

# MULTIMODAL TRANSPORTATION COMMITTEE

Council of the County of Maui

## MINUTES

December 2, 2019

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:03 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Yuki Lei K. Sugimura, Chair  
Councilmember Riki Hokama Vice-Chair (out at 10:39 a.m.)  
Councilmember Tasha Kama (out at 10:37 a.m.; in at 10:59 a.m.)  
Councilmember Kelly T. King (in at 9:15 a.m.)  
Councilmember Alice L. Lee  
Councilmember Tamara Paltin  
Councilmember Shane M. Sinenci

**STAFF:** Shelly Espeleta, Legislative Analyst  
Chester Carson, Legislative Analyst  
Stacey Vinoray, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci  
Sarah Pajimola, Executive Assistant to Councilmember Keani Rawlins-Fernandez

**ADMIN.:** Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
William Hankins, Police Lieutenant, Maui Police Department  
Donald Guzman, Prosecuting Attorney, Department of the Prosecuting Attorney  
Byron Fujieda, Deputy Prosecuting Attorney, Department of the Prosecuting Attorney  
Lesley Matthews, Deputy Prosecuting Attorney, Department of the Prosecuting Attorney  
Jill Uehara, Deputy Prosecuting Attorney, Department of the Prosecuting Attorney

**OTHERS:** Francine "Mopsy" Aarona  
Andrea Maniago,

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Everett Brown, Mothers Against Drunk Driving ("MADD")  
Charlene Brown, MADD  
(3) additional attendees

**PRESS:** *Akaku: Maui Community Television, Inc.*

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CHAIR SUGIMURA: . . .(gavel). . . Good morning everyone. Welcome to the first meeting of the Multimodal Transportation Committee, December 2<sup>nd</sup>, ready for Christmas meeting. Welcome, everybody. It is now 9:03 a.m. My name is Yuki Lei Sugimura. Thank you, Vice-Chair Riki Hokama, for being here. Good morning. Shane Sinenci from Hana, welcome.

COUNCILMEMBER SINENCI: Aloha, ohayo gozaimasu.

CHAIR SUGIMURA: Ohayo. Okay, got to hear from Alice.

COUNCILMEMBER LEE: Madame Chair --

CHAIR SUGIMURA: Good morning, Alice.

COUNCILMEMBER LEE: --in the spirit of Christmas I say to you buongiorno, my ravioli.

CHAIR SUGIMURA: You make our meetings so fun. Tamara Paltin, good morning.

COUNCILMEMBER PALTIN: Aloha kakahiaka, Chair.

CHAIR SUGIMURA: Aloha. And Tasha Kama.

COUNCILMEMBER KAMA: Good morning, Chair.

CHAIR SUGIMURA: Good morning. Thank you, everybody, for being here. It does feel like Christmas with all the poinsettia on our tables and our beautiful decoration in the gallery outside that was done by all the many employees who've contributed, so I appreciate that. Today I have one item on my agenda, which is Promoting Roadway Safety, MT-33, and I look forward to hearing from...I have one testifier in the audience, Auntie Mopsy. Oh, I have two? Auntie Mopsy and...oh, I have two. Very good. From MADD also. So, Auntie Mopsy, you want to come up and...so you know you have three minutes, identify yourself, and we only have one item on the agenda. I look forward to hearing from you.

**. . .BEGIN PUBLIC TESTIMONY. . .**

MS. AARONA: Aloha, everyone, Madame Chair and Councilmembers. It's always a privilege to be here. I'm Francine, Auntie Mopsy, Protect Paia, Aarona. And I'm here to

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acknowledge this bill and to support it because I am the very one who gets after Officer Kalama and all his crew people and Officer Munoz to clear the abandoned cars that are on the stretch of Hana Highway in front of the old lime kiln. And it's really bad, it stays there forever. So, the last push that I had with Councilmember Molina, they were able to take care of all these abandoned car and I am in support of them, that they should be the ones who cite them, who gets that tow truck and move it because otherwise it will stay there for five or more days before it gets cleared. It goes through the process of, okay, I see the writing on the car, and then you go to the next point and the next point. I think that the Police should have the authority to take care of business, they are there for us, and they're doing a darned good job. So, I would like to support this bill to move forward, that they give...to amend and to give them that privilege of helping the community get rid of these cars, cited vehicles and, of course, drunk driving. Yeah.

CHAIR SUGIMURA: Thank you.

MS. AARONA: So, mahalo.

CHAIR SUGIMURA: Thank you. Who's Officer Kalama? Is that what you said?

MS. AARONA: Officer Kalama is one of the officers that take care of the area in Paia.

CHAIR SUGIMURA: Oh, okay.

MS. AARONA: It's him and of course I have his personal phone. So, he gets it all. There are other officers there and then when I really get a headache then I call Officer Munoz, I think, who is in charge of that area. But they really work hand-in-hand with the community and try to, you know, help us take care of that because if you've driven through Paia, it's getting rather busy. Quite busy. The last town before you get to Hana. So, yeah.

CHAIR SUGIMURA: Thank you.

MS. AARONA: You're welcome.

CHAIR SUGIMURA: Thank you for living your passion always. Anyone have questions?  
Tamara Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to clarify the seven statutes that they would be towing the car for if you're in support of them all, driving without a license, driving with license...while license is suspended or revoked, operating a vehicle under the influence of an intoxicant in violation, habitually operating a vehicle under the influence of an intoxicant, operating a vehicle after license and privilege has been suspended or revoked for operating a vehicle under the influence of an intoxicant, operating a vehicle after consuming a measurable amount of alcohol if under the age of 21, and fraudulent use of plates, tags, or emblems. You're in support for towing on all those unless there's a licensed driver that will take over?

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MS. AARONA: Correct.

COUNCILMEMBER PALTIN: Okay, thank you.

MS. AARONA: Because otherwise, the car going sit there and they cannot drive it. Too intoxicated. Yeah.

COUNCILMEMBER PALTIN: Thank you.

MS. AARONA: Thank you.

CHAIR SUGIMURA: Thank you very much. Any other questions? Seeing none, thank you very much, Aunty Mopsy.

MS. AARONA: You're welcome.

CHAIR SUGIMURA: You know, I was so excited to move forward...no, you can...thank you. I need to also thank the other Members who are here for this meeting and I wanted to recognize Lieutenant William Hankins, Traffic Section Supervisor from the Police Department, and is Nick Krau here from the Traffic Section? I can't see. No? Just you? Okay. And Don Guzman, Prosecuting Attorney, thank you for being here, and he's here with this team. Appreciate it. Byron Fujieda, Deputy Prosecuting Attorney, Lesley Mathers [sic], a friend of ours who's now a Deputy Prosecuting Attorney. Okay, I see her around with them doing community projects, so you're having a blast there aren't you? Yeah. And Jill Uehara, which is also a Deputy Prosecuting Attorney. Appreciate Michael Hopper, Corp. Counsel who worked very hard with my office and Staff to work on this proposed legislation. Committee Staff appreciated at OCS, Shelly Espeleta, my Legislative Analyst, Chester Carson, who's sitting back here. Thank you very much. And Stacey Vinoray, our Secretary for this Department [sic]. And on the district, from the district, we have all members who are online, but I understand there's not testifiers, but I'll check back with you after I take the next testifier. Thank you very much. We have our next testifier from MADD, Andrea Maniago. Thank you, Andrea.

MS. MANIAGO: Hi, my name is Andrea Maniago. I lost my son ten years ago to a drunk driver. I'm in support for this proposed towing law. I feel as if this new proposed law is just another tool to help get impaired drivers off the road. It is also another consequence that the DUI offender will have to face. Do you know that the statistics show an average drunk driver has driven drunk over 80 times before their first arrest? So, let's make a change because the consequences don't seem to be enough. From ten years ago, I've only seen the number of drunk drivers and death rates grow. Let's be active and make not only a change, but also let's make a difference. Thank you.

CHAIR SUGIMURA: Thank you very much. Anybody have any questions? Seeing none, thank you very much --

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MS. MANIAGO: Thank you.

CHAIR SUGIMURA: --for your commitment to the cause. Appreciate it. From the...any other testifiers in the gallery? Seeing none, from the District Offices, Mavis Medeiros, from Hana, any testifiers?

MS. OLIVEIRA-MEDEIROS: Aloha, Chair, there's no testifiers in Hana.

CHAIR SUGIMURA: Thank you. Zhantell Lindo from Molokai?

MS. LINDO: Good morning, Chair, there are no testifiers at the Molokai Office.

CHAIR SUGIMURA: Denise Fernandez from Lanai, any testifiers?

MS. FERNANDEZ: Good morning, Chair, there are no testifiers at the Lanai Office.

CHAIR SUGIMURA: Thank you. I see we have another testifier in the Chambers. Or just one? We have Hannah Brown's parents. Are you going to testify?

MR. BROWN: . . . *(inaudible)* . . .

CHAIR SUGIMURA: Okay, please come forward.

MR. BROWN: . . . *(inaudible)* . . .

CHAIR SUGIMURA: Yeah.

MR. BROWN: Good morning. Aloha.

CHAIR SUGIMURA: Thank you for being here.

MR. BROWN: Thank you, guys, sorry we late. So, still...aloha, my name is Everett Brown. My daughter was Hannah Brown, is Hannah Brown. Still kind of relatively new to this so not really sure what is appropriate to say. However, I'll just let you guys know. You know, if we could...if I was to ask you guys to pretend, yeah, that you guys...that your kid or loved one was gone, yeah? Say I had to ask you guys to pretend. That would be hard to do, yeah? Well, I don't have to pretend, yeah? But what I do have to pretend is that the consequences that we get in place for stuff like this is justifiable, yeah? I got to pretend that it is, because it's not. I lost my daughter. That girl that took my daughter, still walking around. Still can go work. You know what I'm saying? That's hard for swallow. So, I'm really not sure if it's the community's problem to fight, you know. Especially when the consequences is not our choice, yeah? So, if it was my choice, you guys heard it already. I say 20 years just drinking and driving. Even if it's just a scare tactic. Twenty years, nobody like spend 20 years just for drinking and driving, but they take the slap on the wrist that they going get now. You know what I'm saying? So, really I'm here because I never thought I was going be this guy, yeah? I never thought was going happen to me. Then, boom, thing happened to

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me. Unreal. Now, I got to stand over here and tell you guys about it, yeah, so that this is not somebody else standing over here telling you guys the same thing. I told *Maui Now*, 30-plus years ago I was in elementary school doing no drink and drive signs, yeah? I was. Thirty-plus years later, guess what I doing, no drink and drive signs. That means we never do nothing yet, 30-plus years. Still get the same problem. I appreciate you guys listening, thank you guys very much. Sorry I'm late again, yeah?

CHAIR SUGIMURA: No, thank you very much for being here.

MR. BROWN: Thank you.

CHAIR SUGIMURA: And I understand it was Hannah's birthday last week Friday.

MR. BROWN: It was. Yeah.

