

COUNCIL OF THE COUNTY OF MAUI

HUMAN SERVICES AND ECONOMIC DEVELOPMENT COMMITTEE

August 2, 2002

Committee
Report No.

02-93

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Human Services and Economic Development Committee, having met on July 18, 2002, makes reference to County Communication No. 02-133, from the Acting Council Chair, transmitting a draft bill entitled, "A BILL FOR AN ORDINANCE RELATING TO SMOKING IN RESTAURANTS".

The purpose of the draft bill is to protect and promote public health by banning smoking in restaurants, subject to limited exceptions.

By correspondence dated July 8, 2002, your Committee Chair requested that the Department of the Corporation Counsel transmit the proposed bill, approved as to form and legality.

Your Committee notes that it is in receipt of written testimony from 21 individuals in support of the proposed bill.

By correspondence dated July 11, 2002 to Dr. Bruce Anderson, Director, Department of Health, your Committee Chair requested the attendance of the Department's Coordinator of the Tobacco Prevention and Education Program at your Committee's meeting of July 18, 2002.

By correspondence dated July 11, 2002 to the Economic Development Coordinator, your Committee Chair requested that (1) a representative attend your Committee's July 18, 2002 meeting; and (2) information be submitted relating to the economic impact of a smoking ban on the restaurant industry.

By correspondence dated July 11, 2002 to the Fire Chief, your Committee requested (1) the attendance of a representative at your Committee's meeting of July 18, 2002; and (2) comments on the portion of the proposed bill that would require the Department of Fire Control to compare bar operators' gross food sales receipts with gross alcohol sales receipts.

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By correspondence dated July 17, 2002, your Committee received the proposed bill, approved as to form and legality, by the Department of the Corporation Counsel.

By correspondence dated July 17, 2002, the Acting Council Chair transmitted a report entitled "PROPOSED SMOKING BAN IN RESTAURANTS FOR MAUI COUNTY, STATE OF HAWAII". Your Committee notes that the report includes the following: (1) information on Environmental Tobacco Smoke (ETS); (2) a summary of Hawaii's State and County laws on smoking; (3) a list of U.S. communities with local tobacco control ordinances; (4) a list of 2001 Arrivals in Maui County from top 20 U. S. Metropolitan service areas, Japan, and Canada; (5) an analysis of how smoke-free laws have affected the restaurant business in other states and municipalities; and (6) a summary of information received regarding a smoking ban in restaurants in Maui County.

By correspondence dated July 17, 2002, the Acting Council Chair transmitted a comparison between Honolulu's Ordinance No. 02-06 and Maui County's proposed bill.

At its meeting, your Committee met with a Captain from the Department of Fire Control; a Captain from the Department of Police; the Economic Development Coordinator; a Deputy Corporation Counsel; and Julian Lipsher, Coordinator, Tobacco Education and Prevention Program, Department of Health.

Your Committee received oral testimony from 14 individuals, some of whom also provided their comments in writing. One testifier voiced his opposition to the proposed bill by stating that (1) new technology is available that can remove smoke from the air; (2) he never received any complaints about cigar or cigarette smoke from patrons or employees at a restaurant he owned previously; and (3) that in Davis, California, a number of bars were shut down after the State imposed a non-smoking ban in bars and restaurants.

The remaining testifiers supported the bill outright, or suggested slight modifications such as: (1) extending the smoking ban to all bars in order to ensure healthier workplaces as well as leveling the playing field for business competitors; and (2) relieving the Department of Fire Control of the responsibility

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of comparing gross food sales receipts with gross alcohol sales receipts to determine which bars should actually be considered restaurants, and should therefore be included in the smoking ban. Some of the testifiers further stated they believed that although new technology may remove smoke from the air in a room, they did not believe that there was evidence to support the claim that the carcinogenic elements would also be removed from the air.

Additionally, two other individuals submitted written testimony in support of the bill.

Your Committee received an overview from the Acting Council Chair regarding the origins of the proposed bill. He noted that work began on the bill approximately one year ago, and was drafted with the intent of protecting children, nonsmokers, those suffering from chronic respiratory ailments and restaurant employees from ETS. Although he had hopes that the State Legislature would pass a similar bill during the last Legislative Session, this effort was not successful.

He also noted that the Hawaii State Association of Counties (HSAC) previously discussed the possibility of each county introducing similar legislation at about the same time. Currently, the City and County of Honolulu has passed its version of a restaurant smoking ban, while Maui County's work has just begun. Kauai County will be considering similar legislation of its own shortly, and Hawaii County will be developing its proposed bill over the next few months.

Finally, the Acting Council Chair also noted that his office conducted a survey of Maui County restaurants and 69 percent of the restaurants surveyed were in support of the bill.

Your Committee also received a presentation by Julian Lipsher, Coordinator, Tobacco Prevention and Education Program, State Department of Health. Mr. Lipsher provided oral and written comments in support of the proposed bill. He also provided written testimony on behalf of Bruce S. Anderson, Director, State Department of Health, in support of the proposed bill.

Mr. Lipsher also noted that in working with representatives of the City and County of Honolulu in the passage of a similar bill, it was decided that a major

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educational effort would be needed. For instance, training sessions for restaurant owners and managers will teach (1) the importance of posting signage; (2) methods by which smoking customers are informed of the law; and (3) how to designate an area outside of the restaurant and away from the front door that patrons can use to smoke.

He also noted that the Honolulu Police Department has developed a policy for handling calls regarding smoking in restaurants. For instance, if a patron of a restaurant called the police because another restaurant patron was smoking, the police dispatcher would ask the patron to alert a manager. If that failed to end the smoking of the other patron, the police dispatcher would send an officer to the restaurant only if the caller identified him or herself for purposes of a police report. Once the officer arrives at the restaurant, the officer would ask the offending patron to stop smoking. If the patron refuses, the officer would then issue a citation.

Mr. Lipsher also noted that if the educational programs for restaurants, police and the community at-large are executed effectively, there should be little need for anyone beyond the restaurant manager to enforce the no-smoking rule.

In conclusion, Mr. Lipsher noted that the Department of Health would be conducting an economic study on the impacts of the restaurant smoking ban in approximately six months to a year.

Your Committee also received comments from the Economic Development Coordinator in support of the proposed bill. She also noted that the Mayor also supported the bill and would sign it upon passage by the Council.

In studying this issue, she found that numerous studies throughout the country have shown that there are no negative impacts as the result of a restaurant smoking ban. In fact, many establishments have seen an increase in sales. Further, she noted that if the smoking ban in restaurants became law, her office would take an active role in ensuring that the transition toward smoke-free restaurants was a smooth one.

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The Captain of the Department of Fire Control stated that the Department would enforce the provisions of the proposed bill, but would also be open to sharing some of the responsibilities with another Department.

The Captain of the Department of Police stated that the Department had no objections to the proposed bill, but would look into creating a policy similar to the one outlined by the Honolulu Police Department.

After a brief discussion in support of the proposed bill, your Committee voted to delete the definition of "nightclub" in the bill, as this term is not referred to anywhere else in the bill. Your Committee also voted to recommend passage of the proposed bill and filing of the communication.

Your Human Services and Economic Development Committee RECOMMENDS the following:

1. That Bill No. _____ (2002), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE RELATING TO SMOKING IN RESTAURANTS", PASS FIRST READING and BE ORDERED TO PRINT; and
2. That County Communication No. 02-133 be FILED.

Adoption of this report is respectfully requested.

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