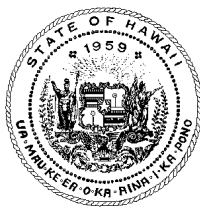


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Shari L. Kimoto
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2235, SENATE DRAFT 1
RELATING TO THE USE OF INTOXICANTS
WHILE OPERATING A MOTOR VEHICLE.

by
Nolan P. Espinda, Director

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Wednesday, February 26, 2020; 1:10 p.m.
State Capitol, Conference Room 211

Chair Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole,
and Members of the Committee:

The Department of Public Safety (PSD) supports Senate Bill (SB) 2235, Senate Draft (SD) 1, which proposes to deposit fines for repeat offenders, habitual offenders, and offenders who operate a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant into a state drug and alcohol toxicology testing laboratory special fund for the Department of Health toxicology lab.

Thank you for the opportunity to testify on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

S.B. NO. 2235, S.D. 1, RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

BEFORE THE:

SENATE COMMITTEES ON WAYS AND MEANS AND ON JUDICIARY

DATE: Wednesday, February 26, 2020 **TIME:** 1:10 p.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact David L. Williams or Lance Goto,
Deputy Attorney General, at 586-1160)

Chairs Dela Cruz and Rhoads and Members of the Committees:

The Department of the Attorney General (the Department) submits the following comments:

The purpose of this bill is to establish a state drug and alcohol toxicology testing laboratory special fund and to utilize fines collected from those sentenced under the following offenses to be deposited into the fund: 1) operating a vehicle under the influence of an intoxicant offender as repeat offenders, 2) habitually operating a vehicle under the influence of an intoxicant, and 3) operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant.

However, section 706-643(2), Hawaii Revised Statutes (HRS), states: "All fines and other final payments received by a clerk or other officer of a court shall be accounted for, with the names of person making payment, and the amount and date thereof, being recorded. All such funds shall be deposited with the director of finance to the credit of the general fund of the State. With respect to fines and bail forfeitures that are proceeds of the wildlife revolving fund under section 183D-10.5, and fines that are proceeds of the compliance resolution fund under sections 26-9(o) and 431:2-410, the director of finance shall transmit the fines and forfeitures to the respective funds."

To prevent any confusion with section 706-643(2), the committees might consider amending section 706-643(2) as follows:

“All fines and other final payments received by a clerk or other officer of a court shall be accounted for, with the names of person making payment, and the amount and date thereof, being recorded. All such funds shall be deposited with the director of finance to the credit of the general fund of the State. With respect to fines and bail forfeitures that are proceeds of the wildlife revolving fund under section 183D-10.5, fines that are proceeds of the state drug and alcohol toxicology testing laboratory special fund under sections 291E-61(b); 291E-61.5(d); and 291E-62(c), and fines that are proceeds of the compliance resolution fund under sections 26-9(o) and 431:2-410, the director of financial shall transmit the fines and forfeitures to the respective funds.”

The Department appreciates the opportunity to provide comments on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON WAYS AND MEANS AND JUDICIARY
ON
SENATE BILL NO. 2235, S.D. 1

February 26, 2020
1:10 p.m.
Room 211

RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE

The Department of Budget and Finance offers comments on the creation of the State Drug and Alcohol Toxicology Testing Laboratory Special Fund (SDATTLSF).

Senate Bill (S.B.) No. 2235, S.D. 1, establishes the SDATTLSF within the Department of Health to support an intoxicant testing laboratory intended for further research, development, and related technologies. The SDATTLSF would generate revenues through the deposit of fines collected from repeat offenders, habitual offenders, and offenders who operate a vehicle after their licenses have been suspended or revoked for operating a vehicle under the influence of an intoxicant. Other sources of revenues for the SDATTLSF would include legislative appropriations, grants and gifts, and any income and interest earnings. The bill does not contain an appropriation for the special fund.