CHAIR SUGIMURA: Yeah. Happy birthday to her, and thank you very much for being at the sign-waving which Lieutenant Hankins coordinated.

MR. BROWN: Of course.

MRS. BROWN: Yes.

CHAIR SUGIMURA: Thank you.

MRS. BROWN: Yeah.

CHAIR SUGIMURA: And Mr. Guzman and your whole crew were there too --

MRS. BROWN: Yeah.

MR. BROWN: And we appreciate everybody --

CHAIR SUGIMURA: --appreciate it. And some of the Councilmembers...

MR. BROWN: --that participated, yeah?

MRS. BROWN: Yeah.

CHAIR SUGIMURA: Yeah. Thank you for being there.

MR. BROWN: We never expected this much support. So --

MRS. BROWN: Thank you.

MR. BROWN: --now we giving our support. Thank you, guys.

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CHAIR SUGIMURA: Thank you.

MRS. BROWN: Thank you.

MR. BROWN: Mahalo.

CHAIR SUGIMURA: Anyone have questions? Sorry. Anyone have questions? Seeing none, thank you. Thank you very much.

MR. BROWN: Thank you, guys.

CHAIR SUGIMURA: Member King, thank you for joining us.

COUNCILMEMBER KING: Good morning, Chair.

CHAIR SUGIMURA: Good morning. No other testifiers. Boy, that's heartwarming. I wanted to...okay, I guess at this time we'll close public testimony if it's okay.

COUNCILMEMBERS: No objections.

CHAIR SUGIMURA: No objection, thank you. I'm going to close public testimony.

**. . .END OF PUBLIC TESTIMONY. . .**

## **MT-33: PROMOTING ROADWAY SAFETY (CC 19-400)**

CHAIR SUGIMURA: Today I have one item on the agenda which is MT-33 and it is a proposed ordinance that has been worked on pretty hard by Corp. Counsel and the departments, A Bill for an Ordinance Relating to Police Authority to Have Motor Vehicles Towed, and that's the title of the bill. And the purpose of the proposed bill is to amend Chapter 10.08, Maui County Code, to authorize police officers to tow a motor vehicle if a motorist is cited or arrested for certain traffic violations such as operating or habitually operating a vehicle under the influence of an intoxicant. I'm going to be considering passage of this bill today after I hear from the Committee. I look forward to hearing from all of you as well as the departments. And I just wanted to explain why this is important for us to take up and I appreciate all the Committee Members who have been discussing this over three meetings and...to take us to where we are today. And I think the shocking thing was when we learned that there was actually 66 percent of traffic fatalities on roadways that are attributed to drivers under the influence of alcohol or drugs. It's pretty staggering. And as an additional means to make our roads safer and remove impaired drivers from our roads, police officers were citing, when citing or arresting drivers for certain traffic violations such as operating or habitually operating a vehicle under an intoxicant, will be authorized to tow the vehicle under this proposed bill. The bill is modeled after legislation which was brought up, I think, by Lieutenant Hankins or Mr. Guzman the first meeting, Mr. Guzman, the first meeting, and it was...this was modeled after a ordinance that

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Big Island did for Kailua-Kona, Aliyah Braden, who was a 17-month-old toddler who was killed in 2009 when her...when she was with her mother when a drunk driver ran a red light and plowed through their car. Since this law went into effect just as, in 2016, Hawaii County Police have ordered 2,168 vehicles towed at the driver's expense. Annually, traffic fatality counts have also decreased on the Big Island due to this ordinance. I wanted to get comments from Police, Prosecuting Attorney, and then Corp. Counsel if you have any comments, and then open up discussion to the Members. So at this time, Police, would you like to say a few words, Mr. Hankins?

MR. HANKINS: Yeah, good morning. Thank you for having me here. This ordinance, the purpose of this ordinance is to take away a weapon when you're arrested for impaired driving. Too many times we have to see the reality of exactly what Mr. Brown was talking about, and what he has to live with every day. By passing this bill and making this an ordinance for Maui County and giving us the ability to tow these vehicles, it's not something where we want to tack on an additional punishment, we want to save lives. That is the purpose of this bill. It will work. We'll have the publications put out there for the media for everybody else. The idea behind this is we want to generate voluntary compliance with people. We want people to think if you go back to the days when Keith Taguma was out here citing parking. Everybody knew if you parked in Wailuku Town and you were there for too long, you're going to get a citation. We need that mentality with the public where if you drink and drive, you're going to get arrested and you're going to get your vehicle towed. That's what we need to change, and that will save lives.

CHAIR SUGIMURA: Mr. Guzman?

MR. GUZMAN: Thank you, Madame Chair. Thank you, Members, for allowing my team and the MPD to be here on the floor to present the legislation. As Chair has mentioned, this legislation is not anything new. It's Aliyah's law on the Big Island, and has been effective. Currently, we have the highest rate of fatality that we've faced in the last decade. We've had 22 fatalities this year, 15 of those are related to impaired driving. And so, something needs to be done now. This is especially important because this December, this month, is National Impairment Month. And so, if this Council would pass something like this as a deterrent to our community saying, look, we're going to do something about this. If you are arrested, and this is the difference between our legislation and Big Island's. Our legislation, you have to be arrested in order for the car to be then designated as being forfeited...or not forfeited, towed. And once it's towed, the defendant or alleged perpetrator would have 30 days to then go to the impoundment and bail out their vehicle. So, basically we're saying, if you're going to drink and drive, we're going to take your car away and it's going to be your responsibility to then get your car back. As the Browns said, everything that is of consequence can be done through this bill in the smaller steps. So, if we can do something as small as just getting it out there and getting it known to the public that if you're going to commit these type of crimes, there are going to be consequences financially as well as criminal when we do take them to court. Our statistics right now in our court cases, we currently have had since October 1, 2018 up to September 30, 2019, approximately 563 DUI cases received from MPD. Approximately

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18 of those cases were declined because of proof. We've actually been able to take on and convict 443 cases, 102 cases are still pending. We definitely are working, but we need the community's support. We need the Council's support. And with this bill, we fine-tuned it with Corp. Counsel. We've had a couple meetings on it. I believe it is Constitutionally sound. We do have provisions in here that include other offenses, but remember, MPD is not going to be able to tow your vehicle if you are not arrested. So, you could be cited and the legislation won't be in effect, but once you're arrested then it'll give the ability to, for MPD to then tow the vehicle. Okay, that's basically it. It would be nice if we could name this bill Hannah Brown Bill, just like Big Island's has their own special bill.

CHAIR SUGIMURA: Okay.

MR. GUZMAN: Thank you.

CHAIR SUGIMURA: Thank you. Mr. Hopper, would you like to say a few words or any comments?

MR. HOPPER: The only comments are this is essentially the same as the Big Island bill with some exceptions. The same exceptions to the ability to tow are listed here as the Big Island with a couple of changes and the effective date is January 1<sup>st</sup>. That's something that is up to the Council if you would like to change to allow for time to educate the public, but that's a policy issue for the Council. But, again, it's generally modeled after the Big Island's ordinance. The process for towing and notification of the car registered owner is already set forth in HRS, it's 291C-165.5(a) and that was cited in the Big Island ordinance, and is an existing HRS process that can be utilized if a violation authorizes towing for a traffic violation, and this would be the authorizing legislation by the County that would allow Police to use the existing HRS section for the towing process. So, that's just an additional clarification. But essentially, this is modeled after the Big Island ordinance with some exceptions.

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Thank you. Ms. Lee had a question. I wanted to also recognize Mr. Hokama as my Vice-Chair after. So, Ms. Lee and then Ms. King.

COUNCILMEMBER LEE: Okay, I have a question for probably Corp. Counsel, but others could also provide clarification. Mr. Hopper, under the E Section of 10.08.010 down at the bottom of the page under B, it talks about one, that operating a vehicle without a license. Does this include forgetting your license at home or not having a license?

MR. HOPPER: Are we talking about --

CHAIR SUGIMURA: F(1).

MR. HOPPER: --F(1). Yeah, I'd like to have Police --

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COUNCILMEMBER LEE: Oh.

MR. HOPPER: --discuss that --

COUNCILMEMBER LEE: Was it changed?

MR. HOPPER: --because this is the...oh, well the one I'm looking at is the one that was the one that was approved as to form and legality. It was given to the Committee on 11/22, so November 22<sup>nd</sup>.

COUNCILMEMBER LEE: Oh, okay.

CHAIR SUGIMURA: Yes.

COUNCILMEMBER LEE: This is old...

MR. HOPPER: I think we're looking at the same wording but maybe a different section number.

COUNCILMEMBER LEE: Okay, so, what was your answer to the question?

MR. HOPPER: I would want Police to explain the driving without a license since that's an existing HRS traffic violation, if Police could assist with under what circumstances that would be a violation and when they would arrest somebody under that section.

CHAIR SUGIMURA: Mr. Hankins?

MR. HANKINS: The purpose of this ordinance is to attack impaired driving.

UNIDENTIFIED SPEAKER: Oh, okay.

MR. HANKINS: With regard to your question, Councilmember Lee. Anybody who does not have a valid driver's license can be subject to arrest. If you have your license at home, if whatever the case is you don't have a license on you, you will not be arrested for that because that is not an arrestable offense. Someone who basically has no license on person can be cited, but they cannot be arrested for that. So, they would not be arrested if they don't [sic] have their license at home. Anyone who's driving without a valid license could be arrested. But, again, the intent isn't to go after everybody who doesn't have a valid driver's license. The intent is to go after impaired driving. There are chronic people out there who we've seen over and over and over again who constantly keep driving, getting themselves into minor crashes here or there, and they don't have a valid license. This will also help us in those cases to take away the means of transportation for them when they don't have a legal right to be behind the wheel anyway. But to answer your question in short, if you do not have a valid license, yes you can be arrested. If you have no license on person, no you will not be arrested, and no this ordinance will not pertain to that.

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COUNCILMEMBER LEE: Okay, that was number one. So, number two and three, why would there be a need for four, I mean, three and four. Operating a vehicle under the influence of an intoxicant and then also habitually operating a vehicle under the influence of an intoxicant? Isn't that redundant?

MR. GUZMAN: May I? Thank you, Madame Chair. Thank you, Councilmember Lee, for the question. Those are two...the number three operating a vehicle under the influence of an intoxicant is basically a DUI and specifically it's called OUI now, operating a vehicle under the influence. And so, that is separate and distinct from habitually operating a vehicle under the influence. Habitually is that you've been convicted or you've had multiple OUIs in the past and then you commit another one. And so, it's enhanced sentencing. So, if you're basically out there driving and you've had already four convictions or three convictions in the past and you're arrested, the vehicle then can be subject to tow.

COUNCILMEMBER LEE: Okay. Then the next page, operating, number six, operating a vehicle after consuming a measurable amount of alcohol for persons under the age of 21. What's a measurable amount of alcohol?

