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A year after sit-lie ban hits the city, results vary

Laws enacted to clear sidewalks of vagrants come with side effects

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Wednesday marks one year since Mayor Kirk Caldwell signed Honolulu's first sit-lie bill into law, banning people from sitting and lying on Waikiki sidewalks 24 hours a day.

The new law quickly shifted the landscape in the government's handling of homelessness.

The law spurred what appears to be a majority of Waikiki's homeless to move out of Hawaii's tourism mecca. Some went to shelters or found other housing arrangements, but others simply moved themselves and their belongings into other portions of the city.

City Council members, pressured by merchants and other constituents, began proposing bills to apply the sit-lie ban in neighborhoods within their districts. Four of eight bills were passed, and today the ban is in effect in two dozen areas from Hawaii Kai to Haleiwa.

A fifth bill, establishing an islandwide sit-lie ban, was defeated 5-4. But with the numbers of Oahu homeless still at disturbing levels and the sprouting of large encampments in Kakaako and along the Kapalama Canal, some Council members are again talking about trying for an islandwide ban.

Caldwell said that overall, sit-lie laws have been effective.

"I think that sit-lie has worked because we don't see the visible presence there that once was on our sidewalks," he said.

But Jenny Lee, staff attorney for the Hawaii Appleseed Center for Law and Economic Justice, said the sit-lie laws have only served to criminalize people for not having a roof and shift the homeless into other neighborhoods.

"We've seen no quantitative data or anecdotal reports that suggest we've somehow mitigated the homeless crisis," she said.

Since the sit-lie law went into effect in Waikiki, police have issued 1,261 warnings and 282 citations, and made six arrests, Honolulu Police Department spokeswoman Michelle Yu said. All of those cited were previously warned, while those arrested were previously cited, she said.

"We've seen a lot less complaints both from our visitors and our residents alike," said Maj. Lisa Mann, who until recently was commander of HPD's Waikiki patrol district.

The Institute for Human Services joined with the Hawaii Lodging and Tourism Association in November to

set up an outreach program to help those being pushed out of Waikiki. The program provides shuttle service to and from Iwilei, and operates a drop-in center in Moiliili.

As of Aug. 31, it has served 357 people, said Kimo Carvalho, IHS development and community relations manager. Of those, 131 moved into IHS shelters or more permanent housing, and 115 relocated to the mainland to live with family members, Carvalho said. Others received medical care, help finding jobs and other services, he said.

The goal when the program began was to reach 300 people in the first year, place 140 into shelters or homes, and help 120 others relocate, Carvalho said.

While media reports have focused on how the homeless in Waikiki have relocated to Kakaako, Kapahulu and elsewhere, a significant number have found shelter or homes, or relocated — just short of the goals, he said.

There's been a noticeable drop in the number of people camping on sidewalks in the past year, said Robert Finley, chairman of the Waikiki Neighborhood Board. While there are still issues related to homelessness, "they're not nearly as serious or as visible as they were before sit-lie," Finley said.

The intent of the sit-lie law was to keep the sidewalks clear, not to remove the homeless from Waikiki, said Rick Egged, Waikiki Improvement Association president. In that sense, he said, "it has worked well."

But the homeless are still present in Waikiki, he said. "This whole idea that it was forcing people to be out of Waikiki was always misleading," Egged said. The homeless, like others, can choose to rest in the ample park and beach space when those facilities are open, he said.

Caldwell said he introduced the Waikiki bill because of the growing number of complaints from visitors and locals who felt "it was becoming more and more difficult to walk along the sidewalks and other pedestrian places safely."

But even before the Council heard the Waikiki bill for the first time in June 2014, Council members began introducing bills to apply sit-lie to other neighborhoods.

Caldwell initially balked at going beyond Waikiki, saying he wanted to apply it there as a pilot project first. Additionally, city attorneys raised constitutional issues about imposing it where it could not be clearly shown that sidewalk campers were inhibiting commerce.

But administration officials worked with Councilman Ron Menor to craft a bill that included six neighborhoods that city attorneys said they believed could withstand court challenges. By the time the bill was approved, colleagues had raised the number of new sit-lie-enforced neighborhoods to 15.

Since then, the Council has passed three bills expanding sit-lie to additional neighborhoods or malls. Caldwell signed one of them, adding major Downtown-Chinatown pedestrian malls. He vetoed two others, citing legal questions, but was overridden by the Council both times.

While technically not a sit-lie measure, Caldwell also signed a bill that barred camping alongside city waterways, including Kapalama Canal.

Council members introduced five other sit-lie bills that were eventually shelved.

While some two dozen areas have a sit-lie ban in place, police have enforced it only in Waikiki and

Downtown-Chinatown. Since the Downtown-Chinatown area was added on Dec. 5, police have issued 6,192 warnings and 30 citations there and made three arrests, HPD said.

HPD spokeswoman Yu said she did not know of any sit-lie warnings, citations or arrests made elsewhere on Oahu, despite the addition of some two dozen areas by Council members.

Caldwell said enforcement is a matter of prioritizing.

“All of these laws — stored property, sidewalk nuisance, sit-lie — are complaint driven so when we get the complaints ... we go to the places where the complaints are greatest, because we have limited resources,” he said. “We only have so many employees and so much money.”

Paul Min, owner of You Market in Chinatown’s Kekaulike Market, said he’s noticed a sharp decline in the number of people camping in the area. They’re no longer along Kekaulike Mall, he said. They are, however, still sleeping along Hotel Street, where he has a leased chill box that is blocked almost daily when he arrives at 4:30 a.m.

When officers roust them, they stir like they are going to move, Min said. But officers have to scurry to other assignments, and the campers often just stay where they are, he said. More police on the street would help, he said.

Council members, those who support sit-lie as well as those who oppose it, are worried that the city has focused too much on cracking down on homelessness in some areas at the expense of others.

Councilman Joey Manahan said that the city has not been clearing sidewalk campers in his district: Kalihi Valley and Liliha, Kalihi-Palama, Iwilei, Kalihi Kai, Sand Island, Mapunapuna, Salt Lake, Aliamanu, Hickam, Foster Village, Pearl Harbor and portions of Aiea and Halawa Estates.

The sit-lie law may be effective in Waikiki, but it has pushed the campers into other neighborhoods, Manahan said. Without housing or shelter space to accommodate the campers as they move to other parts of the island, Council members have had little choice but to expand the sit-lie ban, he said.

“I’m not crazy about it but it seems to be the only thing that works,” he said. The next sit-lie bill, he said, should be islandwide.

Manahan said he’s not worried about opponents raising legal challenges.

“If it were to be challenged (and a ruling were made), then the Council would have some kind of clarity and we would be able to amend the law to be both just and effective,” he said.

Councilman Ikaika Anderson is the Council’s biggest supporter of an islandwide sit-lie ban.

“Sit-lie has resulted in our sidewalks being open and accessible for the most part — in the areas where sit-lie applies,” Anderson said. If the Council had passed an islandwide bill, “we wouldn’t be having the discussion today about how many bills the Council considered regarding sit-lie.”

Council members Kymberly Pine and Brandon Elefante have consistently voted against the bills.

Pine said sit-lie has eased the homeless situation in Waikiki and urban Honolulu at the expense of other Oahu neighborhoods. A growing number of homeless are being pushed into Pearl City, Waipahu, Ewa and Waianae, she said.

People from recent city sweeps have been bused to shelters in Waipahu and Waianae, taking up space that could instead be used for the homeless in those areas, she said.

"We love them but we have our own problems we have to deal with and we're barely surviving handling that," Pine said.

Lee, from the Appleseed Center, said the sit-lie laws have only disrupted the lives of those being removed.

"Making life so difficult for already vulnerable people in hopes of forcing people into emergency shelters does not help people stabilize," Lee said. "It's time to focus on permanent housing."

Carvalho, of IHS, said he hopes that wherever sit-lie is applied, there are service providers available to help those displaced. "It requires a homeless service provider to really be present and catering to the specific needs of our community," he said.

SIT-LIE BILLS -A HISTORY

Since 2010, the Honolulu City Council has considered 21 bills -enacting nine -to regulate lying, sleeping and camping on Oahu sidewalks. Below are the names of the Council members who introduced them and descriptions of each:

LAWS ENACTED (9)

- >> Bill 39 (2010): Ann Kobayashi. Establishes "pedestrian use zones" where tents and other large structures are barred during daylight hours. Initially islandwide and 24 hours a day, was changed to certain urban neighborhoods at specified hours.
- >> Bill 54 (2011): Tulsi Gabbard. Known as the Stored Property Ordinance, allows private property stored on public sidewalks to be removed after 24-hour written notice. In 2013, protections for those whose property is seized were added, including an easier procedure for the return of belongings.
- >> Bill 7 (2013): Ernie Martin, Kobayashi and Ikaika Anderson. Known as the Sidewalk Nuisance Ordinance, allows city workers to summarily, and without 24 hours' notice, remove private property deemed a nuisance.
- >> Bill 42 (2014): On behalf of Mayor Kirk Caldwell. Bans sitting and lying on sidewalks in Waikiki 24 hours a day.
- >> Bill 48 (2014): Ron Menor. Expands sit-lie to six commercial and business zones, primarily during business hours only. Before final approval, expanded to 15 business districts islandwide.
- >> Bill 62 (2014) : Carol Fukunaga. Malls in Chinatown and Downtown Honolulu added to sit-lie ban.
- >> Bill 6 (2015): Kobayashi. Adds at least 11 other business areas to sit-lie. Caldwell vetoed the measure citing constitutional concerns, but it was overridden by the Council, 6-3.
- >> Bill 44 (2015): Fukunaga. Expands sit-lie to two additional malls in Chinatown and adds enforcement hours to two Downtown malls. Caldwell vetoed, but the Council overrode, 7-2.
- >> Bill 46 (2015): Joey Manahan. Bans camping, sleeping and human habitation alongside city streams and other waterways.

BILLS NOT PASSED (12)

- >> Bill 41 (2010): On behalf of Caldwell. Establishes procedure for removing and disposing of personal property stored in public areas. Deferred in committee.
- >> Bill 42 (2011): Ernie Martin. Adds Wahiawa to pedestrian-use zones. Deferred after city officials said they had not yet implemented the original pedestrian-use zone bill from the previous year.

- >> Bill 2 (2013): Kobayashi. Seeks to regulate the storing of property on public sidewalks, but fails to get a committee hearing.
- >> Bill 6 (2013): Ikaika Anderson. Seeks to ban erecting a tent or other structure on public sidewalks or malls without a permit. Deferred in committee.
- >> Bill 59 (2013): Stanley Chang. Bars lying down on public sidewalks. Deferred in committee.
- >> Bill 3 (2014): Anderson. Gives Honolulu police more authority to assist in enforcement of the Sidewalk Nuisance Ordinance. Deferred in committee after HPD objects, citing lack of personnel.
- >> Bill 44 (2014) : Fukunaga. Seeks to expand sit-lie to include the area between Nuuanu Stream and Ward Avenue. Deferred in committee.
- >> Bill 45 (2014): Anderson, Kobayashi and Fukunaga. Seeks to impose sit-lie islandwide. Defeated on the Council floor on final vote, 5-4. Opponents, including the Caldwell administration, cited constitutional concerns.
- >> Bill 55 (2014): Fukunaga. Expands sit-lie to all cityowned pedestrian malls "and other public spaces." Passed second reading but died in committee.
- >> Bill 43 (2015): Menor. Includes the bulk of Bill 6 but without parts the Caldwell administration objects to. Shelved in committee.
- >> Bill 47 (2015): Kobayashi. Adds "sidewalks on both sides of streets where the sit-lie ban already applies." No second hearing scheduled after Bill 6, which includes the same language, was overridden.
- >> Bill 48 (2015): Martin and Fukunaga. Adds "sidewalks on both sides" of streets, as well as new areas of Downtown, McCully-Moiliili, Aala and Kapalama. No second hearing scheduled after Bill 6, which includes the same language, was overridden.