

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on Judiciary**

February 12, 2020

H.B. No. 2174 HD1: RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Office of the Public Defender respectfully opposes H.B. No. 2174 HD1. In particular, we oppose the creation of new sentencing guidelines for “highly intoxicated operators” as well as any increase in penalties for the offense of driving on a license revoked for operating a vehicle under the influence of an intoxicant (“OVUII”).

The creation of sentencing guidelines for “highly intoxicated operators” is an unnecessary restriction on the discretion of District Court judges. These judges are able to and often do consider an individual’s blood alcohol content (“BAC”) when making sentencing decisions. In addition to examining the facts of a case (e.g., BAC, an individual’s driving, whether an accident occurred), judges also look at factors such as criminal history, driving record, and community involvement. Indeed, judges are in the best position to impose fair and just sentences to defendants, and this bill would only hamper that ability.

Rather than increasing the mandatory penalties for driving on a license revoked for OVUII, we are requesting this committee to consider restoring sentencing discretion to judges under HRS 291E-62. While we recognize the need to curb repeat drunk-driving offenders, the statute fails to link to that objective in its current form. The majority of individuals charged with driving on a license revoked for OVUII are not charged with a subsequent OVUII offense, yet the mandatory jail time is substantially more severe than a second OVUII offense. Individuals are issued these citations as they drive to work, the grocery store, or to pick up their children from school; these individuals were not drinking and driving. Moreover, Public Defender clients are the most vulnerable to this charge because they are often unable to afford the fees to install and maintain an interlock device in their vehicle. Rather than increasing mandatory penalties for this charge, we respectfully request this committee to restore sentencing discretion to the judges familiar with the facts of each case.

On a final note, the increase of monetary fines for any charge disproportionately affects the indigent clients that our office serves. A wealthy individual charged with OVUII will be able to bounce back quickly, but unpaid fines will result into a license stopper for a poor individual charged with the same offense. Unless fines are tailored to an individual’s income, or removed from the penalty options in favor of community service work, we will continue to have a two-tiered system of justice for individuals charged with OVUII.

Thank you for the opportunity to comment on H.B. No. 2174 HD1.



TESTIMONY BY:

JADE T. BUTAY
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Deputy Directors
LYNN A.S. ARAKI-REGAN
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DEPARTMENT OF TRANSPORTATION
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February 13, 2020
2:05 P.M.
State Capitol, Room 325



H.B. 2174, H.D. 1
RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN
INTOXICANT

House Committee on Judiciary

The Department of Transportation (DOT) **supports** H.B. 2174, H.D. 1, relating to Operating a Vehicle Under the Influence of an Intoxicant. This bill defines “highly intoxicated drivers” and enhances the penalties.

H.B. 2174, H.D. 1 evolved last year out of concern for Hawaii’s increasing number of traffic fatalities involving alcohol and drugs. It represents a collaborative effort that included input from DOT’s Hawaii Drug and Alcohol Intoxicated Driving Working Group (comprised of county police and prosecutors, MADD, Hawaii State Department of Health, etc.), Hawaii Association of Criminal Defense Lawyers and the Office of the Public Defender.

The habitual “highly intoxicated driver,” someone who has been arrested and convicted many times over, poses a substantial risk to others on the road. Despite their repeated arrests and convictions, these drivers continue to drink and drive. DOT’s concern is that eventually these drivers will become involved in a collision and kill someone.

During the past five years (2015-2019), police arrested an average of 6,030 drivers for Operating a Vehicle Under the Influence of an Intoxicant (OVUII) per year. An average 1,664 of those 6,030 drivers who were arrested and tested, had blood alcohol concentration (BAC) results of 0.150 and higher. In addition, the average BAC during 2015-2019 was 0.162. Existing legislation needs to be strengthened to address the habitual offender, especially those who are continually arrested for violating the law.

The DOT urges you to pass H.B. 2174, H.D. 1, which the Hawaii Drug and Alcohol Intoxicated Driving Working Group recommends since it will enhance the penalties against those drivers who continue to drink and drive, as well as address drivers who continue to be arrested of OVUII many times.

Thank you for the opportunity to provide testimony.

Justin F. Kollar
Prosecuting Attorney



Rebecca Vogt Like
Second Deputy

Jennifer S. Winn
First Deputy

Diana Gausepohl-White
Victim/Witness Program Director

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**THE HONORABLE CHRIS LEE, CHAIR
THE HONORABLE JOY A. SAN BUENAVENTURA, VICE CHAIR
HOUSE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2020
State of Hawai'i**

February 13, 2020

**RE: H.B. 2174 H.D. 1; RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT.**

Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Office of the Prosecuting Attorney of the County of Kaua'i submits the following testimony in support of H.B. 2174, H.D. 1.

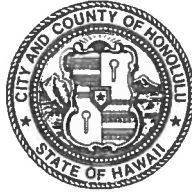
The purpose of this Bill is to establish higher penalties for operating a vehicle under the influence of an intoxicant (OVUII) as a "highly intoxicated driver"; to increase license revocation periods ordered by ADLRO, and applicable lookback periods; to require that ignition interlock devices be installed and maintained on one or more vehicles registered to, and all vehicles operated by, anyone convicted of operating a vehicle under the influence of an intoxicant, during their applicable period of license revocation; to establish higher penalties for repeat OVUII offenders, habitual OVUII offenders, and persons driving while license suspended or revoked for OVUII while also under the influence of an intoxicant.

Individuals who drive with an elevated blood alcohol concentration pose a unique threat to the safety of our highways. A blood alcohol concentration of .15 or more tends to indicate that the driver is a problem drinker who is more resistant to treatment and more likely to recidivate. Elevated consequences are necessary to have an impact on drivers in this category. In the past, Hawai'i law provided for increased sanctions on highly-intoxicated drivers and those consequences were effective at sending the appropriate message to offenders.

For these reasons, the Office of the Prosecuting Attorney supports the passage of H.B. 2174 H.D. 1. Thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE CT-LC

February 13, 2020

LATE

The Honorable Chris Lee, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: House Bill No. 2174, H.D. 1, Relating to Operating a Vehicle Under the Influence of an Intoxicant

I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 2174, H.D. 1, Relating to Operating a Vehicle Under the Influence of an Intoxicant.

The HPD supports this proposal, which establishes penalties for and defines a "highly intoxicated operator." Increases of related penalties could be a deterrent for the would-be violators. Any measure that could potentially keep impaired drivers off of our roads should be considered or implemented.

The HPD urges you to support House Bill No. 2174, H.D. 1, Relating to Operating a Vehicle Under the Influence of an Intoxicant.

Thank you for the opportunity to testify.

APPROVED:

Handwritten signature of Susan Ballard in black ink.

Susan Ballard
Chief of Police

Sincerely,

Handwritten signature of Calvin Tong in black ink.

Calvin Tong, Major
Traffic Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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LATE

**THE HONORABLE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2020
State of Hawai'i**

February 13, 2020

**RE: H.B. 2174, H.D. 1; RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT.**

Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of H.B. 2174, H.D. 1.

The purpose of H.B. 2174, H.D. 1, is to strengthen Hawaii's laws regarding operating a vehicle under the influence of an intoxicant ("OVUII"), in a concerted effort to make our roads safer for everyone to traverse. In summary, this bill would establish penalties (and a definition) for "highly intoxicated operator"; increase license revocation periods and lookback periods; and increase penalties for repeat offenders and habitual offenders.

From April 2019 through December 2019, our Department was part of an highly dedicated working group—coordinated and facilitated by the Department of Transportation, Highway Safety Division ("DOT")—which convened nearly every two weeks for five months, and spent numerous working hours outside of that, for a singular purpose: to produce proposed legislation that would significantly strengthen Hawaii's OVUII laws. We believe we were able to do that, and H.B. 2174, H.D. 1, is consistent with the bills that were jointly created by that working group.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of H.B. 2174. Thank you for the opportunity to testify on this matter.



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February 13, 2020

To: Representative Chris Lee, Chair, House Committee on Judiciary; Representative Joy A. San Buenaventura, Vice Chair, and members of the committee

From: JoAnn Hamaji-Oto, Territory Operations Director, Smart Start LLC, Hawaii Corporate Office

Re: House Bill 2174, HD1 - Relating to Operating a Vehicle Under the Influence of an Intoxicant

Testimony in Support

I am JoAnn Hamaji-Oto, Territory Operations Director for Smart Start LLC, Hawaii Corporate Office. Smart Start is the current vendor contracted by the Hawaii Department of Transportation to install and service alcohol ignition interlocks in the state of Hawaii. I am offering testimony in support of House Bill 2174, HD1 Relating to Operating a Vehicle Under the Influence of an Intoxicant. We commend the legislature for its efforts to strengthen Hawaii's impaired driving laws.

This bill would, among other provisions, establish penalties for and define "highly intoxicated operator." It increases license revocation periods and lookback periods for offenses of operating a vehicle under the influence of an intoxicant. We believe that this bill is an important policy step forward.

The only way to stop a drunk driver from reoffending is to install an ignition interlock on the vehicle that a person operates during a license revocation period. Unlike other alcohol monitoring technologies or programs, an interlock is the only technology and the single most effective tool available to physically separate drinking from driving and to enhance public safety. Since the implementation of Hawaii's Ignition Interlock law in 2011, we have prevented more than 100,000 drunk driving attempts in the state of Hawaii. The interlock did what it was supposed to do, it directly prevented drunk driving and the injuries and deaths it causes.

We believe that HB 2174, HD1 is an effort to broadly address and strengthen the existing law and support its intent. Thank you for the opportunity to provide testimony in support of this important bill.



Date: February 12, 2020

To: Chris Lee, Chair
Joy A. San Buenaventura, Vice Chair
Honorable Members of the House Committee on Judiciary

Re: Support for HB2174 HD 1 Relating to Operating a Vehicle Under the Influence of an Intoxicant

Hrg: Thursday, February 13, 2020 at 2:05pm at Conference Room 325

The Maui MPO Policy Board is in **support of HB2174 HD1** to establish penalties for and define "highly intoxicated operator". The bill increases license revocation periods and lookback periods for offenses of operating a vehicle under the influence of an intoxicant. It also increases penalties for repeat offenders, habitual offenders, and persons driving on a suspended or revoked license for offenses of operating a vehicle under the influence of an intoxicant.

Hawai'i ranks 5th worst in the nation for percentage of alcohol-impaired driving fatalities¹. Of the 23 traffic fatalities on Maui in 2019, 15 crashes involved drivers under the influence of drugs or alcohol. This measure would help to reduce the number of traffic fatalities by discouraging people from driving under the influence.

Following a County Council resolution and Mayor's proclamation in support of road safety, Maui MPO is working to develop a Vision Zero Action Plan to eliminate traffic fatalities and serious injuries through a combination of education, engineering and enforcement. HB2174 HD1 is consistent with Vision Zero efforts to eliminate traffic fatalities.

Please support HB2174 HD1 to discourage drunk driving and save lives.

¹ National Highway Traffic Safety Administration (NHTSA), accessed online:
<https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812630>



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LATE

February 13, 2020

To: Representative Chris Lee, Chairman, Committee on Judiciary;
Rep. Joy A. San Buenaventura, Vice Chair; and members of the
Committee

From: Arkie Koehl and Carol McNamee, Public Policy Committee - MADD
Hawaii

Re: House Bill 1676 HD 1 – **Relating to Highway Safety**

MADD Hawaii is testifying in strong support of House Bill 1676 HD 1 — Relating to Highway Safety.

Being vitally interested in highway safety, the members of MADD Hawaii endorse measures to protect our citizens by making enforcement of traffic laws more effective. The organization believes that Hawaii's counties should join the hundreds of other communities across the country that are reducing crashes through the implementation of photo red-light detector systems. However, MADD agrees that the appropriate approach for starting the program is to use a pilot project approach in any County or Counties that are willing. Honolulu County is the logical county to participate and others may join the program.

A 2010 comparative analysis of fatal multi-vehicle red-light running crashes (vs crashes not involving red light running) in the U.S. by the Insurance Institute for Highway Safety revealed that the red light runners were more likely to have prior crashes, alcohol-impaired driving convictions, and citations for speeding and other traffic offenses. The red light runners also were more likely to be speeding or impaired by alcohol at the time of the crash and were less likely to have a valid driver's license. This identified alcohol involvement in at least a portion of intersection

crashes makes support for this measure a logical - and important - expression of MADD's goal to reduce death and injury caused by impaired driving.

Just as with other highway safety programs conducted in our state, the primary object of the photo red light imaging detection program is to deter potential violators and thereby prevent crashes, injuries, and loss of life. Anyone who travels the roads of Honolulu County sees the blatant disregard for proper stopping at red lights. More and more often we see the potential for horrendous crashes as vehicles speed through intersections long after the signal has turned red. MADD believes that red light detection systems will decrease this problem and prevent innocent road users from being hit by red light runners – whether alcohol and speeding impaired or just impaired by poor judgment.

The Photo Red Light Imaging Detection enforcement tool has received the backing of the National Highway Traffic Safety Administration, which claims the systems have been effective in reducing intersection-related crashes.

As a member of the committee authorized by the 2019 Legislature to further investigate Red Light Cameras for Hawaii and to report back to the 2020 Legislature, MADD can vouch for the excellent research, discussion, and drafting that resulted in the bill you have before you. And, as a person who has known a young foreign student who was severely injured by a red-light runner on Kalanianaʻole Highway a few years ago, I have a personal reason to want red light running cameras installed as soon as possible.

MADD urges the committee to pass HB 1676 HD 1 to start the process of increasing our safety.

February 13, 2020

LATE

TO: Representative Chris Lee, Chair Judiciary
Representative Joy A. San Buenaventura, Vice Chair Judiciary
Members of the House Committee on Judiciary

FR: AAA HAWAII

RE: **HB2174 HD1 RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT. - SUPPORT**

Defines "highly intoxicated driver". Provides the evidentiary standard for establishing that a person was a "highly intoxicated driver". Requires that ignition interlock devices be installed and maintained on one or more vehicles registered to and all vehicles operated by anyone convicted of operating a vehicle under the influence of an intoxicant, during the applicable period of license revocation. Increases the license revocation period ordered by the Administrative Driver's License Revocation Office and extends the applicable lookback periods from five to ten years. Establishes higher penalties for offenses of operating a vehicle under the influence of an intoxicant.

AAA Hawaii **supports** HB2174 HD1 (Aquino). HB2174 HD1 helps advance AAA's efforts in reducing collisions from impaired driving by (1) establishing a standard for "highly intoxicated driver" as someone operating a vehicle with a Blood Alcohol Content (BAC) of 0.15 or higher and (2) extending the look-back period from five to ten years for impaired driving offenses.

While all states consider 0.08 BAC to be impaired, federal data clearly shows most impaired driving fatalities involve drivers with 0.15 BAC or higher. In 2018, for instance, 67 percent of the 10,511 alcohol impaired fatalities nationwide involved drivers who would have fallen under the HB2174 HD1 "highly intoxicated driver" definition. (NHTSA, 2019)

Almost all states now have higher penalties for highly impaired drivers, recognizing the substantial difference in vehicle control between a driver with a 0.08 versus 0.15 BAC or higher. Hawaii remains a limited exception. As of 2016, Hawaii was only one of four states without a standard for high BAC levels despite national data that demonstrates the deadly and disproportionate impact of this group on traffic safety. (NCSL, 2016)

HB2174 HD1 also extends the lookback period for driving under the influence of an intoxicant from five to ten years. AAA Hawaii strongly supports extended lookback periods to enable prosecutors, judges, and licensing authorities to identify DUI recidivists who qualify for mandatory enhanced penalties and driver license sanctions upon subsequent conviction. Reducing recidivism among impaired drivers must remain a high priority given about 25 percent of all DUI arrests each year in this country are estimated to be repeat offenders. (Coleman, 2014)

AAA Hawaii was founded in 1915 in Honolulu and is a leader in motorist services and a strong advocate for traffic safety. With more than 165,000 members in Hawaii and 58 million nationwide, service to and the safety of our members, other motorists, and all road users is our founding and continuing purpose. This is especially true in Hawaii where the percentage of alcohol impaired driving fatalities ranked among US states as the fourth highest in 2018. (NHTSA, 2019) We believe HB2174 HD1 broadly addresses critical needs in the state's impaired driving policies, which is why we are joining law enforcement and many public health organizations in support of this bill. We encourage you to do the same and support HB2174 HD1.

Sincerely,
Liane Sumida

Liane Sumida
General Manager

References

- Coleman, N. W.-K. (2014). *DWI Recidivism in the United States*. National Highway Traffic Safety Administration.
- NCSL. (2016, Nov. 11). *Increased Penalties for High Blood Alcohol Content*. Retrieved from National Conference of State Legislatures:
<https://www.ncsl.org/research/transportation/increased-penalties-for-high-blood-alcohol-content.aspx>
- NHTSA. (2019, Dec.). *Traffic Safety Facts*. DC: National Highway Traffic Safety Administration.

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TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY
THURSDAY, FEBRUARY 13, 2020; 2:05 P.M.
STATE CAPITOL, CONFERENCE ROOM 325

RE: HOUSE BILL NO. 2174, HOUSE DRAFT 1, RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT.

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

My name is Erik Abe, and I am the Public Affairs and Policy Director for the Hawaii Primary Care Association (HPCA). However, I am testifying today solely in my capacity as a concerned citizen, and my views expressed do not necessarily nor officially reflect those of the HPCA.

I **SUPPORT** the **INTENT** of House Bill No. 2174, House Draft 1, RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT., and offer **PROPOSED AMENDMENTS** for your consideration.

As received by your Committee, this bill would strengthen the penalties for violations of intoxicated operation of a motor vehicle under the Use of Intoxicants While Operating a Vehicle (OVUII) Law, Chapter 291E, Hawaii Revised Statutes (HRS). Among other things, this bill would:

- (1) Define a "highly intoxicated driver" as a person whose measurable amount of alcohol is .15 or more grams of alcohol per one hundred milliliters or cubic centimeters of a person's blood or .15 or more grams of alcohol per two hundred ten liters of the person's breath;
- (2) Provide that in any criminal prosecution for a violation of the OVUII Law, .15 or more grams of alcohol per one hundred milliliters or cubic centimeters of a person's blood or .15 or more grams of alcohol per two hundred ten liters of the person's breath within three hours after the time of the alleged violation be competent evidence that the person was a highly intoxicated driver at the time of the alleged violation;

- (3) Extends the period of license revocation for a respondent who:
 - (A) Has a second alcohol enforcement contact or drug enforcement contact from eighteen months to two years; and
 - (B) Has a third or more alcohol enforcement contact or drug enforcement contact during the previous ten years from two years to four years; and
- (4) Extends the period of license revocation for a highly intoxicated respondent, as follows:
 - (A) Eighteen months revocation for a first offense during the preceding ten years;
 - (B) Three years revocation for a second offense during the preceding ten years; and
 - (C) Six years revocation for a third or subsequent offense during the preceding ten years.