MR. GUZMAN: That's any amount of alcohol. These are HRS sections that basically say no, zero tolerance for those who are under the age of 21, and so if you have any amount of alcohol in your blood system, then a .021 I believe, and that's very minimal, and you're under the age of 21, you shouldn't be drinking anyway. But if you get caught and you're driving, then you're going to be charged with this particular offense.

COUNCILMEMBER LEE: Okay, so actually any amount of alcohol, right?

MR. GUZMAN: Actually, .02...

COUNCILMEMBER LEE: No, I mean, it's not legal for them to --

MR. GUZMAN: Yeah.

COUNCILMEMBER LEE: --drink at all.

MR. GUZMAN: Yeah, they're not supposed to be drinking alcohol anyway if you're under 21.

COUNCILMEMBER LEE: Right.

MR. GUZMAN: Yeah.

COUNCILMEMBER LEE: Okay. So, let's say somebody is perhaps a little bit inebriated and is parked on the side of the road, I guess because they know that they shouldn't be driving. Is that person subject to arrest?

MR. GUZMAN: Well, it depends on the factual situation. If the vehicle is on, the engine is running, then it's operating. If they're pulled off to the side and they're off the public

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roadway then usually as Prosecutor's Office we don't tend to go after those type of cases. But in the field, I can have Lt. kind of explain that process.

COUNCILMEMBER LEE: Okay.

CHAIR SUGIMURA: Lieutenant Hankins, do you have more to add?

MR. HANKINS: In short to answer your question, in the 30 years or so that I've been doing this, somebody who realizes that they're impaired and pulls off to the side of the road, I honestly can't think of a single time that that's happened. But, again, to answer your question as far as can somebody be arrested, like Mr. Guzman said, it all depends on the circumstances. We have arrested people who have been parked in a vehicle when the officers get there, it could be because someone had called them in and we have a witness who can testify that they were operating a vehicle. And more so like the prosecutor said, if the key is in the ignition in the vehicle, you're in the operator's seat, you are actually in physical control of that vehicle, you can be subject to arrest.

COUNCILMEMBER LEE: Okay, thank you.

CHAIR SUGIMURA: Thank you. Vice-Chair Hokama, did you have any questions?

COUNCILMEMBER KING: You call on me next.

VICE-CHAIR HOKAMA: I appreciate Ms. Lee's earlier line of questioning. So, she brings up a good point and so for me, Lieutenant, under H...no, I(2), it says the registered owner or passenger with a valid driver's license that is willing and legally able to drive the vehicle at the time of the stop, but how would we allow that under F(7)? That's one illegal car? Or is it...

CHAIR SUGIMURA: So, it's I --

VICE-CHAIR HOKAMA: The car shouldn't be on the road.

CHAIR SUGIMURA: --Section I.

MR. GUZMAN: Under...

CHAIR SUGIMURA: Mr. Guzman?

MR. GUZMAN: Excuse me, Councilmember Hokama. Is it the...are you referring to the fraudulent use of plates?

VICE-CHAIR HOKAMA: Right.

MR. GUZMAN: Oh, yeah, the exception. Yeah, you're right. Actually --

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VICE-CHAIR HOKAMA: So, why would the...

MR. GUZMAN: --the registered owner or the passenger present at the time of the stop has a valid driver's license and is willing...I guess this number two exception would be applicable to driving without a license. If in fact there's a legal driver in the vehicle, they can then drive the vehicle.

VICE-CHAIR HOKAMA: Yeah.

MR. GUZMAN: I don't believe that all the exceptions work for all of the offenses but they are exceptions to connect up with the offenses that are applicable.

CHAIR SUGIMURA: Mr. Hopper?

MR. HOPPER: Just to add, I think number two, I don't think the driver would be "legally able to drive the vehicle," if the fraudulent use...if number seven happens to be the violation. So, I mean, I think you're correct that there would be no possible case that two could apply --

VICE-CHAIR HOKAMA: Right.

MR. HOPPER: --in the case of an arrest for number seven. I think that's correct because it does say legally able to drive the vehicle at the time, and I don't think that anybody would be able to legally drive the vehicle if the crime is the fraudulent use of plates, tags, or emblems.

VICE-CHAIR HOKAMA: Okay. Are we, Chair, you wish this is only to be about the drinking component or anything within a, what I would call, the parameters of this legislation?

CHAIR SUGIMURA: So, the intent is to look at not only the intoxicant levels but as it would relate to the one through seven under F, one through seven.

VICE-CHAIR HOKAMA: So, why wouldn't we...we already banned e-devices, cell phones and whatnot, why wouldn't we list that now?

CHAIR SUGIMURA: Why wouldn't we list it?

VICE-CHAIR HOKAMA: Yeah.

CHAIR SUGIMURA: In this?

VICE-CHAIR HOKAMA: I just had one fatality on Lanai because of a device distracted the driver and hit my resident, okay?

CHAIR SUGIMURA: Oh, that's what happened on Lanai. Mr. Guzman?

VICE-CHAIR HOKAMA: And that's already in the ordinance.

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CHAIR SUGIMURA: Mr. Guzman?

MR. GUZMAN: Thank you. Thank you for the question, Councilmember Hokama. The citation, the offense for driving with a cell phone or talking on the cell phone is not an arrestable offense, it's via citation. So, these offenses that we have listed one through seven can be...they're arrestable offenses. So, if you are pulled over with any of these offenses, then it is a higher crime, it's like a petty misdemeanor versus a traffic violation, which a traffic violation similar to the cell phone, you would just be cited and, you know, pay a fine. But these offenses are more serious. So, that's the --

CHAIR SUGIMURA: Difference.

MR. GUZMAN: --distinction. We wanted to make it more distinguishable than the Big Island. Big Island you can arrest and citation a person and then take their vehicle. We wanted to be a little bit more strict in this County and say we're only going to take your car if it's an arrestable offense, and...

VICE-CHAIR HOKAMA: Yeah, I'm willing to take the license because that would force them to reissue licenses and they can pay a penalty on that.

CHAIR SUGIMURA: So, your...Mr. Hokama...

VICE-CHAIR HOKAMA: So my thing, Chair, is I'm just trying to find out how wide the parameter because I think we should be looking at more things than just the so-called the drinking component, right? You know, just look across at the school. How many parents drive with using their...and texting with their kids in the car.

CHAIR SUGIMURA: So, Mr. Hopper, would that be, or, Mr. Guzman, would that be a legislative, Legislature appeal because it, I think that's where the law came from?

MR. GUZMAN: Yeah, that would actually be, if you wanted to change that particular law it would have to go through the State, the HRS, for, to change it from a traffic violation to a traffic crime, which would be a petty misdemeanor or misdemeanor.

VICE-CHAIR HOKAMA: Okay, so this one is arrestable, citation, offenses?

MR. GUZMAN: Yeah, the reason why that they're designated as arrestable because they're petty misdemeanor or misdemeanor cases. They're not at the lower level, which is just a traffic, parking.

VICE-CHAIR HOKAMA: Intoxicants include opioids?

MR. GUZMAN: Excuse me?

VICE-CHAIR HOKAMA: Okay, I see the Lieutenant nodding, so the answer is yes, it includes opioids --

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MR. GUZMAN: Yeah.

VICE-CHAIR HOKAMA: --and those type of narcotics.

MR. GUZMAN: Yeah. So, if we wanted to enhance the criminality of cell phones, you would have to change that in the HRS to make it a --

VICE-CHAIR HOKAMA: Okay.

MR. GUZMAN: --petty misdemeanor or misdemeanor.

CHAIR SUGIMURA: Okay.

VICE-CHAIR HOKAMA: And then in order, since the Prosecutor mentioned arrestable, have we looked at whether we can increase fines and penalties?

CHAIR SUGIMURA: Mr. Hopper?

MR. HOPPER: I think generally for criminal matters, the HRS would be where you would have the penalties set forth. And I mean, I think because this references those HRS sections, those sections would need to be changed to change the penalties for those particular sections.

VICE-CHAIR HOKAMA: The County couldn't impose our own fee or penalty under our ordinance? We're not prohibited.

MR. HOPPER: Well, these are criminal fines and set forth in HRS, we could look at...I mean, again, that would be a different bill I think than this one to increase fines for specific violations. We could investigate that and, you know, we would have to put those in ordinances. But my understanding is that if you're issuing a criminal violation against somebody in HRS, that generally the HRS section will go over the penalties, whether it's a misdemeanor...

VICE-CHAIR HOKAMA: What if we just called it an administrative requirement that they relicense?

MR. HOPPER: Well, we could look at something like that. But, again, I haven't reviewed that as part of this particular legislation as far as additional penalties for those HRS violations.

VICE-CHAIR HOKAMA: Okay. Can we see if that's something we can consider?

CHAIR SUGIMURA: Okay, so you want to look at...

VICE-CHAIR HOKAMA: Administrative requirements such as a relicensing.

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CHAIR SUGIMURA: Okay, so, Mr. Hopper, you're saying this would be a completely new bill to look at?

VICE-CHAIR HOKAMA: No, we don't need to do it...slow this bill, I don't see a reason why...

CHAIR SUGIMURA: Okay.

VICE-CHAIR HOKAMA: You know, I think we should see what kind of...

CHAIR SUGIMURA: In addition.

VICE-CHAIR HOKAMA: I agree with like the testifier, you know, being nice about things doesn't work right now with this society, okay, you got to do the punishment. It's got to hurt to stop the bad behavior because there's a lot of other people who are hurting and in more hard predicament than us, Chair. So, let's adjust the penalties and punishments appropriately.

CHAIR SUGIMURA: Okay. Can look at that. Thank you. Ms. King?

COUNCILMEMBER KING: Thank you.

CHAIR SUGIMURA: And then, Tamara, did you have a question after that? Okay.

COUNCILMEMBER KING: So, some of my questions were answered. But I just wanted to ask Lieutenant, what would be...do you have a standard for...because of this bill saying may versus shall, do you have a standard for when you would enact this so that we don't get discrimination, you know, accusations about people letting friends go or, you know, acquaintances go since there's not a requirement to tow, it just says may. So, I'm assuming each arresting individual officer would make that distinction on their own.

MR. HANKINS: What this bill will do, it will give us the authority to tow your vehicle. And with regard to your question, there's going to be a policy and...change, or not a change, but a policy that I'll have to draft up for the Police Department. That's why during the educational period if this gets passed, we're going to have to train the entire Department on when we can tow these particular vehicles. To kind of give you an example of when we can and maybe when we can't. Someone gets stopped say on Veterans Highway and they pull onto the shoulder of the road, we run them through the field sobriety, they fail, they get arrested. The vehicle's on the shoulder of the road. That's a safety hazard. We've had an officer crash into a vehicle on the shoulder of the road on a motorcycle, okay? That vehicle is eligible to be towed. However, if that vehicle is all the way off the shoulder and in the grass closer to the bike lane, that vehicle then would be considered legally parked. At that point, this ordinance would not apply and the vehicle would not be towed. So, to answer your question pretty bluntly, what I'm going to tell the Department in my policy recommendation and again, it has to be approved by my Chief, is that when the vehicle is eligible to be towed, it shall be towed in accordance to this ordinance.

