

COUNCIL OF THE COUNTY OF MAUI

**ECONOMIC DEVELOPMENT, ENERGY,
AGRICULTURE, AND RECREATION
COMMITTEE**

April 4, 2014

**Committee
Report No.** _____

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

Chair and Members:

Your Economic Development, Energy, Agriculture, and Recreation Committee, having met on March 14, 2014, and March 21, 2014, makes reference to County Communication 14-49, from Councilmember Don S. Guzman, transmitting a proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PROHIBITING TOBACCO USE AND TOBACCO PRODUCTS IN COUNTY PARKS".

The purpose of the proposed bill is to prohibit the use of tobacco, tobacco products, and electronic smoking devices at County parks and recreational facilities, including County beaches.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, approved as to form and legality, incorporating nonsubstantive revisions.

The proposed bill will mitigate negative environmental impacts to the marine environment caused by waste from tobacco products, such as cigarette butts and tobacco. The bill will further mitigate negative health impacts, such as secondhand smoke, to park users caused by exposure to smoking.

A representative of the Department of Parks and Recreation informed your Committee the Department supports the measure, but recommended the bill be revised by exempting the Waiehu Municipal Golf Course and smoking areas to be designated by the Director of Parks and Recreation.

The representative expressed concern about the availability of personnel and funding resources required by the Department for enforcement, and potential conflicts with collective bargaining agreements. She informed your Committee there are currently two employee grievances pending before the City and County of Honolulu concerning its

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smoking prohibition ordinance; however, there are no employee grievances filed against the County of Hawaii on its smoking prohibition ordinance.

Your Committee notes Chapter 8.20, Maui County Code, and Chapter 328J, Hawaii Revised Statutes, prohibit smoking in designated areas. Your Committee has not been informed of any employee grievances arising from those prohibitions.

Your Committee decided against exempting the Waiehu Municipal Golf Course and designated smoking areas from the prohibition.

In addition, your Committee deleted the definition of “electronic smoking device” and the prohibition of electronic smoking devices because electronic smoking devices are not tobacco products.

Your Committee notes the revised proposed bill is intended as a step in the continuing effort, reflected in existing State and County laws, toward mitigating the environmental and health impacts caused by smoking and tobacco use.

Your Committee voted 4-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Guzman, and members Crivello, Cochran, and White voted “aye”. Committee Vice-Chair Carroll, and members Baisa and Victorino were excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions.

Your Economic Development, Energy, Agriculture, and Recreation Committee **RECOMMENDS** the following:

1. That Bill _____ (2014), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PROHIBITING TOBACCO USE AND TOBACCO PRODUCTS IN COUNTY PARKS”, be PASSED ON FIRST READING and be ORDERED TO PRINT; and

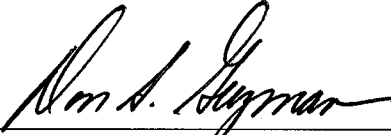
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2. That County Communication 14-49 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



DON S. GUZMAN, Chair

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PROHIBITING TOBACCO USE AND TOBACCO PRODUCTS IN COUNTY PARKS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this ordinance is to protect and promote public health by banning smoking in public parks under the jurisdiction of the County. The Council finds that this ordinance is more stringent than Part I, Chapter 328J, Hawaii Revised Statutes.

SECTION 2. Section 13.04.020, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Cigar" means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco.

"Smoke" or "smoking" means inhaling or exhaling upon, burning, or carrying any lit cigarette, cigar or pipe.

"Tobacco products" means tobacco in any form, other than cigarettes, that is prepared or intended for consumption or for personal use by humans, including cigars and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco."

SECTION 3. Section 13.04.040, Maui County Code, is amended by amending subsection A to read as follows:

"A. Within the limit of any park or within any recreational facility, it is unlawful for any person to:

1. Abandon any vehicle or other personal property or leave any vehicle or other personal property unattended for a period in excess of twenty-four hours;
2. Throw or dispose of any refuse or any waste material except in a receptacle designated for such;
3. Permit any animal, except as hereinafter provided in subsection D [of this section], to enter and to remain within the confines of any park area;
4. Destroy, injure, deface, or remove in any manner any public structure, sign, equipment, monument, or device;
5. Discharge firearms, air rifles, or spring guns, except at a range established and regulated for that specific purpose;
6. Defecate or urinate on the grounds or improvements of any park or recreational facility, except in properly functioning toilets or urinals in public restrooms;
7. Engage in smoking or the use of tobacco products."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

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

APPROVED AS TO FORM AND
LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui