

**COUNCIL OF THE COUNTY OF MAUI**

**HOUSING, HUMAN SERVICES, AND  
TRANSPORTATION COMMITTEE**

November 6, 2015

**Committee  
Report No. \_\_\_\_\_**

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

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on October 15, 2015, makes reference to County Communication 15-240, from Councilmember Elle Cochran, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO REQUIRE BABY DIAPER-CHANGING ACCOMMODATIONS FOR CERTAIN NEW ESTABLISHMENTS AND USES."

The purpose of the proposed bill is to require baby diaper-changing accommodations for certain new establishments and uses.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 8, MAUI COUNTY CODE, RELATING TO REQUIREMENTS FOR BABY DIAPER-CHANGING ACCOMMODATIONS FOR CERTAIN NEW ESTABLISHMENTS AND USES," approved as to form and legality, incorporating nonsubstantive revisions.

The proposed bill defines a "baby diaper-changing accommodation" to mean a "safe, sanitary, and convenient baby diaper-changing station, deck, table, or similar amenity that is installed or placed in a separate, designated location," to include stations, decks, and tables in women's and men's restrooms or family restrooms. The proposed bill lists 19 types of establishments or uses subject to the requirement, including airports, hospitals, hotels, public facilities, and retail establishments.

The proposed bill also states when the requirements would apply and when they would be exempted, including an exemption for hardship.

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Your Committee notes the Honolulu City Council enacted a similar ordinance as part of its Building Code (Chapter 16 of the Revised Ordinances of Honolulu 1990), effective August 14, 2015 (Ordinance 15-38).

The proposed bill would insert the new requirement into Title 8, relating to Health and Safety. Whether a new establishment or use is required to provide baby diaper-changing accommodations would generally be determined by the extent of building improvements or at the time of building permit review, pursuant to proposed Section 8.36.020, Maui County Code ("MCC"). As such, it appears the proposer's intent is to have the requirement administered and enforced by the Department of Public Works, pursuant to Section 19.530.030, MCC. Therefore, the Chair of your Committee requested the Department comment on the proposed bill.

The Director of Public Works transmitted correspondence dated October 15, 2015, along with an annotated copy of the proposed bill, requesting clarification on definitions, triggers for the diaper-changing accommodations requirement, signage specifications, criteria for exemptions, and a penalties provision. He also suggested engaging the State Department of Health in a discussion of applicable standards.

The Deputy Director said the Department's counterpart at the City and County of Honolulu has not yet had an opportunity to apply Ordinance 15-38 in its building permit review process.

Your Committee received written testimony from the Hawaii Food Industry Association expressing concerns whether the proposed diaper-changing stations, when lowered for use, may violate the Americans with Disabilities Act by impeding minimum clear floor space, and requesting food retailers be exempted. The Chamber of Commerce Hawaii expressed similar concerns.

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Your Committee discussed whether minimum-size standards should be incorporated into the trigger for establishments or uses, and whether added specificity is needed to understand what would constitute a diaper-changing accommodation. Your Committee also questioned how the requirement would apply in rural communities such as Lanai and Molokai.

Because the proposed bill involves questions relating to building permit requirements and would be administered by the Department of Public Works, your Committee felt it more appropriate for your Infrastructure and Environmental Management Committee to continue the review of the proposed bill.

Your Committee voted 4-0 to recommend referral of County Communication 15-240 to your Infrastructure and Environmental Management Committee. Committee Chair Crivello and members Couch, Guzman, and Hokama voted "aye." Committee Vice-Chair Baisa and members Carroll and Victorino were excused.

Your Housing, Human Services, and Transportation Committee **RECOMMENDS** that County Communication 15-240 be **REFERRED** to your Infrastructure and Environmental Management Committee.

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

  
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STACY CRIVELLO, Chair