

Resolution

No. 20-132

APPROVING FOR INCLUSION IN THE 2021 MAUI
COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE
BILL TO GIVE COUNTIES AUTHORITY TO
ESTABLISH RENTAL-CAR LIMITS

WHEREAS, by Resolution 19-98, the Council affirmed Maui County's commitment to the Paris Climate Agreement and its goals of mitigating greenhouse-gas emissions and adapting to impacts of climate change; and

WHEREAS, reducing rental cars on the road would contribute to meeting these goals by reducing dependency on petroleum and greenhouse gas emissions generated from for ground-transportation vehicles; and

WHEREAS, the United States Environmental Protection Agency states that a typical passenger vehicle emits about 4.6 metric tons of carbon dioxide per year; and

WHEREAS, over 20,000 rental cars on Maui adversely impact the County's ability to mitigate greenhouse-gas emissions; and

WHEREAS, the United States Department of Transportation states that reducing traffic can improve the environment by reducing vehicle miles traveled, which reduces fuel consumed and emissions generated by acceleration and decelerations; and

WHEREAS, counties do not have the ability to limit rental cars under State law; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to allow counties to establish rental-car limits, is approved for inclusion in the 2021 Maui County Council Legislative Package; and

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2. That certified copies of this Resolution be transmitted to the Governor of the State of Hawaii, the President of the State Senate, the Speaker of the State House of Representatives, the County's delegation to the State Legislature, and the Mayor of the County of Maui.

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A BILL FOR AN ACT

RELATING TO RENTAL MOTOR VEHICLES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawai'i is committed to mitigating emissions and
2 creating a clean energy pathway by investing in renewable energy
3 and energy efficiency. Utilities and transportation currently
4 account for the majority of emissions in Hawai'i.

5 Reducing cars on the road will contribute to meeting Hawai'i's
6 clean energy goals by reducing dependency on petroleum and
7 greenhouse gas emissions generated from for ground transportation
8 vehicles. However, over 20,000 rental motor vehicles on Maui
9 adversely impact Hawai'i's intent to mitigate greenhouse gas
10 emissions.

11 SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "Subject to general law, each county shall have the following
14 powers and shall be subject to the following liabilities and
15 limitations:

16 (1) Each county shall have the power to frame and adopt a
17 charter for its own self-government that shall establish the county
18 executive, administrative, and legislative structure and

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1 organization, including but not limited to the method of
2 appointment or election of officials, their duties,
3 responsibilities, and compensation, and the terms of their office;

4 (2) Each county shall have the power to provide for and
5 regulate the marking and lighting of all buildings and other
6 structures that may be obstructions or hazards to aerial
7 navigation, so far as may be necessary or proper for the protection
8 and safeguarding of life, health, and property;

9 (3) Each county shall have the power to enforce all claims on
10 behalf of the county and approve all lawful claims against the
11 county, but shall be prohibited from entering into, granting, or
12 making in any manner any contract, authorization, allowance
13 payment, or liability contrary to the provisions of any county
14 charter or general law;

15 (4) Each county shall have the power to make contracts and to
16 do all things necessary and proper to carry into execution all
17 powers vested in the county or any county officer;

18 (5) Each county shall have the power to:

19 (A) Maintain channels, whether natural or artificial,
20 including their exits to the ocean, in suitable condition to carry
21 off storm waters;

22 (B) Remove from the channels, and from the shores and beaches,
23 any debris that is likely to create an unsanitary condition or

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1 become a public nuisance; provided that, to the extent any of the
2 foregoing work is a private responsibility, the responsibility may
3 be enforced by the county in lieu of the work being done at public
4 expense;

5 (C) Construct, acquire by gift, purchase, or by the exercise
6 of eminent domain, reconstruct, improve, better, extend, and
7 maintain projects or undertakings for the control of and protection
8 against floods and flood waters, including the power to drain and
9 rehabilitate lands already flooded;

10 (D) Enact zoning ordinances providing that lands deemed
11 subject to seasonable, periodic, or occasional flooding shall not
12 be used for residence or other purposes in a manner as to endanger
13 the health or safety of the occupants thereof, as required by the
14 Federal Flood Insurance Act of 1956 (chapter 1025, Public Law
15 1016); and

16 (E) Establish and charge user fees to create and maintain any
17 stormwater management system or infrastructure;

18 (6) Each county shall have the power to exercise the power of
19 condemnation by eminent domain when it is in the public interest
20 to do so;

21 (7) Each county shall have the power to exercise regulatory
22 powers over business activity as are assigned to them by chapter
23 445 or other general law;