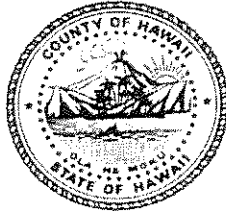
As a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS.

Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 2235, S.D. 1, it is difficult to determine whether the proposed special fund fulfills these requirements.

Thank you for your consideration of our comments.

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



655 KĪLAUEA AVENUE
HILO, HAWAII 96720
PH: (808) 961-0466
FAX: (808) 961-8908
(808) 934-3403
(808) 934-3503

WEST HAWAII UNIT
81-980 HALEKĪ'I ST, SUITE 150
KEALAKEKUA, HAWAII 96750
PH: (808) 322-2552
FAX: (808) 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 2235, SD1 WITH AMENDMENTS

A BILL RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE

COMMITTEE ON WAYS AND MEANS

Sen. Donovan M. Dela Cruz, Chair
Sen. Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON JUDICIARY

Sen. Karl Rhoads, Chair
Sen. Jarrett Keohokalole, Vice Chair

Wednesday, February 26, 2020, 1:10 p.m.
State Capitol, Conference Room 211

Honorable Chair Dela Cruz, Honorable Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means and Honorable Chair Rhoads, Honorable Vice Chair Keohokalole and Members of the Committee on Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of Senate Bill No. 2235, SD1, with Amendments.

Senate Bill 2235, SD1, establishes a special fund to be used towards the establishment and maintenance of a State drug and alcohol toxicology testing laboratory.

Highway safety in Hawai'i is compromised by drunk and drugged drivers who continue to jeopardize the safety of all road users. The police continue their efforts to make our roads safer by arresting those individuals suspected of driving impaired. Bringing these cases to trial can be hampered by test results not being available for their respective hearings in time, as well as court costs being expensive.

Presently, testing of blood and urine samples obtained for the purpose of cases involving the operation of a motor vehicle while under the influence of an intoxicant is performed by private laboratories, with the exception of alcohol blood testing within the City and County of Honolulu. This drug and alcohol testing performed by private laboratories is costly.

Testing of blood for drugs is currently conducted by an out-of-state private laboratory. The development of a State-run laboratory to conduct this necessary testing will eliminate the reliance on a private lab.

Court cases involving drunk or drugged driving can become extremely costly when the prosecution subpoenas experts and lab personnel to testify in court, especially if these witnesses are from private laboratories located out of state.

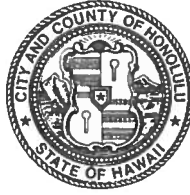
Other states find that costs for drunk and drugged driving cases are greatly reduced when their State-run laboratories perform the testing and confirmations, which will be used in court. Some of these State-run laboratories perform other testing functions, such as work place drug testing, post mortem drug testing, the testing of inmates and parolees, etc. Such test functions can further reduce costs for the State.

The Office of the Prosecuting Attorney of the County of Hawai'i is primarily concerned about improving highway safety and protecting the lives of our community members and visitors. Having a drug and alcohol toxicology testing laboratory within our State will provide law enforcement and adjudicators with the resources they need to protect our public from impaired drivers.

The Office of the Prosecuting Attorney of the County of Hawai'i supports the passage of Senate Bill 2235, SD1, however, we request that the funds be expended by the Department of Health, rather than the Department of Public Safety. Thank you for the opportunity to provide testimony.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulupd.org



KIRK CALDWELL
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
CLYDE K. HO
DEPUTY CHIEFS

OUR REFERENCE CT-LC

February 26, 2020

The Honorable Donovan M. Dela Cruz, Chair
and Members
Committee on Ways and Means
The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 211
Honolulu, Hawaii 96813

Dear Chairs Dela Cruz and Rhoads and Members:

SUBJECT: Senate Bill No. 2235, S.D. 1, Relating to the Use of Intoxicants While Operating a Vehicle

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

The HPD supports Senate Bill No. 2235, S.D. 1, Relating to the Use of Intoxicants While Operating a Vehicle.

