of identifying the motor vehicle or a major
16 component part of the motor vehicle. "Vehicle identification
17 number" includes any combination of numbers or letters.

18 **§708- Unlawful chop shop activity.** A person commits
19 unlawful chop shop activity if the person knowingly:

20 (a) Owns or operates a chop shop;

21 (b) Transports a stolen motor vehicle or two or more stolen
22 motor vehicle parts to or from a chop shop;

____.B. NO. _____

1 (c) Sells or transfers to, or purchases or receives from a
2 chop shop a stolen motor vehicle or two or more stolen motor
3 vehicle parts; or

4 (d) Conducts or participates in the conduct of the affairs
5 of any chop shop by:

6 (A) Storing, destroying, dismantling, disassembling, or
7 reassembling a stolen motor vehicle or two or more stolen motor
8 vehicle parts; or

9 (B) Altering, concealing, disguising, or removing the
10 vehicle identification number of at least one stolen motor vehicle
11 or two or more motor vehicle parts from at least one stolen motor
12 vehicle.

13 **§708- Unlawful chop shop activity in the first degree. (1)**

14 A person commits the offense of unlawful chop shop activity in the
15 first degree if the person commits unlawful chop shop activity and
16 the total value of all stolen motor vehicles or stolen motor
17 vehicle parts stored, transported, sold, transferred, purchased,
18 received, destroyed, dismantled, disassembled, reassembled, or
19 made unidentifiable by altering, concealing, disguising, or
20 removing the vehicle identification number of the motor vehicle or
21 motor vehicle parts by the person is equal to or greater than
22 \$250,000.

____.B. NO. _____

(2) Unlawful chop shop activity in the first degree is a class A felony.

§708- Unlawful chop shop activity in the second degree.

(1) A person commits the offense of unlawful chop shop activity in the second degree if the person commits unlawful chop shop activity and the total value of all stolen motor vehicles or stolen motor vehicle parts stored, transported, sold, transferred, purchased, received, destroyed, dismantled, disassembled, reassembled, or made unidentifiable by altering, concealing, disguising, or removing the vehicle identification number of the motor vehicle or motor vehicle parts by the person is less than \$250,000, but equal to or greater than \$100,000.

(2) Unlawful chop shop activity in the second degree is a class B felony.

§708- Forfeiture of property connected with chop shop activity. Any motor vehicle, motor vehicle part, tool, implement, or real property possessed or used in violation of this part, or any money obtained in violation of this part may be ordered forfeited to the State, subject to the requirements of chapter 712A.""

SECTION 3. Statutory material to be repealed is bracketed and in strikethrough. New statutory material is underscored.

____.B. NO. _____

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. This Act shall take effect upon its approval.

5

6 INTRODUCED BY: _____

7

8 paf:kmatt:21-216a

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2022
HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A STATE BILL TO
ALLOW COUNTY REGULATION OF NOISE
NUISANCES STRICTER THAN DEPARTMENT OF
HEALTH RULES

WHEREAS, noise emanating from mechanized agricultural activities, equipment, or machinery often presents unique challenges to adjacent residential communities; and

WHEREAS, the State Department of Health's administrative rules on agricultural noise stipulate the maximum allowable noise at 70 decibels, both day and night, permitted by agriculture activities; and

WHEREAS, county ordinances regulating agricultural noise, whether stricter or more lenient than the Department of Health's rules, are ineffective under State law; now, therefore,

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

1. That the proposed State bill, attached as Exhibit "A," to allow counties to regulate agricultural noise is approved for inclusion in the 2022 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO REGULATION OF CERTAIN PUBLIC NUISANCES.

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

1 SECTION 1. The legislature finds that noises emanating from
2 mechanized agricultural activities, equipment, or machinery, and
3 in particular noises from industrial sized air handling units or
4 fans, may present a unique nuisance to adjacent residential
5 communities, requiring local regulation stricter than the
6 department of health regulations to address the condition.

7 The purpose of this Act is to allow counties to regulate
8 agricultural noise by ordinance in manner more exacting and
9 stricter than rule adopted by the department of health on noise
10 nuisances under authority of chapter 342F.

11 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
12 by amending section 46-17 to read as follows:

13 **"§46-17 Regulation of certain public nuisances.** Any
14 provision of law to the contrary notwithstanding, the council of
15 any county may adopt and provide for the enforcement of ordinances
16 regulating or prohibiting noise, smoke, dust, vibration, or odors
17 which constitute a public nuisance. No such ordinance shall be
18 held invalid on the ground that it covers any subject or matter

____.B. NO. _____

embraced within any statute or rule of the State; provided that in any case of conflict between a statute or rule and an ordinance, the law affording the most protection to the public shall apply, with the exception that:

(1) An ordinance shall not be effective to the extent that it is inconsistent with any permit for agricultural burning granted by the department of health under authority of chapter 342B, or to the extent that it prohibits, subjects to fine or injunction, or declares to be a public nuisance any agricultural burning conducted in accordance with such a permit; and

(2) An ordinance shall not be effective to the extent that it is ~~[inconsistent with]~~ less stringent than any noise rule adopted by the department of health under authority of chapter 342F."

SECTION 3. Statutory material to be repealed is bracketed and in strikethrough. New statutory material is underscored.

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

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

paf:rem:21-208a