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COUNCILMEMBER KING: Okay, so that brings me to my second question about the, I guess Section I(3), the being legally parked at a time. So, if you're being followed by a police officer and you pull your car far enough over to be...and then park there, then you're not subject to the same towing?

MR. HANKINS: You wouldn't...if the vehicle is legally parked at the time of the stop, you're not eligible to be towed according to this ordinance.

COUNCILMEMBER KING: Okay, even if it's been, you've been followed by a police officer being intoxicated. So, that's...that seems like sort of a loophole in this law that you could...as long as you get yourself...like you could continue being chased by the police until you can find a parking lot to pull into and then you could pull in and then you're not...and then you won't get towed.

MR. HANKINS: Not necessarily. Let's say we try and stop you up here, you know, on High Street and you go all the way down to Kaahumanu Center. And it's happened. That's impairment, it takes them a while to realize sometimes that we're trying to stop them. And they pull into Kaahumanu Center. Well, unless somebody from Kaahumanu Center comes out and tells me, yeah, it's okay, he can leave his vehicle here, that's not legally parked. That can be towed.

COUNCILMEMBER KING: Okay, but you just said that there are ways to be legally parked if you get yourself to a place where you can pull all the way off, so...

MR. HANKINS: If they pull all the way off the shoulder of the roadway to a place that is legally parked on State or County property, yes. If you park on private property, you're going to need that property owner's authorization to keep the vehicle there. That's the way I'm reading this ordinance.

COUNCILMEMBER KING: Okay.

MR. HANKINS: And that's the way the Big Island --

COUNCILMEMBER KING: Okay.

MR. HANKINS: --has been doing it.

COUNCILMEMBER KING: Okay, so that's the way Big Island does it and they don't seem to have a problem --

MR. HANKINS: No.

COUNCILMEMBER KING: --with evasiveness or...

MR. HANKINS: No.

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COUNCILMEMBER KING: Okay, maybe people who are impaired can't think that far ahead, right?

MR. HANKINS: Exactly.

COUNCILMEMBER KING: But that's still...I think that still seems like a loophole to me. And then this doesn't apply to State highways, so, you know, I'm thinking about somebody who gets, you know, you start, try to pull them over onto a County road they get onto Veterans Highway and then they're safe because they're on a State highway. No?

MR. HANKINS: No.

COUNCILMEMBER KING: Okay. So, as long as the initial light, the light goes on, you're on a County road, you're still subject to getting pulled over?

MR. HANKINS: Yeah, wherever you stop it can make a difference in this. I mean, some do, some don't, I mean, it's really hard to say. Some people will pull way off the shoulder of the road. If there's room sometimes they take it. Most cases, they don't, you know. They pull over, they're in the shoulder of the road, that's where we conduct our field sobriety maneuvers in the shoulder, the bike lane of the road. That's where the vehicle's at. Once that person's arrested, that vehicle is in a bike lane, it's on the shoulder of the road, it's a hazard, it's deemed a hazard, we're going to tow it.

COUNCILMEMBER KING: Okay. But, I mean, it's not a way to evade this...an incident by...if you are on a County road and you see a police following you with the lights on and you get yourself onto a State highway, which, because this doesn't apply to any roadway under jurisdiction control of the State, you can still pull them over?

MR. HANKINS: Oh, yes, absolutely.

COUNCILMEMBER KING: Okay.

MR. HANKINS: We have jurisdiction on all State and County roads.

COUNCILMEMBER KING: Okay. Because under authority of Chief of Police, item D says the authority granted by this section does not apply to any roadway if under the jurisdiction control of the State of Hawaii, DOT.

CHAIR SUGIMURA: Yes. Mr. Hopper?

MR. HOPPER: Just to clarify, that authority of Chief of Police is a carryover from a previous section of existing law right now. That's totally...I understand it's a bit confusing because that's Ramseyered, but what happened was if you see in the earlier Ramseyering, there's actually...that section is deleted from existing code. It's on page, Pages 2, 3, and 4. It's being Ramseyered out and moved there. That is the authority of the Chief of Police to close roads in certain cases, and that doesn't apply to State roads.

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COUNCILMEMBER KING: Oh, okay.

MR. HOPPER: But the DUI...the towing because it deals with HRS sections that apply regardless of, as I understand it, State or County roadways. You know, if you have a DUI, police can pull you over whether or not you're, you know, on a State highway or County highway. I believe this section would still apply to those cases. But, yeah, this other section, it's a bit confusing because it's underlined, which is normally new language. That's just being moved from a previous section to this section, and is in existing code and deals with the police authority to close down roadways, which is in existing code, but is separate from this current ordinance. So, just to clarify that and sorry if it was confusing, but --

COUNCILMEMBER KING: Okay.

MR. HOPPER: --that's not intended.

COUNCILMEMBER KING: Yeah, it was a little confusing.

MR. HOPPER: Yeah.

COUNCILMEMBER KING: Okay, and then my last question is for you, Mr. Hopper. If the effective date is January 1<sup>st</sup> and we don't have two full Council meetings before then to get this through second reading, is there any way to get it through, you know, to waive the second reading or what was the intent in having it take effect January 1<sup>st</sup>?

MR. HOPPER: We were...I just asked Police essentially in drafting it what's the, a good effective date, and they came up with the 1<sup>st</sup>. That can be adjusted by the Council depending on your schedule. So, if you want more time out there to get the word out before the towing starts, you could put that in there. But if you want to say this takes effect upon its approval, you could say that so whenever it's approved it takes effect, or pick another date. You could do that at the full Council if you like. If you have a recommended amendment to it, you could do it now. If you anticipate, you know, needing this month to do that and have it take effect in February. But, this is a discretionary decision by the Council and that date can be adjusted.

COUNCILMEMBER KING: Okay, and I think it's a good idea to give the public something, to put some education out there but is there a process if we wanted to get this enacted sooner where we could waive second reading or get this done quicker --

CHAIR SUGIMURA: Mr. Hopper?

COUNCILMEMBER KING: --or is that non-existent --

MR. HOPPER: Offhand --

COUNCILMEMBER KING: --for an ordinance?

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MR. HOPPER: --not that I know of.

CHAIR SUGIMURA: Charter says two readings.

MR. HOPPER: You have two readings for the Charter, there might be emergency-type legislation like if there's a natural disaster, but I'm not sure if that's something that we can utilize. My understanding is you would need at least two readings. There's options if it's at the...I don't know if there's a way to introduce this at Council as a separate bill or something and waive Committee referral, but you still need two readings --

COUNCILMEMBER KING: Right.

MR. HOPPER: --so that's really not going to speed up anything.

COUNCILMEMBER KING: Right.

MR. HOPPER: So, yeah, not that I can think of offhand.

COUNCILMEMBER KING: Okay, I just wondered because it would be...would've been good to get this enacted before the holiday season, but as it stands it will be after New Year's at some point. So, Chair, when we're ready, I would be happy to recommend an amendment to say that this ordinance takes effect upon approval.

CHAIR SUGIMURA: Its approval. Okay.

COUNCILMEMBER KING: Thank you.

CHAIR SUGIMURA: Thank you. Mr. Hokama, you had a comment before I turned it over to Ms. Paltin in the discussion?

VICE-CHAIR HOKAMA: Oh no, you can give Ms. Paltin the opportunity.

CHAIR SUGIMURA: Oh, okay. Ms. Paltin and then Ms. Kama after.

COUNCILMEMBER PALTIN: Thanks, Chair. A lot of my questions were answered but I still had a few questions for F(7), I was wondering if you could clarify what a fraudulent emblem is.

CHAIR SUGIMURA: Is it Lieutenant Hankins or Mr. Guzman?

MR. GUZMAN: Yeah, thank you, Madame Chair. Thank you, Councilmember Paltin, for the question. The fraudulent use of plates, these are plates or tags, safety --

VICE-CHAIR HOKAMA: Safety check stickers.

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MR. GUZMAN: --stickers that people may peel off of others, put it on there, or they make their own kind.

COUNCILMEMBER PALTIN: Oh, so that would --

MR. GUZMAN: Yeah.

COUNCILMEMBER PALTIN: --cover emblems --

MR. GUZMAN: Yeah, emblems, yeah.

COUNCILMEMBER PALTIN: --like a safety or a registration?

MR. GUZMAN: Or, like --

VICE-CHAIR HOKAMA: Registration.

MR. GUZMAN: --registration, things that are fake --

COUNCILMEMBER PALTIN: Oh, okay.

MR. GUZMAN: --and they're trying to fool the, you know, the MPD in the field to say that their vehicle's all good so that to avoid pull over, yeah. But if they're ever figured out then it is a crime.

COUNCILMEMBER PALTIN: Oh, okay. And then under the exemptions, Section I for number 2, would that also apply for like violation F(3) or F(4), or would that not apply how similarly it wouldn't apply for 7?

MR. GUZMAN: F...

MR. HOPPER: Oh, I think it would apply. The driver, of course, the other driver could not be intoxicated either. So, they'd have to be legally able to drive the car. So, I mean, you wouldn't...if you're talking about someone...registered owner or a passenger present is legally able to drive, so if, obviously if they're the one that got the DUI, they're not legally able to drive and so they wouldn't be able to do it. The other passenger in the car would have to be legally able to drive the car.

COUNCILMEMBER PALTIN: So, the part that I'm not clear about is if we're being stringent and strict that we're not going to tolerate this anymore, that we've had enough then the other person who wasn't intoxicated should've driven from the start. This is like okay, well if you get caught, then have your DD drive, you know what I mean? So, I mean, if we're serious about it, then I wouldn't like for number two to apply to number three, four, five, and six. Is that a possibility?

CHAIR SUGIMURA: Mr. Hopper or Mr. Guzman?

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MR. HOPPER: I mean, this mirrored the Big Island's exception. My presumption is that they're looking at balancing, you know, due process issues with removing the vehicle with the County's interest in safety. And so, I think their logic, and again, I wasn't at the Big Island when this passed, but I think their logic would be that the State's interest in towing the car is diminished if there's someone who's legally able to drive the car away anyway at that time. So, that's, I believe, why this was in here is to...the three exceptions are to balance those interests which may get raised as the vehicles are towed. If someone says, you towed my car but I had someone there that could drive, and I get your argument that that person should have been driving from the get-go. And honestly without talking to Big Island, I don't know how often this would happen because, I mean, I happen to agree with you. You would think the person who's not impaired would be driving the car in the first place. But I believe that's the history behind it. We can research that more, but this is verbatim from the Big Island's ordinance as it was passed, and I think the desire wasn't to tweak that section.

COUNCILMEMBER PALTIN: Well, the other point that, you know, say the passenger is sober and then they need to then Uber or whatever out, then it becomes a personal matter. So, if it comes to taking the keys or riding with a drunk driver and then their car could possibly get towed and that guy is stranded with no means of transportation, I would imagine that person would be a little bit more adamant about being the designated driver than getting in a car with somebody that is intoxicated and could subject them to that type of consequence.

MR. HOPPER: I think you did bring up a good point, though. I think there's probably also a desire not to have people stranded. I mean, if you arrest the driver and there's two other people in the car and they're legally able to drive, I think that's another issue is what happens to those people? I mean, if you tow the car and arrest the driver, then you are talking about leaving a couple of people...I'm not sure how Police would handle a situation like that, but I imagine that's probably another reason for the exception, is to look at the issue of what we would do if people who, you know, who would be stranded in those cases. I mean, I'd be interested to hear from Police what would happen in those cases, but I think...and that was I think part of the basis of taking away the language for citation or arrest that the Big Island's ordinance had was the concern is if you just get a traffic citation but then you don't arrest the person but you tow the car, what do you do with the individual. So, that's something that I think was considered here, and I think there was an effort to minimize leaving people on the side of the road in those cases, but maybe Police can speak to what would happen if that was changed and there was a requirement that, you know, you tow the car, arrest the driver, and then leave people there. I'm not sure what would happen to them in those cases.

COUNCILMEMBER PALTIN: Yes, please. I'd like that.

CHAIR SUGIMURA: Mr. Guzman, did you have a comment about that?

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MR. GUZMAN: Oh, yes. Thank you, Madame Chair. Just a follow up with Mr. Hopper's answers. If we're looking at the HRS, HRS has a law out there that says hey, other counties, you can create enabling legislation to enforce towing, and that's where this legislation is coming from. Now, if we're looking at another offense which is you're going to be committing a crime if you don't become or step up to be the designated driver, that is a specific, another area that maybe the State should be looking at. But us on the...I mean, sorry, you on the County Council do not have the jurisdiction at this point to create that type of law. So, I think what we have here is reasonable, it's not subject to constitutional dispute. If you're driving and you get arrested for DUI and your passenger is okay to drive, then that passenger can drive the vehicle to your house. I think that's a reasonable assessment. We've had a case where the driver was arrested and the passenger was not able to drive but did drive after the arrest happened. The passenger was left with the vehicle and drove away and we apprehended that person. So, there are exceptions to what you're saying too and I agree, but at this point it's outside the scope of the, our current legislation.

COUNCILMEMBER PALTIN: And if I may ask Mister, or sorry, Lieutenant Hankins, if...how...you guys don't have mobile breathalyzers, it would just be a field sobriety test if the passenger is legally able?

MR. HANKINS: Can I kind of back up a little bit because I want to highlight some of the points that you made? To put it...anybody knows me, I'm pretty blunt, so I'll tell you point blank. You're using common sense and logic in a situation where people are not using common sense and logic. Obviously if you're using common sense and logic, you're not going to get in the car with an impaired driver. That unfortunately is not the case. On a regular basis, the least drunk person is the one that gets behind the wheel and we see it all the time. So, to kind of go back to letting someone else drive the vehicle, you know, oh, you know, so and so's sober, they can actually drive the vehicle, it's few and far between I think that we're going to see that happen. It's good to have that option in there for people, you know, for whatever reason, but it's...you're usually seeing the least drunk person operating these vehicles at the time. That being said, when we do have people that are arrested, what are we doing now with the passengers of the car? We make sure that these people get rides, whether we call taxis for them, throughout my career, you know, if a female is on the side of the road at night, we're not going to leave them out there. We take them to a populated area. Everybody's got cell phones now too. And with Uber and everything else, they're pretty well taken care of and then we make sure they get to where they need to be safely. So, with regard to this portion of the bill that you're bringing up. It's a valid point and I applaud the fact that we're trying to make it actually tougher, but at the same time, I'm not the legal expert here and I have to go with what Corp. Counsel and the Prosecutors are telling us on due process and I think it would behoove us to listen to what they're saying and, you know, the way the bill is written is the way it's working in the Big Island right now. So, with that, you know, I think this is really going to save lives and I think this is going to send a message. And, again, I thank you for bringing up that point because this is something that I've been trying to get out, you know. Buzzed driving is drunk driving right, you know. Just because you had, you know,

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two beers less doesn't mean that you're able to drive because these are the ones that are crashing and killing people.

COUNCILMEMBER PALTIN: And my third or my final question was for the third exception, what if we just removed that? Is that a possibility?

CHAIR SUGIMURA: Mr. Guzman, do you have any comments?

MR. GUZMAN: Thank you, Chair. Thank you, Councilmember Paltin. Yeah, you guys, excuse me, the Council can do whatever you feel is appropriate with this bill. This exception, if you delete it, it won't harm us, it won't...

COUNCILMEMBER PALTIN: Not constitutionally bad.

MR. GUZMAN: No, it's fine. I think you do...Chair King had a valid point on exceptions, you know, like hey, if the person is driving and they find a parking lot, and they, you know, drive through there --

COUNCILMEMBER PALTIN: Yeah.

MR. GUZMAN: --that could possibly be a way of, you know, telegraphing to others that, hey, there's a way to beat this.

COUNCILMEMBER PALTIN: Yeah.

MR. GUZMAN: And so, by --

COUNCILMEMBER PALTIN: I would like to be --

MR. GUZMAN: --removing that --

COUNCILMEMBER PALTIN: --more stringent than this.

MR. GUZMAN: --exemption, then there is no more, I guess, backdoor or loophole.

COUNCILMEMBER PALTIN: Yeah. Maybe too, like when you say don't drink and drive maybe the establishments could make their own drink or drive, not both or something like that. Because they want to sell, right, and so it's not that we're telling folks don't drink, but you can drink or you can drive, but don't both.

CHAIR SUGIMURA: Okay.

MR. GUZMAN: That's a very valid point, I think that, I believe that the Liquor Commission was on the floor and they do have the jurisdiction to promulgate further administrative rules and regulations, they have full on jurisdiction to do that which I feel is a little bit overboard, but I think they Council should be able to oversee that power or authority. But, yes, if the Commission, the Liquor Commission wants to go ahead and start

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promulgating or creating laws that would affect those who leave the establishment into their parking lot, then it could be done through them, definitely. In terms of the effective date, as mentioned earlier, this month, the month of December, is National Impairment Month. And so, if there's a timing of it, it would be great if we could pass it, but if not, maybe if there's some kind of assurances we can start putting out PSAs during the month of the holidays saying that, look, in preparation of this bill being passed, do not, you know, drink and drive because your vehicle will be taken away. In just preparation we can do a joint PR, my Department with the Council, with MPD, you can...we can just send it out there and really get the message out.

CHAIR SUGIMURA: Okay. Ms. Kama and then Ms. Lee.

COUNCILMEMBER KAMA: Thank you, Chair. So, I just wanted to just read the part in the ordinance that says in the Section 1, it talks about the harmful effects in the first sentence and then the second one says therefore it is important to implement measures to promote safer roadways by allowing for stronger Police action and et cetera. But, so, my whole sense is that I was just saying to Mr. Brown testified when he was a kid with my kids, right, and if we've been trying to prevent drunk drivers since we were kids, and I'm sure our kids are doing the same with their kids and our grandkids, how do we stop it? How does this happen? So, my whole thought is that while the idea of this bill is to remove the weapon, which is the automobile, right, get it off the road. What you're really doing is you're removing the driver off the road, right? But what if we remove the cause of it, which was the alcohol to begin with. If I had my druthers I would. Not because I don't drink or I drink, but just because if that's the problem, why are we not taking care of it. Why are we not being serious about alcohol. And while we have a Liquor Commission who has the power to do a whole bunch of things, they could restrict the timing and the selling of it, or the amount of it, or whatever. But, you know, I don't know what the alcohol sales are during holidays, but I am assuming it's really high and therefore if the sales are high, that means the accident rate is probably going be higher. But that's just me, I'm just a mother of 11 kids, what do I know. But also that, you know, teens, their cerebral cortexes are not formed until they're at least 25. So, you know, they don't think rationally. And so, we have this drinking law that says you got to be 21. Well, I think 21 might be too low. I think maybe we need to raise the drinking age to 25. But, again, that's just me, just a mother of 11 kids, what do I know. But I'm just saying that if we're serious about taking care of this and we're serious about saving the lives of our children, Mr. Brown is right. When he talked about can you imagine what it would be like if it was your kid? It's devastating just to think it was someone else's child and the pain that they go through and the loss and the miss. And during the holidays it's even worse, because the things that you miss about them is just what you have in your head, the memories, the videos you might have. But it's heart-wrenching, it's heartbreaking, so how serious that we are about taking care of this issue. I support this ordinance, but I think we could do more things. Thank you, Chair.

CHAIR SUGIMURA: Thank you very much. Mr. Sinenci?

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COUNCILMEMBER SINENCI: Thank you, Chair.

CHAIR SUGIMURA: Oh, I'm sorry...

COUNCILMEMBER SINENCI: Thank you, Chair. Just a couple clarifying questions. So, on Page 2 it says this ordinance will not incur additional cost to the County because vehicles will be impounded to private tow yards and at the expense of the violators. So, there's no added costs beside the towing to the violators, is that correct?

CHAIR SUGIMURA: Mr. Guzman?

MR. GUZMAN: Thank you, Madame Chair. Thank you, Councilmember Sinenci, for the question. This section basically says that if you're arrested and your vehicle gets towed, then it goes to a private...the MPD will call a private towing company, which we did discuss during our meetings with Chair as well as Corporation Counsel how that would go in terms of the different private towing companies like maybe a RFP, send out a RFP and see how many private towing companies there are that are interested and then go by a selection of, you know, a series of, you know, you're number one, you're number two, you're number three, and they then would be authorized to tow it to their facilities. The defendant or the person, the driver, would then have up to 30 days to go up and bail out and pay for the impoundment of their vehicle. After the 30 days, it could be subject to forfeiture so meaning that they could lose their vehicle altogether if they don't pick it up and the proceeds of that would then go to the towing company that is actually the custodian of their vehicle.

COUNCILMEMBER SINENCI: Oh, I see.

MR. GUZMAN: So, there's a little bit of incentive there for private towers to volunteer or be part of the RFP.

COUNCILMEMBER SINENCI: So, the potential cost to the violator would be the loss of the worth of his car --

MR. GUZMAN: Right.

COUNCILMEMBER SINENCI: --his or her car?

MR. GUZMAN: Right. We did speak about whether or not the County could get a percentage of the forfeiture and I was dabbling into that, but then at some point we want to be able to distinguish ourselves from that forfeiture because we're the arresting entity and so we wanted to keep it very clean where it's not any perspective of saying, oh, we're out there to make money. So, we kind of stayed away from the forfeiture percentage.

COUNCILMEMBER SINENCI: Okay. A follow-up, Chair? Is the...would the violator also have to incur if they were arrested some fees for being arrested?