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1 (8) Each county shall have the power to fix the fees and
2 charges for all official services not otherwise provided for;

3 (9) Each county shall have the power to provide by ordinance
4 assessments for the improvement or maintenance of districts within
5 the county;

6 (10) Except as otherwise provided, no county shall have the
7 power to give or loan credit to, or in aid of, any person or
8 corporation, directly or indirectly, except for a public purpose;

9 (11) Where not within the jurisdiction of the public utilities
10 commission, each county shall have the power to regulate by
11 ordinance the operation of motor vehicle common carriers
12 transporting passengers and the number of rental motor vehicles
13 within the county and adopt and amend rules the county deems
14 necessary for the public convenience and necessity;

15 (12) Each county shall have the power to enact and enforce
16 ordinances necessary to prevent or summarily remove public
17 nuisances and to compel the clearing or removal of any public
18 nuisance, refuse, and uncultivated undergrowth from streets,
19 sidewalks, public places, and unoccupied lots. In connection with
20 these powers, each county may impose and enforce liens upon the
21 property for the cost to the county of removing and completing the
22 necessary work where the property owners fail, after reasonable
23 notice, to comply with the ordinances. The authority provided by

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1 this paragraph shall not be self-executing, but shall become fully
2 effective within a county only upon the enactment or adoption by
3 the county of appropriate and particular laws, ordinances, or rules
4 defining "public nuisances" with respect to each county's
5 respective circumstances. The counties shall provide the property
6 owner with the opportunity to contest the summary action and to
7 recover the owner's property;

8 (13) Each county shall have the power to enact ordinances
9 deemed necessary to protect health, life, and property, and to
10 preserve the order and security of the county and its inhabitants
11 on any subject or matter not inconsistent with, or tending to
12 defeat, the intent of any state statute where the statute does not
13 disclose an express or implied intent that the statute shall be
14 exclusive or uniform throughout the State;

15 (14) Each county shall have the power to:

16 (A) Make and enforce within the limits of the county all
17 necessary ordinances covering all:

18 (i) Local police matters;

19 (ii) Matters of sanitation;

20 (iii) Matters of inspection of buildings;

21 (iv) Matters of condemnation of unsafe structures, plumbing,
22 sewers, dairies, milk, fish, and morgues; and

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1 (v) Matters of the collection and disposition of rubbish and
2 garbage;

3 (B) Provide exemptions for homeless facilities and any other
4 program for the homeless authorized by part XVII of chapter 346,
5 for all matters under this paragraph;

6 (C) Appoint county physicians and sanitary and other
7 inspectors as necessary to carry into effect ordinances made under
8 this paragraph, who shall have the same power as given by law to
9 agents of the department of health, subject only to limitations
10 placed on them by the terms and conditions of their appointments;
11 and

12 (D) Fix a penalty for the violation of any ordinance, which
13 penalty may be a misdemeanor, petty misdemeanor, or violation as
14 defined by general law;

15 (15) Each county shall have the power to provide public
16 pounds; to regulate the impounding of stray animals and fowl, and
17 their disposition; and to provide for the appointment, powers,
18 duties, and fees of animal control officers;

19 (16) Each county shall have the power to purchase and
20 otherwise acquire, lease, and hold real and personal property
21 within the defined boundaries of the county and to dispose of the
22 real and personal property as the interests of the inhabitants of
23 the county may require, except that:

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1 (A) Any property held for school purposes may not be disposed
2 of without the consent of the superintendent of education;

3 (B) No property bordering the ocean shall be sold or otherwise
4 disposed of; and

5 (C) All proceeds from the sale of park lands shall be expended
6 only for the acquisition of property for park or recreational
7 purposes;

8 (17) Each county shall have the power to provide by charter
9 for the prosecution of all offenses and to prosecute for offenses
10 against the laws of the State under the authority of the attorney
11 general of the State;

12 (18) Each county shall have the power to make appropriations
13 in amounts deemed appropriate from any moneys in the treasury, for
14 the purpose of:

15 (A) Community promotion and public celebrations;

16 (B) The entertainment of distinguished persons as may from
17 time to time visit the county;

18 (C) The entertainment of other distinguished persons, as well
19 as, public officials when deemed to be in the best interest of the
20 community; and

21 (D) The rendering of civic tribute to individuals who, by
22 virtue of their accomplishments and community service, merit civic
23 commendations, recognition, or remembrance;

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1 (19) Each county shall have the power to:

2 (A) Construct, purchase, take on lease, lease, sublease, or
3 in any other manner acquire, manage, maintain, or dispose of
4 buildings for county purposes, sewers, sewer systems, pumping
5 stations, waterworks, including reservoirs, wells, pipelines, and
6 other conduits for distributing water to the public, lighting
7 plants, and apparatus and appliances for lighting streets and
8 public buildings, and manage, regulate, and control the same;

