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OFFICE OF THE
COUNTY COUNCIL

MEMO TO: GREAT-3(1) File

F R O M: Kelly Takaya King, Councilmember

Kelly T. King

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
2022 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE** (PAF 21-282)

The attached legislative proposal pertains to Item 3(1) on the Committee's agenda.

paf:dmr:21-282c

Attachment

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2022
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 2022 Hawai‘i 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.

____.B. NO.____

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

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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 [~~.08~~] .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 [~~0.8~~] 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: _____

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17 paf:dmr:21-282a