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MR. GUZMAN: Yeah, they probably would if they were to do a bail bonds and also they would incur fees if they were convicted of the crime, court cost as well as drug testing and OUI tests, blood tests, things like that, those additional fees and fines that go along with it. But in terms of the arrest itself, no, there's no additional fees that I foresee them incurring from the County. It's a straight arrest. If you're arrested then the vehicle gets towed by a private company and it's there for 30 days. You have 30 days to pick it up. If you don't pick it up, it's subject to forfeiture.

COUNCILMEMBER SINENCI: Okay. Thank you. My next question was the Ramseyered sections of the bill, are these just added, additions? The Ramseyered sections?

CHAIR SUGIMURA: Mr. Hopper?

MR. HOPPER: Well, Madame Chair, the Ramseyered sections show what's being changed. The Ramseyered section on Page 4 to the top of Page 5 is new language, that's our...that's the new towing law. And you can see the language on the bottom, the, actually, most of Page 5 is taken directly from the Page 3 existing law. If you see Page 3 of the ordinance, there's an E there and it has a bracket on it, and then the bracket starts before Section E, and then on Page 4 it, the bracket, is also after the first few sentences there. That bracket means that language is being deleted in that section, and that same language is being added on Page 5. So, basically what happened was there's an existing Code section, several sections of that were retained, the new section was added to that, and section E was deleted and just moved to a different part. So, on Page 5, the underlined language, Section 3 and the underlined language there, that's existing language in the Code, it's just been moved to a different section. And then on Page 4 and the top of Page 5, the underlining there is the new language, and that's the ordinance we're really looking at that is new language in the Code there. So, those are the differences there. It takes a bit of reviewing to get it, but basically anything that's bracketed is being removed, anything that's being underlined is new language, but the stuff on Page 5 for the most part is existing language that's just been moved to there. So, it has to be reflected as underlining, but it's existing Code, so.

COUNCILMEMBER SINENCI: All right, thank you. Thank you for that clarification.

CHAIR SUGIMURA: Yeah, thank you for the clarification.

COUNCILMEMBER SINENCI: Chair, my last question was, you know, I agree with Mr. Guzman about honoring Ms. Hannah Brown as part of this bill, and I just wanted to maybe get clarification from the family if that was appropriate or not --

CHAIR SUGIMURA: Oh.

COUNCILMEMBER SINENCI: --prior to --

CHAIR SUGIMURA: Yeah.

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COUNCILMEMBER SINENCI: --making such an amendment.

CHAIR SUGIMURA: Okay, so, Mr. Brown, Mrs. Brown, you want to answer that question? If you don't mind. So, where's Hannah? Oh.

MR. BROWN: I just wanted to answer that question. You know, we appreciate everything you guys want to do for our daughter. However, I getting hard time with this ordinance listening to everything that's bouncing back and forth, yeah. I hear a lot of coulds and may, not enough is and will, you know. I listen to how you guys talk about what about their stranded passengers. I wish my daughter was stranded, not dead, you understand. So, while you guys stay thinking about other things, just think about the problem at hand, yeah, and take care that. Everything else should take care itself. So, I don't know if I can allow my daughter's name to be applied to something that I get hard time deal with.

CHAIR SUGIMURA: Oh, okay.

MR. BROWN: And that's how I feel, my broken heart stay beating so fast right now. So, that's how I feel. I not sure if I'm out of line or what, but that's how I feel. This is coming from the heart.

CHAIR SUGIMURA: Okay.

MR. BROWN: Mahalo.

MRS. BROWN: There is a lot of loopholes we're hearing from up there.

MR. BROWN: We're not even...

MRS. BROWN: And we're not even got into trouble for drinking and driving.

MR. BROWN: We don't even know those and it just sounds like guys going get away with murder again.

MRS. BROWN: What I'm hearing is if me and my husband were at the beach with a bunch of our family members with our children. My husband decided to have a 12-pack of Heinekens, I decided to have a 6-pack of whatever I decided to drink. Or maybe I didn't even drink that day, but my husband decided to drink. He's the driver in my family. He doesn't drink, but he's the driver in our family. So, if that day he said, "I get 'em honey, no worry. I get 'em." Okay honey, I going listen to my husband because I love my husband and respect my husband, I trust my husband. He gets into the driver's seat. He's drunk, but he get 'em. I'm sober, I'm in the passenger's seat. We get stopped because my husband no get 'em. I shouldn't be stranded on the side of the road, but you know what, I should have used my head first. And plenty families do that. Plenty families. Plenty people do that on a daily basis. We go beach plenty, or we used to. We used to go plenty family outings. We cannot even do that because we get family and friends that we cannot watch drink, drive in their cars with

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their families, and no even listen to us or hear everything that's going on. So, sorry if your family's going be stuck on the side of the road. You should have thought of that before you guys got in the car. Just like how you guys said, you can get stopped at one checkpoint, he could be drinking, I not drinking. Shit, we should have thought about that before we left the checkpoint, before we left the bar. I'm sorry, I'm sorry. I get really emotional when it comes to my daughter. I decided couple days ago that I had enough and I was stressed, my head was going crazy. I had a glass of alcohol at home, I couldn't even barely feel my legs. One glass. Now, how can these people get into a car after 1 beer, 2 beer, 3 beer, 4 beers, 18-pack, 24-pack. Who knows. Big coolers coming. We got to think about all those little things because people going find loopholes. People going find it on social media. They going let each other know. You know what, that's okay because if this person can drive, you guys still get your car. They still get the car. Never get taken away.

MR. BROWN: . . . *(inaudible)* . . .

MRS. BROWN: So, tomorrow, they can go drink and drive again, and they know, oh, if I pull into a parking lot, if I go do this, if I go do that, I can just come back tomorrow and get my car. Ten years ago...so, I got pulled over. And unfortunately I had a violation. I asked the police officer if I could go and pull my car over into the shade while I wait because he told me I couldn't leave. I could not leave that location because I didn't have insurance. I had a baby in my car, I had Hannah in my car, and I was on the way to pick up my kindergartener from school. I asked him if I could please go home at least, which was right around the corner. He said, "no. You stay here until somebody picks you up." Can I please go into the shade? Your windows are tinted and you have AC, you can stay right here. My husband left work and flew it, had to come Upcountry to pick me up. I had to leave my car there and I wasn't even drinking and driving. The laws is unfair. Everything is unfair. We got to fix this. Please fix these loopholes, it really needs to be done because people will find them. I see it every day on social media, it's possible.

CHAIR SUGIMURA: So, I guess that --

MRS. BROWN: Thank you.

CHAIR SUGIMURA: --Mr. Sinenci had was would you be comfortable with naming this ordinance if it passes after Hannah, your daughter?

MR. BROWN: I think that --

CHAIR SUGIMURA: Sounds like not.

MR. BROWN: --yeah, I think I'd like to come to more of these meetings and hear more about what has been changed and what has been --

CHAIR SUGIMURA: Because I think we're --

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MR. BROWN: --applied.

CHAIR SUGIMURA: --yeah, we're working towards --

MRS. BROWN: Yes.

CHAIR SUGIMURA: --all that.

MR. BROWN: Yes.

MRS. BROWN: Right.

CHAIR SUGIMURA: All the things you're hearing are comments that the Committee has --

MRS. BROWN: Yes.

CHAIR SUGIMURA: --and in terms of...because we're a legislative body that works with words and ordinance, may and shall and all the things you're hearing by sitting up there are...is a process that we go through to tighten up the law. There may be some amendments that are going to be made, I think we're looking at the effective date also, just by listening to discussion, and possibly other ordinances as Mr. Hokama brought up relating to cell phones, but that would have to be a separate matter. But what you're hearing is exactly the process that we go through as Councilmembers to make sure that the law is sound, to make sure that we protect those that we need to. Your situation, Mrs. Brown, about the car and not having insurance is a completely separate matter.

MRS. BROWN: Yes, I understand.

MR. BROWN: We just looking at the penalties, yeah?

MRS. BROWN: We just looking at the bigger pictures, you know.

MR. BROWN: The penalties that we've suffered and the penalties that we've seen applied.

COUNCILMEMBER KING: Chair?

MRS. BROWN: Different, regardless.

CHAIR SUGIMURA: Yeah, thank you.

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Ms. King?

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COUNCILMEMBER KING: Thank you for recognizing me. Maybe instead of putting the Browns on the spot we could let this go until we get to first reading and then we can have that question answered.

CHAIR SUGIMURA: Good idea.

COUNCILMEMBER KING: There's also a Statewide piece of legislation that we're working on to lower the legal blood-alcohol limit with the entire...all the police departments and SHOPO, and that may be a more appropriate namesake for Hannah Brown. But, you know, if we can kind of take this offline instead of putting them on the spot and having them make a decision right now, we can certainly have that discussion between now and first reading. But thank you so much for your input and, you know, as we've been sitting here Councilmember Paltin and I are talking about whether or not to remove, if we could remove the loopholes that are number two and three, or the exceptions, and maybe we can get a comment from the Lieutenant on how that would affect the bill if we removed...

CHAIR SUGIMURA: Thank you.

MRS. BROWN: Thank you, guys.

CHAIR SUGIMURA: Thank you.

MRS. BROWN: Sorry.

CHAIR SUGIMURA: Thank you very much for everything.

MRS. BROWN: We appreciate it.

MR. BROWN: Yeah.

COUNCILMEMBER KING: No, thank you for your input it's really helpful.

MRS. BROWN: We really appreciate everything.

UNIDENTIFIED SPEAKER: Yeah, mahalo.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER KING: So, it would be I--

CHAIR SUGIMURA: Wait, Mr. Sinenci --

COUNCILMEMBER KING: --two and three.

CHAIR SUGIMURA: --are you done?

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COUNCILMEMBER SINENCI: Yeah.

CHAIR SUGIMURA: I'm sorry, that was your question.

COUNCILMEMBER SINENCI: Yeah, thank you, Chair.

CHAIR SUGIMURA: Okay. Thank you.

COUNCILMEMBER SINENCI: Mahalo.

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: Yes, so, how would this bill be affected if we removed letter I(2) and (3)?

CHAIR SUGIMURA: Mr. Hankins?

MR. HANKINS: First of all, I want to recognize the Brown family. And like I told them many times in my discussions with them, you guys don't have to apologize for anything, okay? You have the right to come in here and let everybody know including myself the way you feel. But as I've kind of told you before, this...there's a process to everything. You know, you're right, the laws sometimes aren't fair. And when you've lost so much, it's never going to be fair because nothing's ever going to equate. And I wish I could tell you I understand, but I don't, okay. You're in a unique situation. A small club, so to speak. And we've tried to reach out and get some people to work with you that can help guide you through what's coming next even with the criminal prosecution. So, I understand your frustration with this, but this is a good thing, okay? This is good. This is going to save lives, and this is going to take people's cars off the road. With direct answer to your question as far as taking that section out, I'm all for it.

COUNCILMEMBER KING: Okay.

MR. HANKINS: It's not going to have any impact, it's going to make life actually a lot easier for our officers in determining if the vehicle is or isn't legally parked.

