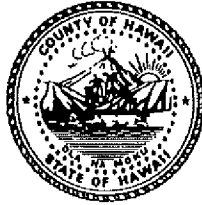


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## HAWAI‘I COUNTY COUNCIL - DISTRICT 2

25 Aupuni Street • Hilo, Hawai‘i 96720

DATE: June 12, 2024

TO: Heather Kimball, Council Chair  
and Members of the Hawai‘i County Council

FROM: Jennifer Kagiwada, Council Member  
Council District 2 

SUBJECT: Proposed Amendments to Bill No. 125, Draft 5; An Ordinance Amending Chapter 6 of the Hawai‘i County Code 1983 (2016 Edition, as Amended), By Adding a New Article Relating to Commercial Bicycle Tours.

Please see below proposed amendments to Bill No. 125, Draft 5. The proposed amendments are shown in Ramseyer format with respect to the contents of Bill No. 125, Draft 5; material to be deleted is bracketed and stricken, and material to be added is underscored. A copy of the new draft of this bill that will result if these proposed amendments are adopted is attached.

1. SECTION 1 of Bill No. 125 is amended to read as follows:

“SECTION 1. Purpose. Chapter 46-16.3, Hawai‘i Revised Statutes, enables the County Council to “adopt and provide for enforcement of ordinances regulating commercial bicycle tours on state and county highways, including but not limited to ordinances relating to the number of tours, the number of bicycles within a tour, scheduling of tours, physical spacing of tours, rules of the road, health and safety requirements, equipment maintenance, driver and guide qualifications, driver and guide drug testing, accident procedures and reporting, and financial responsibility requirements.” In the interest of public safety, the purpose of this ordinance is to [~~prohibit the operation of commercial bicycle tours on certain State and County roadways where limited lines of sight, a lack of passable shoulders, and other traffic conditions create unsafe and potentially dangerous circumstances for motorists and bicyclists.~~] create a registration process for commercial bicycle tour operations.”

2. SECTION 2 of Bill No. 125, which amends chapter 6 of the Hawai‘i County Code 1983 (2016 Edition, as amended) by adding a new article, is amended to read as follows:

“Article \_\_. Commercial Bicycle Tours.

Section 6-\_\_\_. Definitions.

As used in this article, unless the context clearly requires otherwise:

Comm. No. 679.91  
Ref. To: PT Council  
Ref. Date: JUN 12 2024

“Bicycle” means the same as defined in Chapter 291C-1, Hawai‘i Revised Statutes.

“Business” means the same as defined in Chapter 1 of this Code.

“Commercial bicycle tour” means a tour comprised of a group of persons traveling from place to place on bicycles for pleasure, recreation, and sightseeing, and is operated by a bicycle tour business. “Commercial bicycle tour” shall include guided bicycle tours and unguided bicycle tours.

“Guided bicycle tour” means a commercial bicycle tour that is accompanied or led by the owner, an employee, or an agent of the bicycle tour business providing the bicycle tour for the duration of the tour.

“Public highway” means the same as defined in Chapter 264, Hawai‘i Revised Statutes.

“Unguided bicycle tour” means a commercial bicycle tour that is not accompanied or led by the owner, an employee, or an agent of the bicycle tour business throughout the ride, and in which transportation to or from the route is provided or arranged by the bicycle tour business.

**Section 6-\_\_\_\_. Applicability.**

This article shall apply to all commercial bicycle tours on any public highway, or any designated portion thereof.

**Section 6-\_\_\_\_. Annual registration.**

- (a) Prior to the first day of each January, any business or person operating a commercial bicycle tour in the County shall register or renew annually with the director of finance, which registration shall be made in such form as prescribed by the director of finance and shall include:
- (1) The name, business address, mailing address, phone number, and e-mail of the registrant;
  - (2) The name and contact information of any representatives authorized to act on behalf of the registrant;
  - (3) Locations, areas, and routes to be utilized for bicycle tours, tour schedule, and the maximum number of participants per tour group;
  - (4) Written and notarized permission from any property owner whose property the commercial bicycle tour traverses; and
  - (5) A description of all moveable structures, including trailers or mobile containers, used in conjunction with the bicycle tour business.
- (b) A registration fee shall accompany the annual registration, which shall be \$500 for the initial registration and \$250 for each annual renewal. Failure to register shall incur a fine of \$1,000.

~~**Section 6-\_\_\_\_. Authority to restrict.**~~

- ~~(a) The council may by ordinance prohibit commercial bicycle tours on designated portions of public highways due to substandard road conditions.~~
- ~~(b) Prior to taking final action on any such ordinance, the council shall request the respective recommendations of the chief of police, the director of public works, and other public officials deemed appropriate as to whether the operation of commercial bicycle tours on the affected highways, or portions thereof, should be prohibited. The chief of police and director of public works shall provide their respective recommendation within forty-five days of the request by the council.~~

(e) ~~With respect to any prohibition considered by the council, conditions considered substandard for non-vehicle use may include unpaved gravel road surfaces, narrow travel-lane pavement widths, lack of or insufficient shoulder areas, limited lines of sight, one-lane bridges, steep roadway grades, and any other condition deemed unsafe by the director of public works.~~

**Section 6-~~\_\_\_~~. ~~Prohibited highways for commercial bicycle tours.~~**

~~In accordance with section 6-\_\_\_ and when signs are erected giving notice thereof, commercial bicycle tours shall not operate on the following public highways:~~

<del>(a) Hāmākuā</del>
<del>(b) North Hilo</del>
<del>(c) South Hilo</del>
<del>(d) Ka‘ū</del>
<del>(e) Kohala</del>
<del>(f) Kona</del>
<del>(g) Puna</del>

**Section 6-~~\_\_\_~~. ~~Penalties.~~**

~~Any bicycle tour business that operates a commercial bicycle tour on a prohibited highway shall be subject to:~~

- ~~(1) A fine of not more than \$500 for the first offense; and~~
- ~~(2) A fine of not less than \$1,000 per bicycle for the second or subsequent offense committed within one year of the date of the first offense.]~~

**Section 6-~~\_\_\_~~. ~~Disposition of funds.~~**

~~All monies collected under this article shall be deposited into the general fund and used exclusively for supporting bicycle and pedestrian safety education.~~

**Section 6-~~\_\_\_~~. ~~Administrative rules.~~**

~~The director of finance may adopt administrative rules pursuant to chapter 91, Hawai‘i Revised Statutes, as may be necessary to implement this article.”~~

Thank you.

JLK:slm  
Att.

**AN ORDINANCE AMENDING CHAPTER 6 OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY ADDING A NEW ARTICLE RELATING TO COMMERCIAL BICYCLE TOURS.**

**BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:**

**SECTION 1.** Purpose. Chapter 46-16.3, Hawai'i Revised Statutes, enables the County Council to "adopt and provide for enforcement of ordinances regulating commercial bicycle tours on state and county highways, including but not limited to ordinances relating to the number of tours, the number of bicycles within a tour, scheduling of tours, physical spacing of tours, rules of the road, health and safety requirements, equipment maintenance, driver and guide qualifications, driver and guide drug testing, accident procedures and reporting, and financial responsibility requirements." In the interest of public safety, the purpose of this ordinance is to create a registration process for commercial bicycle tour operations.

**SECTION 2.** Chapter 6 of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended by adding a new article to be appropriately designated and to read as follows:

**"Article \_\_. Commercial Bicycle Tours.**

**Section 6- \_\_. Definitions.**

As used in this article, unless the context clearly requires otherwise:

"Bicycle" means the same as defined in Chapter 291C-1, Hawai'i Revised Statutes.

"Business" means the same as defined in Chapter 1 of this Code.

"Commercial bicycle tour" means a tour comprised of a group of persons traveling from place to place on bicycles for pleasure, recreation, and sightseeing, and is operated by a bicycle tour business. "Commercial bicycle tour" shall include guided bicycle tours and unguided bicycle tours.

"Guided bicycle tour" means a commercial bicycle tour that is accompanied or led by the owner, an employee, or an agent of the bicycle tour business providing the bicycle tour for the duration of the tour.

"Public highway" means the same as defined in Chapter 264, Hawai'i Revised Statutes.

"Unguided bicycle tour" means a commercial bicycle tour that is not accompanied or led by the owner, an employee, or an agent of the bicycle tour business throughout the ride, and in which transportation to or from the route is provided or arranged by the bicycle tour business.

**Section 6- \_\_. Applicability.**

This article shall apply to all commercial bicycle tours on any public highway, or any designated portion thereof.

**Section 6- \_\_. Annual registration.**

- (a) Prior to the first day of each January, any business or person operating a commercial bicycle tour in the County shall register or renew annually with the director of finance, which registration shall be made in such form as prescribed by the director of finance and shall include:

- (1) The name, business address, mailing address, phone number, and e-mail of the registrant;
  - (2) The name and contact information of any representatives authorized to act on behalf of the registrant;
  - (3) Locations, areas, and routes to be utilized for bicycle tours, tour schedule, and the maximum number of participants per tour group;
  - (4) Written and notarized permission from any property owner whose property the commercial bicycle tour traverses; and
  - (5) A description of all moveable structures, including trailers or mobile containers, used in conjunction with the bicycle tour business.
- (b) A registration fee shall accompany the annual registration, which shall be \$500 for the initial registration and \$250 for each annual renewal. Failure to register shall incur a fine of \$1,000.

**Section 6-\_\_\_\_. Disposition of funds.**

All monies collected under this article shall be deposited into the general fund and used exclusively for supporting bicycle and pedestrian safety education.

**Section 6-\_\_\_\_. Administrative rules.**

The director of finance may adopt administrative rules pursuant to chapter 91, Hawai‘i Revised Statutes, as may be necessary to implement this article.”

**SECTION 3.** Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**SECTION 4.** This ordinance shall take effect upon its approval.