

PUBLIC HEARING

JUNE 15, 2016

A public hearing of the Council of the County of Kaua'i was called to order by Ross Kagawa, Presiding Officer, Public Safety Committee, on Wednesday, June 15, 2016, at 1:37 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kualii
Honorable Mel Rapozo

Excused: Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable JoAnn A. Yukimura

The Clerk read the notice of the public hearing on the following:

“Bill No. 2629 – A BILL FOR AN ORDINANCE TO AMEND SECTION 22-8.2, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SMOKING IN A MOTOR VEHICLE,”

which was ordered to print by the Council of the County of Kaua'i on May 18, 2016, and published in The Garden Island newspaper on May 25, 2016.

The following communications were received for the record:

1. Ancheta Sally from Coalition for Tobacco-Free Hawai'i-East Hawai'i Coordinator and MacAller, Tami from Coalition for Tobacco-Free Hawai'i-West Hawai'i Coordinator, dated June 15, 2016
2. Doo, Danielle, dated May 23, 2016
3. Hamilton-Cambeith, Noelle, dated June 15, 2016
4. Leisz-Foley, Karyn, dated June 13, 2016
5. Kollar, Justin F., Prosecuting Attorney for the County of Kaua'i, dated June 15, 2016
6. Ochoa, Paul, dated June 14, 2016
7. Saiki, Valerie, dated June 14, 2016
8. Young, Geri, dated May 23, 2016

The hearing proceeded as follows:

SCOTT K. SATO, Deputy County Clerk: We do have registered speakers and we have received eight (8) written testimonies in support. The first registered speaker is Alice Parker, followed by Janice Bond.

Councilmember Kagawa: Ms. Parker, you may come up.

ALICE PARKER: Alice Parker, for the record. I am firmly in favor of this suggestion because smoking is very bad for everybody, but especially for children and there are people who say, "Well, parents know best." I worked with two (2) women who were close friends of mine, who came from different backgrounds. One was taking care of her nephew, who had been left in her custody and the police came to her place one day because she was physically assaulting the kid, and this woman's attitude was, "He is my property. I can do what I want with him." Well, I thought people being considered chattel was done away with several hundreds of years ago—at least I would hope so. There are still people out there and this woman is a parent also, who think that children are not human beings, but chattel. They are human beings and parents do not necessarily know what is best for their kids. They would like to think they do, but sometimes the law has to step in and help out. Thank you.

Councilmember Kagawa: Next speaker, please.

Mr. Sato: The next speaker is Janice Bond, followed by Valerie Saiki.

JANICE BOND: Good afternoon, Councilmembers. My name is Janice Bond. I was Kaua'i's first Smoke-Free Coordinator and started "SHOUTS," which is "Students of Hawai'i Opposing Use of Tobacco," the State's first youth coalition. I took fifteen (15) youth to the first "Truth" summit in Seattle, Washington. I was co-vice chair with Dr. Elizabeth Tam for the state coalition and sat six (6) years in the State Tobacco Trust Fund Advisory Board. Kaua'i has had smoke-free restaurants because of the Kaua'i County Council, and the State worked on all restaurants statewide when Representative Tokioka was the legislator pushing this bill. A personal example, the father of my boys, David Stem, died at sixty-nine (69) years old. He had throat cancer; he could not quit. His second wife died four (4) months later with lung cancer. These are adults who should know better. It makes a difference in the health of our children and we ask that you consider passing this Bill because we need to take care of the health of our children. Thank you.

Mr. Sato: The next speaker is Valerie Saiki, representing the Coalition for a Tobacco-Free Hawai'i, followed by Christopher Takenaka.

VALERIE SAIKI: Good afternoon. My name is Valerie Saiki. I am with the Coalition for a Tobacco-Free Hawai'i. I sent in my testimony earlier and I also had sent in some remarks in order to answer some questions that we had in previous hearings. I did want to make note that I brought some visuals today to show you some of the damage that we are talking about with cigarette smoking. This is a jar of tar and the amount of tar that is filtered through a cigarette if you were to smoke one (1) pack a day for a whole year, three hundred sixty-five (365) packs of cigarettes equals one (1) pint of tar. Some of this stays in the smoker's lungs and some of it gets exhaled. This is a demonstration of what gets exhaled. I

had a smoker inhale their cigarette and exhale it through a tube that only went to this one side of the sponge. That is the secondhand smoke that youth are exposed to in a vehicle and it does have to go through the vehicle, even if the windows are open. It does not go straight out. This is the health concern that we are worried about that the youth will be inhaling. Inside of these are not just the tar, but also nicotine and all of the added chemicals. I also wanted to bring your attention to the banner in the back. I have gone around to various different schools, afterschool programs, and anything with the youth to see how they would feel about this Bill, and every single one of them really did feel like they do not want to be in a vehicle when someone is smoking, but how can they stand up for themselves when we are told not to talk back to adults? We are told to not tell adults what to do. But you yourself know you are coughing and hacking; that is not a good sign. Maybe you cannot breathe because you have asthma and you have to go to the hospital all of the time. How can a child even voice that? You might think maybe five (5) years old, "I get it," but even sixteen (16) years old...sometimes they might have that issue. Maybe it is not the driver...maybe it is their parents sitting in the passenger seat. It needs to be the responsibility of us as adults to kind of guide that and get this law passed, and then provide the education. I also want to make note that you should have received the testimony from Hawai'i island. There was another question about how education can be implemented after passing the bill and they talk about how they could get into more schools and collaborate with the police officers in order to do their presentations and talk to the community and the parents. Thank you.

Mr. Sato:
followed by Lonnie Sykos.

The next speaker is Christopher Takenaka,

CHRISTOPHER TAKENAKA: *Aloha* Chairman Rapozo. You are making me nervous with that. I am sorry to hear that you went through all of that or see you go through all of that. Christopher Takenaka, for the record. It is not about the old man driving in his car, although it is secondary. It is not primarily about him driving in his own car the way he wants to, living the life he wants. It is not about me of that following generation, trying my whole life to hold my breath. This is about the next generation, as Valerie stated, to protect those young people who do not have the ability per se to protect themselves against these elements or to make a conscious decision. For example, they cannot drive for most cases and say, "I am going to get out of this car because I do not like the way it smells." They do not have those kinds of choices. It is much like getting on a school bus. For the most part, our school bus drivers are about the best, as far as taking their personals aside and when they go to work, it is the same with any bus driver, really. They are policed, if you will, by their passengers or at least by their community. When we put our child in any other person's car...I will say that this is one of the reasons I ride a bike because I like the fresh air and sometimes I cannot even stand the air conditioning inside of the car. I have that choice, so it is not about me. I make my own personal choices. I am above the age of being subjected to the hierarchy. My son is not. He will be turning fifteen (15) years old and he still under everybody else, if you will. One of those other people is a heavy smoker. The old man can go and smoke as much as he wants in his own little world, but when it comes to my son or any of our children riding in a vehicle that smells like smoke, I know that it is

going inside of him and I cannot stand that. I feel that he would be much safer on the back of my bike if that was the case; as safe as he was in the school bus. It is all about primarily protecting the child that does not have the right to make their own decisions because that right is the responsibility of the parent, and like was previously testified, that right sometimes has to be a reminder through the law. Thank you.

Mr. Sato:

The last registered speaker is Lonnie Sykos.

LONNIE SYKOS: For the record, Lonnie Sykos. A few people, and certainly not me, would argue that there is a benefit to exposing children to tobacco smoke. I am not arguing that, but I am going to argue unintended consequences. So if this issue rises to the level of attention by the Council; if this issue is of significant importance that it requires legislative action, which is what we are talking about today—are the parents not or other adults who smoke in the presence of children abusing them? Should they not be prosecuted for abusing the children? If you are a smoker and have children, should you not be at-risk of having Child Protective Services (CPS) take your children away from you because you abuse them with cigarette smoke? That is what is being argued today. The Council is being asked to intrude into our private spaces according to the law, which the interior of our vehicle is, and it is, in fact, no different than the interior of our home. So if you are going to pass this ordinance about cars, why do you not pass it about our home as well? Do the right thing. If you want ban the possibility of a child being exposed to tobacco smoke, then do so. But this “feel good” measure is not going to accomplish very much. I ride on two (2) wheels and I see every day people texting and holding on to their steering wheel. I also see people on their phones and chatting away on their hand-free devices. The Kaua’i Police Department (KPD) is utterly incapable of enforcing the cell phone bans and texting while you are driving is a much clearer threat to anybody, to everybody in the world than smoking a cigarette in a car. Yet, people do not get arrested for texting. If they do, is it child abuse if there is a child in the car? If you pass this Bill, you will see parents being prosecuted eventually in a few years over this. Is that what your intention is? I think this is misguided and that you should instead issue a proclamation and do something that is not creating illegality to help educate the public about this problem, versus trying to prosecute the public. Thank you.

Councilmember Kagawa: Thank you. You have three (3) more minutes if you want to come back later. Does anybody else want to speak for a first time on this? Step right up. Does anyone else after Matt want to speak for the first time on this? None, okay. After Matt is done, let us see if you folks want to come for a second time.

MATTHEW BERNABE: Matthew Bernabe, for the record. What I think should occur here is that if this does pass, I think it should go to an educational component and just educate the smokers on the anatomy and physiology effects on nicotine on the body. So when you come out of a shopping mall or a public place that is banned and you understand that your body is craving an immediate fix of nicotine, that before you get into that car—maybe the shopping mall should have designated decompression smoking areas before you get in your

car. Maybe signs that say, "You Are Getting Into Your Car. Smoke That Cigarette Before You Do It In The Car With Kids." When this first law passed regarding the bars and public places, which has nothing to do with this—this is going into a vehicle, which is private. The first thing that I said publically was, "Wow, as soon as they get in their car, they are going to triple smoke." It is a fact. This is how it is. I think if we really want to help the kids without punishing the smoker...because it is the industry that we should punish. Those are the facts. If you really want to help all people involved, this is the way to do it. Have the malls make a smoking area and have signs that say, "Please Smoke A Cigarette Before Getting In The Vehicle With A Child." That is commonsense. Other than that, I will just let everybody speak. Thank you.

Councilmember Kagawa: Does anyone else want to speak for a second time?

Mr. Takenaka: Christopher Takenaka. Another thought I had while I was riding my bike up here...the old man...again, it is not primarily about him. He knows that smoking is bad for his health and that he does not have the ability to quit because he does not have the intestinal fortitude, and I can go on and on about that, but that is not the case. The second thing is that he puts a filter so that less of that bad stuff can get in his own body. The rest of us can go to you know where. He can jump on an airplane for hours to visit his grandchildren and at their house he can stay there for hours smoking in someplace else if he really has to because my sister, who is Matt's classmate, will not tolerate anyone smoking in her house. My point is that you can sit there for hours in an enclosed area, knowing that the law prevents you from taking out your cancer stick. So only a couple of hours roundtrip, maybe a few in traffic, or if it needs be several hours; when your own grandchild, in my case, my son...I do not smoke, but when something even more precious is beside you—again, that is commonsense. Some of us sometimes put away commonsense because of our own selfish habits. I got my own habits. When I am in my own little world, that is when I do it. Maybe I have to go and yell out in the garage or something when my bike does not work or something. That is my bad habit and hopefully my son is not within ear shot. Yes, it is a form of abuse because I know I should not be doing stuff like that, yelling out of term and stuff like that. The thing is that when it comes to smoking, the air just carries it. I swear I can smell it a quarter-mile away. It is a little exaggerated, but he is out in the garage and I can smell it really strong in any part of the house because the residue is still there, and in a car, even more so. I would push for no smoking in the home. I would have been for that when I was eight (8) years old, when I first picked up a cigarette and said, "What is this?" I put it to my lips and that was when I decided that I am not touching this stupid stuff for the rest of my life, contrary to what the previous generation got hooked on about the same time. Hopefully, my son will not either. My time is up already.

Councilmember Kagawa: Thank you. Anybody else? Just for your information, this Bill will be in Committee in two (2) weeks because there is no meeting next week.

Ms. Saiki: Hi. Valerie Saiki, for the record. I wanted to take the time to read off the other states and territories that have actually passed this law in their jurisdiction: Arkansas, Louisiana, Puerto Rico, California, Maine, Oregon, Utah, Vermont, and Virginia. I did want to point out that Chris made a really good statement saying that people ride the planes all of the time and they are not allowed to smoke inside of the planes anymore, which has been a federal judgment for a while now, so we do not smoke on the planes. People will find other ways to control their nicotine cravings like a patch or something, but they can do it, which is for the safety and health of others. I also want to mention that passing this Bill...there is no plans for it to be a snowball effect. We are not passing this so that the next step would be something else. We are passing this for the health of kids and that is our main, primary concern. We do have other laws that are enacted that will protect our kids. We have car seat laws. We actually even have laws that you have to feed your child and bathe them. Why do we need to have laws like that? Is that not logic? Sometimes you need to in order to get that education out there for the well-being of that child. We are talking about parents who were smoking in front of their children—is that a good thing or a bad thing? Should we punish them? Yes, Councilmember Kagawa is right; we need that education. We have been trying to do that for a very long time and with every new parent needs to be more education. With the foster care system, any foster parent is not allowed to smoke in the car with their child. So that proves to you that the state is protecting the child and they already ruled no smoking in the car with children. I do want to add one more thing and this is kind of a parallel argument, but when a child goes into a boat, should they wear a lifejacket? Do they make laws where they have to wear a lifejacket? Yes. Anyone under the age of twelve (12) must wear a lifejacket when on a boat. That is the Personal Flotation Device (PFD) requirements for the floatation device. What if your child can swim? Can they take that lifejacket off? Do they really need it? Yes, because that is required by law. So if you are a parent who thinks that it is okay and that they can just roll down the windows, we do need that law to say, “No smoking in the car when your child is in the car.” If your child is not, that is not what we are concerned about.

Councilmember Kagawa: Any further speakers? You may come up.

Mr. Bernabe: Matthew Bernabe, for the record. When it does go to the Committee, I would like to hope that whoever proposed this Bill has some statistics from these other states that the previous testifier just gave. It will be interesting because some of my reservations are on the legality and enforcement and it is definitely not about the safety aspect of this. On the safety side, what a “no-brainer,” but we have to be realistic in how some things can have good intentions and get taken out of control. I would like to see some statistics, even from the public or whoever is in the county side of this. That would be good. Thank you very much.

Councilmember Kagawa: Any further speakers on this? Seeing none, this public hearing is now closed.

There being no further testimony, the public hearing adjourned at 2:01 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. K. Sato", written in a cursive style.

SCOTT K. SATO
Deputy County Clerk

:cy