COUNCILMEMBER KING: Okay, yeah, my proposal would have been to, is to take out I(2) and (3), and then you would just have basically this section does not authorize the towing or impounding of vehicles if the vehicle's parked on private property that's lawful residents or the registered owner. So, if we took out two and three that would remove, you know, some of those loopholes we've been talking about.

MR. HANKINS: Yeah, that's, again, that's something I would support.

COUNCILMEMBER KING: Okay.

MR. HANKINS: I have no issues with that at all.

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COUNCILMEMBER KING: Okay.

MR. HANKINS: Again, the reason that they're in there, this is something that is working on the Big Island. That doesn't mean that we have to do it exactly like the Big Island. I mean, I can tell you right now when I go to the traffic meetings Statewide I kind of do my own thing and we lead the way on a lot of things. So, why not make it more stringent. I have no problem with that.

COUNCILMEMBER KING: Okay.

MR. HANKINS: And I think it would be a good thing and you'll probably save more lives.

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER KING: Thank you.

CHAIR SUGIMURA: Byron, do you have something to add?

MR. FUJIEDA: . . . *(inaudible)* . . .

CHAIR SUGIMURA: Oh, just press...yeah.

MR. FUJIEDA: But, you know, I don't want my...the Prosecutor thinks on this matter. But having those taken out I think is a good idea given the questions that the Council has asked earlier. Basically with these type of loopholes that we're looking at and people extending their drive to get to a place...because word will get out that if I'm in a legally parked area, they're not going to tow my car; therefore, I'm not going to incur this additional expenses and what have you. But that also, you know, if this bill is to promote public safety, which it is, you know, the safety on the highways and the roads of our County, the sooner the police can stop these vehicles on the road the less risk we have in incurring more tragedy in our community. And having people drive to their driveway or to a parking lot where the officer, you know, may determine that it's in a legally parked area, I don't think should be a factor in regards to this bill. Because the bottom line is public safety, saving lives, and not having people in our community subject to these type of tragedies and losses. So, I don't see any issues, really, with taking that out of the bill. And it is worth the fight later on, I believe, if our bottom line is saving lives.

COUNCILMEMBER KING: Okay, thank you. And then the other thing...oh, Mr. Guzman?

MR. GUZMAN: Oh, yeah.

CHAIR SUGIMURA: Mr. Guzman?

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MR. GUZMAN: Chair King, you also want to delete the other exception, number two which is --

COUNCILMEMBER KING: Two and three.

MR. GUZMAN: --yeah, which is basically if the passenger is able to drive then now we're looking at having MPD make sure that all passengers, because we're going to basically take that exception away, which if the passenger can drive they're allowed to take the vehicle. We're going to take that exception away, and therefore, the vehicle gets towed, MPD now has to put into their process or procedures how to deal with the stranded passengers.

COUNCILMEMBER KING: Right, and --

MR. GUZMAN: Yeah.

COUNCILMEMBER KING: --you know, as I think it was mentioned earlier, everybody's got a cell phone, they can call Uber or they can...I think what that does by taking this exception out is it makes it a group decision. If you're leaving with three people from a bar and one of you is legally able to drive, that person better be driving, you know. Otherwise, the other two might get stranded. I think that's what Member Paltin was trying to point out. But it kind of makes it...puts it on the responsibility of all parties in the car too. So, to me that's not a bad thing and...

MR. GUZMAN: That completely addresses Mrs. Brown's --

COUNCILMEMBER KING: Right.

MR. GUZMAN: --analogy of the family at the beach and, yeah.

COUNCILMEMBER KING: Right.

MR. GUZMAN: That...

COUNCILMEMBER KING: And then --

MR. GUZMAN: By removing that exception, but...

COUNCILMEMBER KING: Okay, and then the other thing...thank you for that, Mr. Guzman, and then the other issue, Chair, is it is possible that we could call a special Council meeting either on the 13<sup>th</sup> of December or the 27<sup>th</sup> to do, you know, to get the second and final reading done before the end of the year, which would still be in the holiday season. So, you know, if we agreed to just do this one item and we could come back on the 13<sup>th</sup> to do first reading we can get it done, the second reading done by the 20<sup>th</sup>. So, I just wanted to offer that to the body because I think it is really important that this happens sooner rather than later.

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CHAIR SUGIMURA: Thank you, I was going to ask you that during the recess so I guess Shelly got to you before I did.

COUNCILMEMBER KING: Well, I was thinking about it while we were talking about how to get this done, so, you know, that would be a possibility.

CHAIR SUGIMURA: Thank you. You know, Alice has been waiting patiently and then Mr. Hokama.

COUNCILMEMBER LEE: Okay.

CHAIR SUGIMURA: Ms. Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. I just wanted to get some clarification from the Police and the Prosecutors that a stranded passengers will be accommodated, because I have been an advocate of domestic, of victims of domestic violence and abuse for many, many, many years and although I am not a drinker, I have been present at a number of occasions where the husband or the boyfriend insists on, you know, on driving drunk, and the partner has to go along with it or suffer the consequences. Yeah. So, although everybody wants to blame the passenger for saying, "I'll drive," a lot of times they can't because nobody's going to allow them to drive. So, because of this situation, I can understand where nobody wants to give a break to the driver, I understand that. But there could be innocent bystanders involved so I hope the Police through rules or policies will consider accommodating innocent passengers. Thank you.

CHAIR SUGIMURA: So, Mr. Hankins, Lieutenant Hankins or Mr. Hopper, I guess somebody has...

MR. HANKINS: Councilmember Lee, thank you so much for bringing that up because exactly what you're talking about is pretty much an everyday reality for our DUI guys. We see what you're talking about a lot. When we have situations like that or in any situation, I can tell you right now, we've given rides. There is a policy in effect an officer will request permission from a supervisor to take a female passenger from point A to point B. It's called off on the radio, it's mileage checked. So, there are policies in place. I've done it myself countless times where someone's been arrested, a husband, boyfriend, whatever the case may be has been arrested and we've given the female, sometimes depending on where they live, a ride home. I've given them a ride to friends. Whatever the case may be, these people are taken care of. I mean, that's part of our core statements, you know, compassion. We're not just going to arrest the drunk driver, take your car, and, you know, to hell with the rest of them. That...we don't operate like that. Everybody's taken care of, we want to make sure everybody's safe because the person that we end up leaving walking, even if they are impaired, is a potential fatality. We've had people get run over drunk walking down the middle of the highways here as it is. So, to answer your question, I can assure you that these people will be taken care of and they are being taken care of now.

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COUNCILMEMBER LEE: Thank you.

CHAIR SUGIMURA: So, to her question...oh, Mr. Guzman, you want to add to that?

MR. GUZMAN: Thank you, Madame Chair. Yes, just a follow-up with Lieutenant Hankins. What I can request from MPD is our SOPs or standard operating procedures, which will have to be created and enabling if and when you pass this legislation, then MPD is going to have to do an SOP in regards to this particular matter. So, I could request MPD to send over copies of their SOP to you to make sure that, you know, they, you know, those issues are being addressed with the passengers in those particular situations. Thank you.

CHAIR SUGIMURA: Okay.

MR. GUZMAN: May I also --

CHAIR SUGIMURA: Yes.

MR. GUZMAN: --I would like to just thank Councilmember Lee as well as Councilmember Paltin, Chair King, and yourself, Chair, for coming out and being with the Brown family last week during the checkpoint. And Shane, yes, Councilmember Sinenci. I think it was very important that you were there onsite and you could see the field sobrieties going on and you could see at least three or four vehicles that were able to pull over and make the arrest. Those were three or four vehicles that are off the road that night, and it was just only a matter of three to four hours. So, it's so important that we have that ability. So, it's just another tool in our tool case. Thank you so much, Members.

CHAIR SUGIMURA: Okay, so I guess we're hearing that there are policies that you need to put in place, there's education that you need to put in place for the entire Police Department. I guess with Prosecuting Attorneys also there's probably some information that you need to share. And I'm just wondering about timing of all of this and how much time you would need for if the bill passes second reading and if it passes out of Committee and we go through first reading and it would be on, what, the 13<sup>th</sup> and the 20<sup>th</sup> to call a special meeting just to pass this on the month of December, what does that mean in terms of timing of everything you need as to when you would enact this and move it forward? I see Lesley Mathers [sic] also wants to say some things, but I'm curious to see what your process would be to put this in place for the entire departments.

MR. HANKINS: Well, once this becomes a law I got to come up with the policy and procedures. How long is that going to take me? It's obviously a top priority of mine. Couple months maybe to get everybody out there up to speed. I mean, even if it, just for example it did pass on January 1<sup>st</sup>, we may not actually start towing until we get everybody trained. But during that time, I really, really believe that we need to get a public message out there. This is not something that should be kept quiet. This should be screamed from the mountaintops so to speak that this is what's going to

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happen. And, you know, again, I applaud the Brown family because the message that I've been saying for months or years in my career is not being heard. But to have real family victims come out here and talk, people shut up and listen. It's real, you know. And same thing for Andrea and MADD, these are core pieces of the puzzle that we need their help with to get this message out. So, during that time that I come up with the policies and procedures and, again, everything that we do has to be approved by my Chief and there's a procedure policy that we go through for that. That's our education time, you know. That's the time that we have press release on this. That's the time that we get the media involved. That's the time that we put this over every social media outlet that we can to let people know that there's real consequences for poor decisions.

CHAIR SUGIMURA: Thank you. Mr. Guzman, how about your Department?

MR. GUZMAN: Thank you, Madame Chair. I think also addressing like, for instance, there are some State legislation out there that my Department wasn't ready to move forward on implementing like our electronic search warrants. And basically although our Department wasn't ready to implement it on the due date of the effective date, we went out there and basically let the people know in our departments and the other agencies know that we will be implementing, we're just not ready and equipped to do it. So, even if you do pass it in the month of December, it's okay if there's a little bit of a lag time for the departments to catch up. I think Lieutenant Hankins is correct, we could use that time period to go out and publicly give notice to the community that it will be enforced and you did pass this in the month of December. There are 22 fatalities in our County, the most in the last decade. Fifteen of those dealt with impaired driving. So, we as a County are going to take a stand and put it out there, you've passed it. Of course there's going to be a lag time for MPD and my Department to catch up, but you've passed it.

CHAIR SUGIMURA: Okay.

MR. GUZMAN: Yeah, thank you.

CHAIR SUGIMURA: Thank you. Mr. Lieutenant Hankins?

MR. HANKINS: One thing I think that we need to, I need to address that we kind of overlooking is the tow companies. I did reach out to three different tow companies, Wade Kitagawa from Kitagawa's Towing, Duane from D&D Towing, and Vic Campos from Campos Towing, and I kind of told them what we're looking to do, why we're looking to do it, and if this is something that they would support. I invited them to come today, unfortunately they said they couldn't make it they were busy with tows, but they all basically had the same response to me when I talked to them on the phone is, why has it taken so long for this to even come up, I've been talking about it for years. This is something that they also believe in. Duane from D&D actually said that, you know, let us know when there's a road block, we'll give you a truck. You got to be careful with stuff like that I understand, but at the same time, you have to admire the enthusiasm that the tow companies are putting behind this as well. You

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know, yes, there'll be a profit for them but also they see the wreckage from the crashes just the same as the officers do, and they have to deal with the families when vehicles are recovered, so it's important to keep them in mind as well.

