

From: [Peter Sur](#)
To: [cohdem](#)
Subject: EMC testimony - Comment on Bill 167
Date: Tuesday, May 24, 2022 11:24:54 AM

Commissioners:

As an individual citizen I support the intention to protect our nearshore environment but I have concerns about Bill 167 as written:

1. Sunscreen regulation may be pre-empted by the State in HRS Chapter 342D.
2. Bill 167 does not match the policy statement of the Department of Environmental Management as stated in the County Charter, which is “to protect, preserve, and enhance our environment by promoting the wise management of waste.”
3. As with other sections under HCC Chapter 14, the police department is the proper enforcement authority.
4. The National Academies of Sciences, Engineering, and Medicine are studying what they call “the state of science on use of sunscreen ingredients that are currently marketed in the United States, their fates and effects in aquatic environments, and the potential public health implications associated with reduced use.” The science must drive the politics, not the other way around.
5. Legislation should follow publication of this study. Therefore, consideration of the bill should be postponed until 2023.
6. The “shall seize and dispose” requirement raises constitutional questions. DEM does not have an enforcement section.
7. Fines should go toward public education and dispensing of mineral sunscreens to the public at county beach parks. This also raises the question of whether DEM should be involved at all.
8. No financial impact statement has been provided to analyze the labor and equipment cost of implementing this bill, nor does funding appear in the budget for fiscal year 22-23. Assuming costs will come out of the Solid Waste Fund, this bill moves the fund farther away from the goal of fiscal sustainability.

In short, the benefits of a ban on these unnamed active ingredients are unknown, the drawbacks of TiO₂ and ZnO are unknown, the costs to the county and to the consumer are unknown, the enforcement ability is unknown, and the legality is unknown.

If Bill 167 continues on to passage regardless of these concerns, I would request your recommendation that the following subsection be added to proposed HCC Section 14-34:

“Notwithstanding Section 2-207 or any other provision of this code, appeals of violations of this article shall be waived from the Environmental Management Commission to a court of competent jurisdiction.”

Thank you for the opportunity to provide comment.

Peter