9 (B) Regulate and control the location and quality of all
10 appliances necessary to the furnishing of water, heat, light,
11 power, telephone, and telecommunications service to the county;

12 (C) Acquire, regulate, and control any and all appliances for
13 the sprinkling and cleaning of the streets and the public ways,
14 and for flushing the sewers; and

15 (D) Open, close, construct, or maintain county highways or
16 charge toll on county highways; provided that all revenues received
17 from a toll charge shall be used for the construction or
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the renting,
20 subletting, and rental conditions of property for places of abode
21 by ordinance;

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1 (21) Unless otherwise provided by law, each county shall have
2 the power to establish by ordinance the order of succession of
3 county officials in the event of a military or civil disaster;

4 (22) Each county shall have the power to sue and be sued in
5 its corporate name;

6 (23) Each county shall have the power to:

7 (A) Establish and maintain waterworks and sewer works;

8 (B) Implement a sewer monitoring program that includes the
9 inspection of sewer laterals that connect to county sewers, when
10 those laterals are located on public or private property, after
11 providing a property owner not less than ten calendar days' written
12 notice, to detect leaks from laterals, infiltration, and inflow,
13 any other law to the contrary notwithstanding;

14 (C) Compel an owner of private property upon which is located
15 any sewer lateral that connects to a county sewer to inspect that
16 lateral for leaks, infiltration, and inflow and to perform repairs
17 as necessary;

18 (D) Collect rates for water supplied to consumers and for the
19 use of sewers;

20 (E) Install water meters whenever deemed expedient; provided
21 that owners of premises having vested water rights under existing
22 laws appurtenant to the premises shall not be charged for the
23 installation or use of the water meters on the premises; and

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1 (F) Take over from the State existing waterworks systems,
2 including water rights, pipelines, and other appurtenances
3 belonging thereto, and sewer systems, and to enlarge, develop, and
4 improve the same; and

5 (G) For purposes of subparagraphs (B) and (C):

6 (i) "Infiltration" means groundwater, rainwater, and
7 saltwater that enters the county sewer system through cracked,
8 broken, or defective sewer laterals; and

9 (ii) "Inflow" means non-sewage entering the county sewer
10 system via inappropriate or illegal connections;

11 (24) (A) Each county may impose civil fines, in addition to
12 criminal penalties, for any violation of county ordinances or rules
13 after reasonable notice and requests to correct or cease the
14 violation have been made upon the violator. Any administratively
15 imposed civil fine shall not be collected until after an
16 opportunity for a hearing under chapter 91. Any appeal shall be
17 filed within thirty days from the date of the final written
18 decision. These proceedings shall not be a prerequisite for any
19 civil fine or injunctive relief ordered by the circuit court;

20 (B) Each county by ordinance may provide for the addition of
21 any unpaid civil fines, ordered by any court of competent
22 jurisdiction, to any taxes, fees, or charges, with the exception
23 of fees or charges for water for residential use and sewer charges,

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1 collected by the county. Each county by ordinance may also provide
2 for the addition of any unpaid administratively imposed civil
3 fines, which remain due after all judicial review rights under
4 section 91-14 are exhausted, to any taxes, fees, or charges, with
5 the exception of water for residential use and sewer charges,
6 collected by the county. The ordinance shall specify the
7 administrative procedures for the addition of the unpaid civil
8 fines to the eligible taxes, fees, or charges and may require
9 hearings or other proceedings. After addition of the unpaid civil
10 fines to the taxes, fees, or charges, the unpaid civil fines shall
11 not become a part of any taxes, fees, or charges. The county by
12 ordinance may condition the issuance or renewal of a license,
13 approval, or permit for which a fee or charge is assessed, except
14 for water for residential use and sewer charges, on payment of the
15 unpaid civil fines. Upon recordation of a notice of unpaid civil
16 fines in the bureau of conveyances, the amount of the civil fines,
17 including any increase in the amount of the fine which the county
18 may assess, shall constitute a lien upon all real property or
19 rights to real property belonging to any person liable for the
20 unpaid civil fines. The lien in favor of the county shall be
21 subordinate to any lien in favor of any person recorded or
22 registered prior to the recordation of the notice of unpaid civil
23 fines and senior to any lien recorded or registered after the