CHAIR SUGIMURA: Thank you. Lesley Mathers [sic], do you have...

UNIDENTIFIED SPEAKER: Williams.

CHAIR SUGIMURA: Oh, Williams, I'm sorry.

MS. MATTHEWS: Matthews. Thank you, Madame Chair, and I wanted to thank you, Madame Chair and the other Councilmembers that joined us with the Brown family. The Deputy Prosecuting attorneys that are here with me, especially Deputy Prosecuting Attorney Uehara, we see the defendants that are being charged with operating a vehicle under the influence of an intoxicant weekly. And on a first offense, the maximum penalty that they can have is five days in jail and \$1,000 fine. And after talking with Mr. and Mrs. Brown and Mrs. Brown sharing with me at the OUI checkpoint that she'll never be able to cry to her daughter again, pick out a wedding dress, have her child give birth, we have to send a stronger message. And so, I want to thank this Council for putting this on the agenda especially during Impaired Driving Month. We have to have something that's stronger so that other families don't go through this. I also want to thank this Council for considering putting forth legislation for the .05 intoxication. You all have the power to help grieving families get through this. And so, you know, I support this measure because both Deputy Prosecuting Attorney Uehara and I in the last month have had people that were arrested for .336, almost 5 and 6 times over the legal limit. We've had people that get arrested and two days later they're arrested again for operating a vehicle under the influence of an intoxicant. So, I do see this as Mr. Guzman said, as an additional way to deter drinking that has consequences where people can die. And I thank you all for thinking about other ways that we can deter drinking and driving. I think getting these weapons off the road is such an important thing because as the representative for Mothers Against Drunk Driving who lost her son said, this is often times their 80<sup>th</sup> time drinking and driving, and we're seeing them numerous times. So, if there is a provision to take away their weapon, you know, I fully support it and I know that our division will work with MPD. We have a great working relationship with them to be able to do what we need to do. We've already started working on a different PSAs for this month and that is something that we are certainly will work on as well to help. And thank you, Chair King, for thinking about the different ways that we can get this done. I think that this is something that's really good and it will help save lives.

CHAIR SUGIMURA: Thank you. Great discussion, everybody. You know, I haven't taken a break, so I'm going to take a ten-minute break and then we'll get into the bill or with more questions if you don't mind. Any objections?

COUNCILMEMBER KING: Maybe we can get some more Councilmembers back.

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CHAIR SUGIMURA: Yeah. I'm going to take a ten-minute break, everyone, and recess, call of the Chair. . . .(gavel). . .

**RECESS: 10:41 a.m.**

**RECONVENE: 10:59 a.m.**

CHAIR SUGIMURA: . . .(gavel). . . All right, calling back the Multimodal Transportation Committee meeting, oops. Calling back to order the Multimodal Transportation Committee meeting. It is now 10:59. I can tell by the discussion that we're on to passage out of this Committee this proposed ordinance. And so, I'd like to recommend passage of a bill on first reading including any non-substantive revisions if necessary.

COUNCILMEMBER KING: So move.

COUNCILMEMBER KAMA: Second.

CHAIR SUGIMURA: Thank you. Moved by Member King, second by Ms. Tasha Kama. And just for your information, I'm not going to file this communication because I want to keep it open for further discussions. But we have some amendments.

COUNCILMEMBER KING: Chair, yes, okay, I'd like to propose amending the bill by removing items I(2) and (3).

COUNCILMEMBER PALTIN: Second.

COUNCILMEMBER KING: And changing Section 5 to read this ordinance takes effect upon approval.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER PALTIN: Second.

CHAIR SUGIMURA: So, we have one amendment --

COUNCILMEMBER KING: And then --

CHAIR SUGIMURA: --which will be...oh, more?

COUNCILMEMBER KING: --no, I just wanted to explain my amendment.

CHAIR SUGIMURA: Okay. So, we have...so, the motion is to delete Section I item 2 and 3 for items that were discussed earlier. And then the effective date would be upon passage of this bill.

COUNCILMEMBER KING: Right.

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CHAIR SUGIMURA: So, Member King?

COUNCILMEMBER KING: And so, what we're doing is eliminating the two exceptions which we had discussed could lead to major loopholes, and then it would also allow the Staff to make non-substantive changes, which is probably just to change Section I into one sentence instead of having an I(1), saying this vehicle...does not authorize the towing or impoundment of vehicles parked on private property that is lawful residence of the registered owner or the operator, or if the owner of the property where the vehicle is parked does not object. So, that would be the only exception.

CHAIR SUGIMURA: Right. Okay. Anybody else have comments on that? Ms. Paltin?

COUNCILMEMBER PALTIN: I just had a...I'm not clear, like say we pass it and it's effective and the Police Department needs further training, is that still appropriate?

CHAIR SUGIMURA: I'll let them answer, but I think they need an ordinance for them to proceed with the next steps.

COUNCILMEMBER PALTIN: Oh.

CHAIR SUGIMURA: So, this is like one of the...

COUNCILMEMBER KING: Right.

CHAIR SUGIMURA: And we'll let Lieutenant Hankins and maybe Mr. Guzman explain.

MR. HANKINS: Yeah, just so you understand, Councilmember, once this becomes signed in this law, then I can create a policy for the Department and the training shouldn't take too long, I can have the entire team get out and it's just a simple special order that the Chief would be able to sign as far as the policy on when we tow vehicles following OUI arrest. It's just going to take a little bit of time to get the policy approved by the Chief and send things through so that we make sure that we're all on the same page with the Prosecutors. Again, you're not talking about a great deal of time. I would say on the very long end, maybe two months. But I got to have the ordinance passed so that I can create a policy because if I tell them I want to create a policy for a potential ordinance, they're going to think I'm nuts.

COUNCILMEMBER PALTIN: Thank you for that clarification and also thanks to the Members for allowing the amendments to close the loopholes because I think we heard it loud and clear from the ohana that, you know, go all the way because enough already with the drinking and driving and the acceptedness [sic] of it. So, I think it's good to take out the exceptions.

CHAIR SUGIMURA: Thank you. Mr. Guzman, did you have any comments to that?

MR. GUZMAN: I don't have any further comments. I just agree with Lieutenant Hankins.

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CHAIR SUGIMURA: Okay. So, as the Police are coming up with the policy and do training, what's going to be happening with Prosecuting Attorneys?

MR. GUZMAN: Oh, so what we'll do is we'll...since there is going to be a lag time, we could help support the Council on the PSAs, public service announcements, as well as any other, you know, news conferences that we need to do to get the word out.

CHAIR SUGIMURA: Okay.

MR. GUZMAN: I think it's a fabulous opportunity to get this passed in December.

CHAIR SUGIMURA: Okay. Thank you. Any other comments, Members? Good discussion. This is...I'm thrilled that we're at this point. I thought maybe we would have to continue on to the next meeting to get questions answered.

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Yes?

COUNCILMEMBER KING: I just wanted to congratulate this Council and make comment on a comment that was made earlier by the Lieutenant that the towing companies were wondering why it took us so long, and I think most of us on this Council, this is the first time we've addressed this. And the first time that we've had someone like Lieutenant Hankins who was such an advocate for, you know, cracking down on the drunk driving. So, I think we're moving at pretty fast speed and Mr. Guzman can attest to that having been a Councilmember and I really appreciate you bringing this to the Committee.

CHAIR SUGIMURA: Yeah, thank you. Thank you. Any other comments, Members? If not, all in favor of the amendment and then we'll vote on the main motion. So, all in favor of the amendments, which is to delete I(2) and 3, Sections I(2) and 3, and to make this policy effective upon its approval. All in favor say "aye."

COUNCILMEMBERS: Aye.

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**VOTE: AYES: Chair Sugimura and Councilmembers Kama, King, Lee, Paltin, and Sinenci.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Vice-Chair Hokama.**

**AMENDMENT APPROVED.**

CHAIR SUGIMURA: That's six of us and excused, Mr. Hokama is excused.

COUNCILMEMBER KING: I think he's the only one.

CHAIR SUGIMURA: Oh, because the other two are not Members. Okay, sorry. The other two are not Members, voting Members. But they will be able to vote when we have this before Council. Now, for the main motion, Members, any discussion on the main motion? Seeing none, all in favor say "aye."

COUNCILMEMBER: Aye.

**VOTE: AYES: Chair Sugimura, and Councilmembers Kama, King, Lee, Paltin, and Sinenci.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Vice-Chair Hokama.**

**MOTION CARRIED.**

**ACTION: FIRST READING of revised proposed bill by CR.**

CHAIR SUGIMURA: Aye. The motion carries. This is done. Appreciate it, everybody. So, that's six "ayes" and Mr. Hokama excused, other two are non-voting Members. Any other discussions, Member? Mr. Sinenci?

MR. SINENCI: Yeah, for...I know there was some discussion of having a special meeting --

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CHAIR SUGIMURA: Oh.

COUNCILMEMBER SINENCI: --the Council.

COUNCILMEMBER KING: . . . *(inaudible)* . . .

CHAIR SUGIMURA: So, what will happen on that, you want to speak to it?

COUNCILMEMBER KING: Thank you. So, our, my intent was to first poll for the afternoon of December 12<sup>th</sup>, and there's no reason why we have to have it on a Friday. And since three Members already have to be here on the morning of the 12<sup>th</sup> for the MPO meeting I thought that might be a more likely time to have it at 1:00 or 1:30 p.m. rather than having everybody come in on Friday the 13<sup>th</sup> when they don't have to. And I don't want any jinxes on this, so that will be my first poll time if everyone can kind of keep that in mind.

CHAIR SUGIMURA: That would be for first reading?

COUNCILMEMBER KING: For first reading. And if we can get that, if we can get the CR done in time to post and we pass that, then the second reading will be on December 20<sup>th</sup>.

CHAIR SUGIMURA: You ready for that, Shelly? All that's going to fall on you, huh. Appreciate it. Okay, thank you.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: RH)

CHAIR SUGIMURA: So, Members, this meeting is now adjourned. . . .*(gavel)*. . .

**ADJOURN:** 11:07 a.m.

APPROVED:

  
YUKI LEI K. SUGIMURA, Chair  
Multimodal Transportation Committee

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Transcribed by: Crystal Sakai

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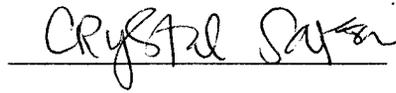
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CERTIFICATE

I, Crystal Sakai, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 30<sup>th</sup> day of December, 2019, in Kahului, Hawaii



Crystal Sakai