The HPD supports the establishment of a special fund that would assist with the creation of a state drug and alcohol toxicology testing laboratory. We believe a locally based laboratory would eventually save time and money for the required testing of evidence in criminal cases.

The HPD urges you to support Senate Bill No. 2235, S.D. 1, Relating to the Use of Intoxicants While Operating a Vehicle.

Thank you for the opportunity to testify.

APPROVED:

A handwritten signature in cursive script that reads "Susan Ballard".

Susan Ballard
Chief of Police

Sincerely,

A handwritten signature in cursive script that reads "Calvin Tong".

Calvin Tong, Major
Traffic Division

LATE

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515

DWIGHT K. NADAMOTO
ACTING PROSECUTING ATTORNEY

LYNN B.K. COSTALES
ACTING FIRST DEPUTY
PROSECUTING ATTORNEY



**THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

**THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY**

**Thirtieth State Legislature
Regular Session of 2020
State of Hawai`i**

February 26, 2020

**RE: S.B. 2235, S.D. 1; RELATING TO THE USE OF INTOXICANTS WHILE
OPERATING A VEHICLE.**

Chair Dela Cruz, Chair Rhoads, Vice-Chair Keith-Agaran, Vice-Chair Wakai, member of the Senate Committee on Ways and Means, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of S.B. 2235, S.D. 1.

The Department believes the State would benefit from having a state drug and alcohol toxicology testing laboratory—in terms of improved cost efficiency, more streamlined procedures, and perhaps even increased public safety—and supports the idea of using relevant fines to support such an endeavor.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 2235, S.D. 1. Thank you for the opportunity to testify on this matter.



Mothers Against Drunk Driving HAWAII
745 Fort Street, Suite 303
Honolulu, HI 96813
Phone (808) 532-6232
Fax (808) 532-6004
hi.state@madd.org

February 26, 2020

To: Senator Donovan M. Dela Cruz, Chair, Senate Committee on Ways & Means;
Senator Gilbert S.C. Keith-Agaran, Vice Chair; and members of the Committee

Senator Karl Rhoads, Chair, Senate Committee on Judiciary; Senator Jarrett
Keohokalole, Vice Chair; and members of the Committee

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

Re: Senate Bill 2235 SD1 – Relating to the Use of Intoxicants While Operating a
Vehicle

I am Carol McNamee, offering testimony on behalf of the Hawaii Chapter of Mothers Against Drunk Driving in strong support of Senate Bill 2235 SD 1 – relating to the Use of Intoxicants While Operating a Vehicle.

Hawaii's annual fatality statistics reveal an increasing number of highway deaths connected to the presence of drugs. In 2017, the number exceeded alcohol-related fatalities. MADD therefore supports measures that give law enforcement the necessary tools to be able to arrest and convict impaired drivers – whatever their substance(s) of intoxication might be. Underground chemists are now able to synthesize new drugs at a rapid rate.

In order to reduce the tragic impaired driving crashes that plague our state, law enforcement must be able obtain the identification or confirmation of the suspected substance or substances that a driver may have consumed. For many years, blood samples have been sent to a mainland laboratory equipped to do the necessary toxicology testing. This has been a very expensive and lengthy method of obtaining needed information for OVUII trials. A funded drug lab in Hawaii is essential for giving law enforcement the necessary information needed to present to the Court and ultimately remove dangerous drivers from our roads.

Senate Bill 2235 SD 1 establishes the sources of the needed Laboratory funding including the fines that OVUII offenders pay now and possible additional sources. MADD believes a funded drug and alcohol toxicology lab is essential to reducing death and injury on Hawaii roads. Continuing to use mainland laboratories is an expensive and unworkable answer. It seems appropriate to use fines from those convicted of impaired driving related crimes to support the drug and alcohol toxicology laboratory.

MADD strongly encourages this committee to pass Senate Bill 2235 SD 1, relating to the use of intoxicants while operating a vehicle.

Thank you for this opportunity to testify.