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1 recordation of the notice. The lien shall continue until the unpaid
2 civil fines are paid in full or until a certificate of release or
3 partial release of the lien, prepared by the county at the owner's
4 expense, is recorded. The notice of unpaid civil fines shall state
5 the amount of the fine as of the date of the notice and maximum
6 permissible daily increase of the fine. The county shall not be
7 required to include a social security number, state general excise
8 taxpayer identification number, or federal employer identification
9 number on the notice. Recordation of the notice in the bureau of
10 conveyances shall be deemed, at such time, for all purposes and
11 without any further action, to procure a lien on land registered
12 in land court under chapter 501. After the unpaid civil fines are
13 added to the taxes, fees, or charges as specified by county
14 ordinance, the unpaid civil fines shall be deemed immediately due,
15 owing, and delinquent and may be collected in any lawful manner.
16 The procedure for collection of unpaid civil fines authorized in
17 this paragraph shall be in addition to any other procedures for
18 collection available to the State and county by law or rules of
19 the courts;

20 (C) Each county may impose civil fines upon any person who
21 places graffiti on any real or personal property owned, managed,
22 or maintained by the county. The fine may be up to \$1,000 or may
23 be equal to the actual cost of having the damaged property repaired

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1 or replaced. The parent or guardian having custody of a minor who
2 places graffiti on any real or personal property owned, managed,
3 or maintained by the county shall be jointly and severally liable
4 with the minor for any civil fines imposed hereunder. Any such
5 fine may be administratively imposed after an opportunity for a
6 hearing under chapter 91, but such a proceeding shall not be a
7 prerequisite for any civil fine ordered by any court. As used in
8 this subparagraph, "graffiti" means any unauthorized drawing,
9 inscription, figure, or mark of any type intentionally created by
10 paint, ink, chalk, dye, or similar substances;

11 (D) At the completion of an appeal in which the county's
12 enforcement action is affirmed and upon correction of the violation
13 if requested by the violator, the case shall be reviewed by the
14 county agency that imposed the civil fines to determine the
15 appropriateness of the amount of the civil fines that accrued while
16 the appeal proceedings were pending. In its review of the amount
17 of the accrued fines, the county agency may consider:

- 18 (i) The nature and egregiousness of the violation;
19 (ii) The duration of the violation;
20 (iii) The number of recurring and other similar violations;
21 (iv) Any effort taken by the violator to correct the
22 violation;

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1 (v) The degree of involvement in causing or continuing the
2 violation;

3 (vi) Reasons for any delay in the completion of the appeal;
4 and

5 (vii) Other extenuating circumstances.

6 The civil fine that is imposed by administrative order after
7 this review is completed and the violation is corrected shall be
8 subject to judicial review, notwithstanding any provisions for
9 administrative review in county charters;

10 (E) After completion of a review of the amount of accrued
11 civil fine by the county agency that imposed the fine, the amount
12 of the civil fine determined appropriate, including both the
13 initial civil fine and any accrued daily civil fine, shall
14 immediately become due and collectible following reasonable notice
15 to the violator. If no review of the accrued civil fine is
16 requested, the amount of the civil fine, not to exceed the total
17 accrual of civil fine prior to correcting the violation, shall
18 immediately become due and collectible following reasonable notice
19 to the violator, at the completion of all appeal proceedings; and

20 (F) If no county agency exists to conduct appeal proceedings
21 for a particular civil fine action taken by the county, then one
22 shall be established by ordinance before the county shall impose
23 the civil fine;

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1 (25) Any law to the contrary notwithstanding, any county
2 mayor, by executive order, may exempt donors, provider agencies,
3 homeless facilities, and any other program for the homeless under
4 part XVII of chapter 346 from real property taxes, water and sewer
5 development fees, rates collected for water supplied to consumers
6 and for use of sewers, and any other county taxes, charges, or
7 fees; provided that any county may enact ordinances to regulate
8 and grant the exemptions granted by this paragraph;

9 (26) Any county may establish a captive insurance company
10 pursuant to article 19, chapter 431; and

11 (27) Each county shall have the power to enact and enforce
12 ordinances regulating towing operations.”

13 SECTION 3. Statutory material to be repealed is bracketed
14 and in strikethrough. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

17 INTRODUCED BY: _____

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19 get:misc:004(2)amisc(rental-car limits)02:ske

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 20-132** was adopted by the Council of the County of Maui, State of Hawaii, on the 11th day of September, 2020, by the following vote:

MEMBERS	Alice L. LEE Chair	Keani N. W. RAWLINS-FERNANDEZ Vice-Chair	G. Riki HOKAMA	Natalie A. KAMA	Kelly T. KING	Michael J. MOLINA	Tamara A. M. PALTIN	Shane M. SINENCI	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Aye	No	Excused	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK