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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. Hawaii 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 Hawaii.

5           The legislature finds that reducing cars on the road will  
6 contribute to meeting Hawaii's clean energy goals by reducing  
7 dependency on petroleum and greenhouse gas emissions generated  
8 from ground transportation vehicles. However, over twenty  
9 thousand rental motor vehicles on Maui adversely impact Hawaii's  
10 intent to mitigate greenhouse gas emissions.

11           The purpose of this Act is to authorize the counties to  
12 regulate the number of rental motor vehicles within their  
13 respective jurisdictions.

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

16           "§46-1.5 General powers and limitation of the counties.  
17 Subject to general law, each county shall have the following



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1 powers and shall be subject to the following liabilities and  
2 limitations:

3 (1) Each county shall have the power to frame and adopt a  
4 charter for its own self-government that shall  
5 establish the county executive, administrative, and  
6 legislative structure and organization, including but  
7 not limited to the method of appointment or election  
8 of officials, their duties, responsibilities, and  
9 compensation, and the terms of their office;

10 (2) Each county shall have the power to provide for and  
11 regulate the marking and lighting of all buildings and  
12 other structures that may be obstructions or hazards  
13 to aerial navigation, so far as may be necessary or  
14 proper for the protection and safeguarding of life,  
15 health, and property;

16 (3) Each county shall have the power to enforce all claims  
17 on behalf of the county and approve all lawful claims  
18 against the county, but shall be prohibited from  
19 entering into, granting, or making in any manner any  
20 contract, authorization, allowance payment, or



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- 1 liability contrary to the provisions of any county  
2 charter or general law;
- 3 (4) Each county shall have the power to make contracts and  
4 to do all things necessary and proper to carry into  
5 execution all powers vested in the county or any  
6 county officer;
- 7 (5) Each county shall have the power to:
- 8 (A) Maintain channels, whether natural or artificial,  
9 including their exits to the ocean, in suitable  
10 condition to carry off storm waters;
- 11 (B) Remove from the channels, and from the shores and  
12 beaches, any debris that is likely to create an  
13 unsanitary condition or become a public nuisance;  
14 provided that, to the extent any of the foregoing  
15 work is a private responsibility, the  
16 responsibility may be enforced by the county in  
17 lieu of the work being done at public expense;
- 18 (C) Construct, acquire by gift, purchase, or by the  
19 exercise of eminent domain, reconstruct, improve,  
20 better, extend, and maintain projects or  
21 undertakings for the control of and protection



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1                   against floods and flood waters, including the  
2                   power to drain and rehabilitate lands already  
3                   flooded;

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

12                  (E) Establish and charge user fees to create and  
13                  maintain any stormwater management system or  
14                  infrastructure;

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

18                  (7) Each county shall have the power to exercise  
19                  regulatory powers over business activity as are  
20                  assigned to them by chapter 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  
3           provided for;

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

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

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

18          (12) Each county shall have the power to enact and enforce  
19          ordinances necessary to prevent or summarily remove  
20          public nuisances and to compel the clearing or removal  
21          of any public nuisance, refuse, and uncultivated



1           undergrowth from streets, sidewalks, public places,  
2           and unoccupied lots. In connection with these powers,  
3           each county may impose and enforce liens upon the  
4           property for the cost to the county of removing and  
5           completing the necessary work where the property  
6           owners fail, after reasonable notice, to comply with  
7           the ordinances. The authority provided by this  
8           paragraph shall not be self-executing, but shall  
9           become fully effective within a county only upon the  
10          enactment or adoption by the county of appropriate and  
11          particular laws, ordinances, or rules defining "public  
12          nuisances" with respect to each county's respective  
13          circumstances. The counties shall provide the  
14          property owner with the opportunity to contest the  
15          summary action and to recover the owner's property;  
16          (13) Each county shall have the power to enact ordinances  
17          deemed necessary to protect health, life, and  
18          property, and to preserve the order and security of  
19          the county and its inhabitants on any subject or  
20          matter not inconsistent with, or tending to defeat,  
21          the intent of any state statute where the statute does



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1 not disclose an express or implied intent that the  
2 statute shall be exclusive or uniform throughout the  
3 State;

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

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

7 (i) Local police matters;

8 (ii) Matters of sanitation;

9 (iii) Matters of inspection of buildings;

10 (iv) Matters of condemnation of unsafe  
11 structures, plumbing, sewers, dairies, milk,  
12 fish, and morgues; and

13 (v) Matters of the collection and disposition of  
14 rubbish and garbage;

15 (B) Provide exemptions for homeless facilities and  
16 any other program for the homeless authorized by  
17 part XVII of chapter 346, for all matters under  
18 this paragraph;

19 (C) Appoint county physicians and sanitary and other  
20 inspectors as necessary to carry into effect  
21 ordinances made under this paragraph, who shall



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1           have the same power as given by law to agents of  
2           the department of health, subject only to  
3           limitations placed on them by the terms and  
4           conditions of their appointments; and

5           (D) Fix a penalty for the violation of any ordinance,  
6           which penalty may be a misdemeanor, petty  
7           misdemeanor, or violation as defined by general  
8           law;

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

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





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- 1           (A) Any property held for school purposes may not be
- 2                   disposed of without the consent of the
- 3                   superintendent of education;
- 4           (B) No property bordering the ocean shall be sold or
- 5                   otherwise disposed of; and
- 6           (C) All proceeds from the sale of park lands shall be
- 7                   expended only for the acquisition of property for
- 8                   park or recreational purposes;
- 9       (17) Each county shall have the power to provide by charter
- 10                   for the prosecution of all offenses and to prosecute
- 11                   for offenses against the laws of the State under the
- 12                   authority of the attorney general of the State;
- 13       (18) Each county shall have the power to make
- 14                   appropriations in amounts deemed appropriate from any
- 15                   moneys in the treasury, for the purpose of:
- 16           (A) Community promotion and public celebrations;
- 17           (B) The entertainment of distinguished persons as may
- 18                   from time to time visit the county;
- 19           (C) The entertainment of other distinguished persons,
- 20                   as well as, public officials when deemed to be in
- 21                   the best interest of the community; and



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- 1 (D) The rendering of civic tribute to individuals  
2 who, by virtue of their accomplishments and  
3 community service, merit civic commendations,  
4 recognition, or remembrance;
- 5 (19) Each county shall have the power to:
- 6 (A) Construct, purchase, take on lease, lease,  
7 sublease, or in any other manner acquire, manage,  
8 maintain, or dispose of buildings for county  
9 purposes, sewers, sewer systems, pumping  
10 stations, waterworks, including reservoirs,  
11 wells, pipelines, and other conduits for  
12 distributing water to the public, lighting  
13 plants, and apparatus and appliances for lighting  
14 streets and public buildings, and manage,  
15 regulate, and control the same;
- 16 (B) Regulate and control the location and quality of  
17 all appliances necessary to the furnishing of  
18 water, heat, light, power, telephone, and  
19 telecommunications service to the county;
- 20 (C) Acquire, regulate, and control any and all  
21 appliances for the sprinkling and cleaning of the



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1 streets and the public ways, and for flushing the  
2 sewers; and

3 (D) Open, close, construct, or maintain county  
4 highways or charge toll on county highways;  
5 provided that all revenues received from a toll  
6 charge shall be used for the construction or  
7 maintenance of county highways;

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

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

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

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

18 (A) Establish and maintain waterworks and sewer  
19 works;

20 (B) Implement a sewer monitoring program that  
21 includes the inspection of sewer laterals that



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1 connect to county sewers, when those laterals are  
2 located on public or private property, after  
3 providing a property owner not less than ten  
4 calendar days' written notice, to detect leaks  
5 from laterals, infiltration, and inflow, any  
6 other law to the contrary notwithstanding;

7 (C) Compel an owner of private property upon which is  
8 located any sewer lateral that connects to a  
9 county sewer to inspect that lateral for leaks,  
10 infiltration, and inflow and to perform repairs  
11 as necessary;

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

14 (E) Install water meters whenever deemed expedient;  
15 provided that owners of premises having vested  
16 water rights under existing laws appurtenant to  
17 the premises shall not be charged for the  
18 installation or use of the water meters on the  
19 premises; and

20 (F) Take over from the State existing waterworks  
21 systems, including water rights, pipelines, and



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1 other appurtenances belonging thereto, and sewer  
2 systems, and to enlarge, develop, and improve the  
3 same;

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

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

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

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



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1 not be a prerequisite for any civil fine or  
2 injunctive relief ordered by the circuit court;  
3 (B) Each county by ordinance may provide for the  
4 addition of any unpaid civil fines, ordered by  
5 any court of competent jurisdiction, to any  
6 taxes, fees, or charges, with the exception of  
7 fees or charges for water for residential use and  
8 sewer charges, collected by the county. Each  
9 county by ordinance may also provide for the  
10 addition of any unpaid administratively imposed  
11 civil fines, which remain due after all judicial  
12 review rights under section 91-14 are exhausted,  
13 to any taxes, fees, or charges, with the  
14 exception of water for residential use and sewer  
15 charges, collected by the county. The ordinance  
16 shall specify the administrative procedures for  
17 the addition of the unpaid civil fines to the  
18 eligible taxes, fees, or charges and may require  
19 hearings or other proceedings. After addition of  
20 the unpaid civil fines to the taxes, fees, or  
21 charges, the unpaid civil fines shall not become



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1 a part of any taxes, fees, or charges. The  
2 county by ordinance may condition the issuance or  
3 renewal of a license, approval, or permit for  
4 which a fee or charge is assessed, except for  
5 water for residential use and sewer charges, on  
6 payment of the unpaid civil fines. Upon  
7 recordation of a notice of unpaid civil fines in  
8 the bureau of conveyances, the amount of the  
9 civil fines, including any increase in the amount  
10 of the fine which the county may assess, shall  
11 constitute a lien upon all real property or  
12 rights to real property belonging to any person  
13 liable for the unpaid civil fines. The lien in  
14 favor of the county shall be subordinate to any  
15 lien in favor of any person recorded or  
16 registered prior to the recordation of the notice  
17 of unpaid civil fines and senior to any lien  
18 recorded or registered after the recordation of  
19 the notice. The lien shall continue until the  
20 unpaid civil fines are paid in full or until a  
21 certificate of release or partial release of the



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





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1 procedures for collection available to the State  
2 and county by law or rules of the courts;

3 (C) Each county may impose civil fines upon any  
4 person who places graffiti on any real or  
5 personal property owned, managed, or maintained  
6 by the county. The fine may be up to \$1,000 or  
7 may be equal to the actual cost of having the  
8 damaged property repaired or replaced. The  
9 parent or guardian having custody of a minor who  
10 places graffiti on any real or personal property  
11 owned, managed, or maintained by the county shall  
12 be jointly and severally liable with the minor  
13 for any civil fines imposed hereunder. Any such  
14 fine may be administratively imposed after an  
15 opportunity for a hearing under chapter 91, but  
16 such a proceeding shall not be a prerequisite for  
17 any civil fine ordered by any court. As used in  
18 this subparagraph, "graffiti" means any  
19 unauthorized drawing, inscription, figure, or  
20 mark of any type intentionally created by paint,  
21 ink, chalk, dye, or similar substances;



- 1           (D) At the completion of an appeal in which the  
2           county's enforcement action is affirmed and upon  
3           correction of the violation if requested by the  
4           violator, the case shall be reviewed by the  
5           county agency that imposed the civil fines to  
6           determine the appropriateness of the amount of  
7           the civil fines that accrued while the appeal  
8           proceedings were pending. In its review of the  
9           amount of the accrued fines, the county agency  
10          may consider:
- 11           (i) The nature and egregiousness of the  
12           violation;
  - 13           (ii) The duration of the violation;
  - 14           (iii) The number of recurring and other similar  
15           violations;
  - 16           (iv) Any effort taken by the violator to correct  
17           the violation;
  - 18           (v) The degree of involvement in causing or  
19           continuing the violation;
  - 20           (vi) Reasons for any delay in the completion of  
21           the appeal; and



1           (vii) Other extenuating circumstances.

2           The civil fine that is imposed by administrative

3           order after this review is completed and the

4           violation is corrected shall be subject to

5           judicial review, notwithstanding any provisions

6           for administrative review in county charters;

7           (E) After completion of a review of the amount of

8           accrued civil fine by the county agency that

9           imposed the fine, the amount of the civil fine

10          determined appropriate, including both the

11          initial civil fine and any accrued daily civil

12          fine, shall immediately become due and

13          collectible following reasonable notice to the

14          violator. If no review of the accrued civil fine

15          is requested, the amount of the civil fine, not

16          to exceed the total accrual of civil fine prior

17          to correcting the violation, shall immediately

18          become due and collectible following reasonable

19          notice to the violator, at the completion of all

20          appeal proceedings; and



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1           (F) If no county agency exists to conduct appeal  
2                   proceedings for a particular civil fine action  
3                   taken by the county, then one shall be  
4                   established by ordinance before the county shall  
5                   impose the civil fine;

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

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

18           (27) Each county shall have the power to enact and enforce  
19                   ordinances regulating towing operations."

20           SECTION 3. New statutory material is underscored.



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

2

INTRODUCED BY: \_\_\_\_\_



By Request

JAN 21 2021



# H.B. NO. 193

**Report Title:**

Maui County Council Package; Rental Motor Vehicles; County Powers

**Description:**

Authorizes the counties to regulate the number of rental motor vehicles within their respective jurisdictions.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