By way of background, I was requested three years ago by a friend, Mr. Ron Shimabuku, to assist his family draft legislation before the Hawaii State Legislature to strengthen Hawaii's laws applicable to driving under the influence of an intoxicant (OVUII). At that time, Mr. Shimabuku informed me that his hanai brother, Kaulana Werner, was killed by an intoxicated driver in Nanakuli, Island of Oahu, and that his family wanted to change the laws to prevent similar situations from occurring in the future to ease the suffering of families of victims.

During our examination of Hawaii's OVUII Law, we spoke with numerous police officers from across the State, all of whom requested to share their views "off the record". We learned that on any given night, between 30 and 40 drivers are detained on suspicion of driving under the influence. This comes out to between 11,000 and 15,000 detentions per year. However, because of the time it takes to test the blood alcohol level of drivers, as well as the reluctance of the City Prosecutor to prosecute these types of crimes, only 5,992 of the detained drivers were arrested last year.

At the point a police officer requests the suspect to submit to an alcohol level test, the suspect has the choice of either agreeing to or refusing to take the test. If the suspect chooses to take the test, the suspect is given the option of taking a breath test or a blood test. If the suspect chooses the blood test, it may take hours for the results to be determined because the suspect must be taken to an emergency room or another health facility to have the blood drawn and tested. The time it takes to have the blood drawn allows the suspect's body to metabolize the alcohol in it. As such, by the time the test results are found, the person's blood alcohol level may be considerably lower than it was at the time of the stop. And if the level is lower than .08, no violation would have taken place.

And even if the police officer obtains evidence that the suspect indeed had a blood level at or above .08, oftentimes, these cases are thrown out by the Office of the Prosecuting Attorney. For many of our front-line police officers, there is a perception that the Prosecutors look for any reason whatsoever to throw these types of cases out of court, either because of the complexity of obtaining a conviction, or the large amount of resources it takes to prosecute.

For front-line officers who risk their lives at night walking on busy streets to operate DUI checkpoints and confront sometimes agitated and impaired drivers, to have their work disregarded because the Prosecuting Attorney deems it wasteful to pursue these types of crimes is demoralizing to them and counter to the public policy that the OVUII Law was intended to serve.

In my opinion, the OVUII Law is fundamentally flawed because it rests on the premise that an individual is able to determine on his or her own whether he or she has reached a subjective level of intoxication (i.e., .08, .05, or any blood level). And every time someone dies from a drunk driver, it becomes evident to all that this public policy has failed.

This flaw, however, can be fixed if lawmakers mandate a "Zero Tolerance" policy. If a person wants the privilege of operating a vehicle in the State of Hawaii, the person must not have a measurable amount of alcohol in their blood while operating the vehicle at all times.

If the "Zero Tolerance" policy is applied to adults, law enforcement would only need to show that the offender had a measurable amount of alcohol in the person's blood. This would make enforcement much easier and serve as an even greater deterrent to operating a vehicle under the influence of an intoxicant. Also, if the individual refuses to take the test, the individual will face an even longer license revocation period with the Administrative Driver's License Revocation Office.

Testimony on House Bill No. 2174, House Draft 1
Thursday, February 13, 2020; 2:05 p.m.
Page 4

The business community, and especially small businesses, will argue that the establishment of such a policy will have an enormous financial impact on their sales. As a whole, however, the establishment of a "Zero Tolerance" policy may cause other businesses to thrive -- taxi cabs, and Uber will find more people seeking their services; the visitor industry could use this as an opportunity to campaign for more Kamaaina to go to resort areas and party rather than risk driving impaired; these are just a few examples where change will force businesses to evolve to meet the newer demands of consumers.

Some will say that such an approach is too strict. But compare this approach to the laws of England, for example. There, a person needs only to show the intent to drive under the influence to be convicted of OVUII. A person walking from a pub with keys in hand was stopped by a police officer. The person was trying to get to his car to go home. The person was arrested and convicted, and the conviction was upheld by the courts.

Lastly, some will also say that if the law is too strict, people will merely ignore it and keep driving while intoxicated. That could be said for any law enacted because there will always be some who will refuse to obey the law. But if a "Zero Tolerance" policy gets the majority, or a few, or even a single intoxicated driver off the roads, then that would be one less potential victim who would otherwise die.

For these reasons, I respectfully recommend that this bill be amended to establish a "Zero Tolerance" policy in Hawaii's OVUII Law.

On page 12, lines 6 through 13, I ask that the language in the bill be replaced with the following:

"(a) A person commits the offense of operating a vehicle under the influence of an intoxicant if the person operates or assumes actual physical control of a vehicle:

- (1) [~~While under the influence of alcohol in an amount sufficient to impair the person's normal mental faculties or ability to care for the person and guard against casualty;~~] With a measurable

amount of alcohol; provided that a law enforcement officer may arrest a person under this section when the officer has probably cause to believe the arrested person has been operating a vehicle upon a public way, street, road, or highway or on or in the waters of the state with a measurable amount of alcohol; or

- (2) While under the influence of any drug that impairs the person's ability to operate the vehicle in a careful and prudent manner[→
- ~~(3) With .08 or more grams of alcohol per two hundred ten liters of breath; or~~
- ~~(4) With .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood]."~~

In addition, on page 24, line 7 through page 25, line 5, I request that the language in the bill be replaced with the following:

"(a) A person commits the offense of habitually operating a vehicle under the influence of an intoxicant if:

- (1) The person is a habitual operator of a vehicle while under the influence of an intoxicant; and
- (2) The person operates or assumes actual physical control of a vehicle:

- (A) ~~[While under the influence of alcohol in an amount sufficient to impair the person's normal mental faculties or ability to care for the person and guard against casualty;]~~
With a measurable amount of alcohol;
provided that a law enforcement officer may arrest a person under this section when the officer has probably cause to believe the arrested person has been operating a vehicle upon a public way, street, road, or highway or on or in the waters of the state with a measurable amount of alcohol; or
- (B) While under the influence of any drug that impairs the person's ability to operate the vehicle in a careful and prudent manner[~~+~~
- ~~(C) With .08 or more grams of alcohol per two hundred ten liters of breath; or~~
- ~~(D) With .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood]."~~

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact me.

HB-2174-HD-1

Submitted on: 2/12/2020 8:29:11 AM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ronnelle Werner-Celes	Individual	Support	No

Comments:

My name is Hoku Werner and I fully support bill HB2174. Drunk driving smh. . . strong topic for me!!!! A drunk driver robbed my brother Kaulana Werner of his life. At just 19 years old it was over. She was .13 she was so out of it she claims she didnt know what she hit. But than again after 3. 5 years her story continued to change. Shes nuts!!!! I don't understand why it to so long for her to be charged and sentenced. From the start she wasn't credible. She never once seemed any type of alcohol or drug treatment. She couldn't even apologize. But not like it would of mattered cause she means nothing to me. 10 years ain't worth the price of the life she took. She hasn't learned her lesson. 10 years she will be out on the street to strike again. You see people like her get off easy. They dont learn from their mistakes. She will do it again. Just like every other person who committed the exact same crime and wasn't punished to the maximum. My brother I love you and I miss you. Not a day shall pass that I dont miss your smile. I will fight for you endlessly. I promise!!!! I love you big like the rainbow.

HB-2174-HD-1

Submitted on: 2/12/2020 8:37:29 AM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elijah Werner	Individual	Support	No

Comments:

Hawaii State Capitol

EFH@Epilepsyhawaii.gov

Aloha my name is Paula Werner and I am in support of H.B.141 HD2. My family has a history of Epilepsy and it has taken a lot into being aware, knowing the signs to look out for, and fully be prepared if it happens to strike at any time and place.

My father had a history of Epilepsy and suffered for many years with bad seizures, until he was called home to heaven. My nephew was at a young age when his life was cut short as a major seizure hit him on an early morning. His mother and father called out to him, "wake up boy its your birthday, lets celebrate your special day. As he layed there motionless with no responce. My brother and sister inlaw tried all they could to help him before the EMS came, but it was too late. This will constantly be in their hearts, minds and more so memories of his death and the sturggles from epilepsy for the rest of their lives. Even with all the information on what to do and what to expect when someone gets a seizure, Epilepsy can turn into a tragedy. He was a happy boy who grew up a handsome young man. He lived with struggles of epilepsy all his life. Falling down, trying to protect him from hitting his head as he would have these bad bad seizures. Watching him go through seizures many times through out the days, weeks and months was terrifying not knowing what to expect through out the day or days to come. Knowing he hated having epilepsy, all he could do was say, "Jesus help me!" Until one day Jesus said "enough my son, I will help you as you asked. I have prepared a place for you where you will No longer have to suffer with epilepsy and will be free to run and play as you longed for all the years on earth." Seeing him go through it and couldn't do anything but pray, call on Jesus for help and talk him through it. Putting God in control and praying it will be a short seizure and he would come out of it quickly.

My grand daughter is 8years old and has epilepsy. Shes our little princess that loves everyone and life itself. Although shes so tiny, she has the biggest heart. She struggles through her life having seizures. Knowing to trust in God to help her get through every seizure. Asking God to protect and guide her through every episode of epilepsy. When someone has to live and go through life with epilepsy, its traumadic. Feeling helpless and can't do anything to help them go through it and hope/pray it gets over quickly.

Its so heart breaking to see many people in all ages life with Epilepsy. There has to be something more that can be researched to cure Epilepsy. Yes its a long shot, but with technolgy these days, nothing is impossible.

My life story of living with a history of Epilepsy in my family can go on and on, but I will leave it at this. Making a difference to help save ones life is huge. I hope to be a voice for people who struggles life with Epilepsy. Making a choice to pass our hearing on H.B.141 HD2 and become a Law one day is greatly apprecialte for all the lives stricken by Epilepsy.

I thank you all for 'your time to read my testimony.

Mahalo and Aloha,

Paula Werner

HB-2174-HD-1

Submitted on: 2/12/2020 7:27:31 PM

Testimony for JUD on 2/13/2020 2:05:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Ashlee Klemperer	Individual	Support	No

Comments:

February 12th, 2020

Re: Support of HB2174 - RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT

House of Representatives Committee on Judiciary Chair and Members,

As a citizen of Maui County, a social worker and mother I strongly support HB2174 - Relating to Operating A Vehicle Under the Influence of An Intoxicant. This piece of legislation is a monumental opportunity for the state of Hawaii to take a stand against the harmful consequences of driving under the influence. Maui County in particular has experienced the highest rates of drunk driving related deaths over the past couple of years and we are pleading for your help as state legislators to save lives.

Lowering the blood alcohol concentration (BAC) legal threshold from .08 to .05 would be a decisive and impactful step towards greatly improving the health and safety of our state. The National Transportation Safety Board (NTSB) as well as AAA Foundation support lowering BAC and research indicates our state could expect an estimated 11% decline in fatal alcohol crashes saving hundreds of lives every year.

Not often do we, as a community, have the opportunity to enact legislation that will only do good for the community. This is that opportunity and I implore you, as a committee, to seriously consider the positive impacts of this bill. I ask for all of you to support this bill and vote in favor of lowering the BAC.

Thank you,

Ashlee Klemperer, MSW

851 S Kihei Rd, Apt O103

Kihei, HI 96753

LATE

HB-2174-HD-1

Submitted on: 2/13/2020 8:08:19 AM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kari Benes	Individual	Support	No

Comments: