

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 Finance**

March 31, 2021

S.B. No. 765 SD2 HD1: RELATING TO OPERATING A VEHICLE UNDER
THE INFLUENCE OF AN INTOXICANT

Chair Luke, Vice Chair Cullen and Members of the Committee:

The Office of the Public Defender opposes S.B. No. 765 SD2 HD1. Specifically, we oppose the new sentencing guidelines for “highly intoxicated operators”, as well as the increase in the license revocation periods for operating a vehicle under the influence of an intoxicant (“OVUII”).

“Highly intoxicated operators”

The creation of the category of “highly intoxicated operators” and the sentencing guidelines are unnecessary restrictions on the discretion of the 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, endangering passengers in the vehicle), judges look at factors such as criminal history, driving record, and community involvement. Indeed, judge are in the best position to impose fair and just sentences to defendants, and this bill would only hamper that ability.

Moreover, establishing a Class B offense of “Habitually operating a vehicle under the influence of an intoxicant” felony for a “highly intoxicated operator” is unduly harsh. Rather, the legislature should consider imposing the mandatory term of eighteen months imprisonment for “highly intoxicated operators.” Increasing the maximum prison term will only continue to exacerbate the Hawai‘i prison overcrowding problem. Our jails and prisons are filled above, not only design capacity, but also operational capacity. A significant portion of the State’s prison population is incarcerated in a contracted private, for-profit prison in Arizona; they are exiled thousands of miles away from their families, friends, and crucial support networks. According to a recent studies by the Prison Policy Initiative, in 2018,

Hawai‘i had an incarceration rate of 487 per 100,000 people.¹ Although Hawai‘i ranked 37th among the 50 states, if every state was an independent nation, Hawai‘i would have the 43rd highest incarceration rate in the world.² Only three foreign countries have a higher incarceration rate than Hawai‘i.³ Thus, Hawai‘i locks up a higher percentage of its people than many wealthy democracies do.⁴ With the recent nationwide review of criminal justice policies, it is concerning that the trend in the State of Hawai‘i is to increase penalties.

License revocation period and ignition interlock devices

This measure also seeks to increase the license revocation period and extending the lookback period. Increasing the revocation period is simply unnecessary. The revocation period of one year (1st OVUII offense), eighteen months (2nd offense), and two years (3rd offense) are sufficient deterrents to drinking and driving. Moreover, lengthening the revocation period will only exacerbate the problem of unlicensed drivers paying more fines and serving jail time. These individuals will be serving mandatory jail time *not* for driving while intoxicated but for simply driving while their license is revoked.

This measure, as well as other ignition interlock laws and license revocation laws (in particular, HRS § 291E-62) unfairly punishes former OVUII offenders who are unable to afford an ignition interlock device. The affluent will be able to operate their vehicles during the revocation period by installing the interlock devices while the indigent will not be able to drive during the revocation period. A person with financial means whose BAC was 0.14 and who was involved in a traffic collision will be able to operate a vehicle because he/she is able to afford an ignition interlock device during the revocation period. Meanwhile an indigent person who had borrowed a vehicle and was pulled over for only an expired safety check (i.e., no bad driving), and whose BAC was 0.08 will not be able to drive during the revocation period because he/she cannot afford to own a car or install an interlock device. Even though the affluent individual’s conduct was far more egregious than the indigent

¹ Prison Policy Initiative, “Hawaii profile.” See <https://www.prisonpolicy.org/profiles/HI.html>

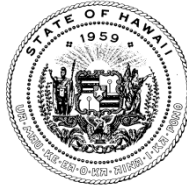
² Prison Policy Initiative, “States of Incarceration: The Global Context.” See <https://www.prisonpolicy.org/global/2018.html>

³ Id.

⁴ Prison Policy Initiative, “Hawaii profile.” See <https://www.prisonpolicy.org/profiles/HI.html>

person, the affluent offender's punishment will be more severe than the indigent offender's punishment. OVUII should not be a crime where the wealthy can pay their way out of (i.e., install an ignition interlock device) while the indigent are stuck in a never-ending cycle of license revocation and mandated jail sentences.

Thank you for the opportunity to comment on this measure.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION**
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 31, 2021
2:30 P.M.
State Capitol, Teleconference

**S.B. 765, S.D. 2, H.D. 1
RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN
INTOXICANT**

House Committee on Finance

The Department of Transportation (DOT) **supports** S.B. 765, S.D. 2, H.D. 1 relating to operating a vehicle under the influence of an intoxicant. This bill defines “highly intoxicated drivers” and enhances the penalties.

The proposed S.B. 765, S.D. 2, H.D. 1 evolved out of concern for the increasing number of traffic fatalities involving alcohol and drugs in Hawaii. This bill was a collaborative effort from the DOT’s Hawaii Drug and Alcohol Intoxicated Driving (DAID) working group, which is comprised of county police and prosecutors, Mothers Against Drunk Driving, Hawaii State Department of Health, Hawaii Association of Criminal Defense Lawyers and the Office of the Public Defender.

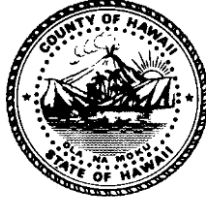
A “highly intoxicated driver” is someone who has been arrested and convicted and poses a substantial risk to themselves and others on our roadway. The DAID’s concern is that these drivers are a higher risk to other roadway users and will eventually become involved in a fatal motor vehicle collision.

During the past five years (2016-2020), police arrested an average of 5,405 drivers for Operating a Vehicle Under the Influence of an Intoxicant per year. Of those tested, an average of 1,485 had blood alcohol concentration results of 0.150 and higher. This represents an average of 36% of those arrested and had taken a breath or blood test. Existing legislation needs to be strengthened to address these individuals, as they pose a greater risk of a fatal crash happening.

The DOT and the DAID working group urges the committee to pass this important bill, as it will enhance the penalties against those drivers who continue to drink and drive. Reducing the amount of impaired driving related fatalities and injuries will help Hawaii reach our Vision Zero goal.

Thank you for the opportunity to provide testimony.

Mitchell D. Roth
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado, Jr.
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

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March 29, 2021

Representative Sylvia Luke
Chairperson and Committee Members
Committee on Finance
415 South Beretania Street, Room 308
Honolulu, Hawai`i 96813

RE : SENATE BILL 765, SD2, HD 1, RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT
HEARING DATE : MARCH 31, 2021
TIME : 2:30 P.M.

Dear Representative Luke:

The Hawai`i Police Department **supports** Senate Bill 765, SD2, HD 1, with its purpose to define a “highly intoxicated driver” and increase penalties for offenders.

The Hawai`i Police Department encourages the committee to adopt the proposed changes to Senate Bill 765 to amend Hawai`i Revised Statutes (HRS) 291E-1 and 291E-61 which will establish and define a “highly intoxicated driver” as a driver with 0.15 grams of alcohol per 210 liters of breath or grams of alcohol per one hundred milliliters or cubic centimeters of blood and provides increased penalties for those offenders.

In 2020, the annual average of all operated for driving under the influence was .144% Blood Alcohol Content (BAC), which is nearly twice the legal limit. 40% of those arrested in 2020 had BAC levels in excess of .150% BAC. The National Highway Traffic Safety Administration (NHTSA) states that drivers with a BAC of .150 or greater is nearly 20 times more likely to be involved in a fatal crash.

Passing this bill will hold offenders accountable and help deter dangerous behaviors of drinking and driving.

It is for these reasons, we urge this committee to approve this legislation. Thank you for allowing the Hawai`i Police Department to provide comments relating to Senate Bill 765, SD2, HD 1.

Sincerely,

PAUL K. FERREIRA
POLICE CHIEF

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 SYLVIA LUKE, CHAIR
THE HONORABLE TY J.K. CULLEN, VICE CHAIR
HOUSE COMMITTEE ON FINANCE
THIRTY-FIRST STATE LEGISLATURE

Regular Session of 2021
State of Hawai'i

March 29, 2021

**RE: S.B. 765 SD2 HD1 RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT**

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance, the Office of the Prosecuting Attorney, County of Kaua'i SUPPORTS S.B. 765 SD2 HD1.

The Bill establishes and defines a class of intoxicated drivers as "Highly Intoxicated Drivers" in HRS § 291E-1 and § 291E-61 as a driver with 0.15 grams of alcohol per 210 liters of breath or grams of alcohol per one hundred milliliters or cubic centimeters of blood (nearly double the standard legal limit of 0.08) and provides increased penalties for those offenders. With this revision the statute will provide for more severe consequences for elevated levels of unsafe conduct.

This amendment reflects the nearly unanimous consensus among the United States that elevated levels of intoxication among drivers multiplies the danger to other drivers, pedestrians, and the community at large. Currently, 44 states, The District of Columbia, and Guam have increased penalties for drivers convicted at higher BACs. According to the Foundation for Advancing Alcohol Responsibility 90% of Alcohol-Impaired Driving Fatalities in Hawaii involve high BAC drivers (greater than 0.15 BAC). This Bill can truly save lives.

For these reasons, the Office of the Prosecuting Attorney supports the passage of S.B. 765 SD2 HD1. Thank you for this opportunity to testify.



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

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TIVOLI S. FAAUMU
CHIEF OF POLICE
DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

March 29, 2021

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Committee on Finance
Thirty-First Legislature 2021
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: SENATE BILL 765 RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN
INTOXICANT

Dear Chair Luke and Committee Members:

The Maui Police Department strongly SUPPORTS the passage of SB 765 HD1, with concerns regarding language in this version.


This act will define “highly intoxicated drivers” and increase the penalties for offenders to include longer license revocation periods and mandatory jail terms. Bringing this statute back in addition to the ignition interlock will hold offenders accountable and help deter such dangerous behavior. Hopefully this will reduce the number of intoxicated drivers on our roadways and save lives.

However, Section 4(a)(4) offers first-time offenders the option of a shorter license revocation WITH an ignition-lock OR a longer license revocation WITHOUT an ignition-lock. Giving the offender an option and not making penalties mandatory is counter-intuitive and defeats the effectiveness of having an interlock program.

Accordingly, the Maui Police Department requests SB 765 HD1 be PASSED, with the removal of language offering an ignition inter-lock option.

Thank you for the opportunity to testify.

Sincerely,


TIVOLI S. FAAUMU
Chief of Police

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney

ROBERT D. RIVERA
Second Deputy Prosecuting Attorney



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TESTIMONY
ON
S.B. 765 SD2 HD1 RELATING TO
OPERATING A VEHICLE UNDER
THE INFLUENCE OF AN INTOXICANT

March 30, 2021

The Honorable Sylvia Luke
Chair
The Honorable Ty J.K. Cullen
Vice Chair
and Members of the Committee on Finance

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning S.B. 765 SD2, Relating to Operating a Vehicle Under the Influence of an Intoxicant. We would like to express our support for S.B. 765 SD2 HD1, but request that our proposed amendments be implemented due to our concerns regarding newly-added language in the HD1 version of the bill.

Notably, this bill defines “highly intoxicated driver” and establishes appropriate penalties for highly intoxicated drivers who are convicted of Operating a Vehicle Under the Influence of an Intoxicant. These penalties include longer license revocation periods and mandatory minimum jail terms. In our view, these penalties would have a stronger deterrent effect on both intoxicated and highly intoxicated drivers, which in turn would reduce the amount of intoxicated drivers on our roadways and ultimately save lives.

However, we are concerned that the HD1 revision to this bill amended the following language located at page 7, line 9 through page 8, lines 1-10:

(4) [~~A minimum of five years up to a maximum of ten years revocation of license and privilege to operate a vehicle, if the respondent's record shows three or more prior alcohol enforcement contacts or drug enforcement contacts during the ten years preceding the date the notice of administrative revocation was issued;~~]
For a respondent who is a highly intoxicated driver:

(A) If the respondent's record shows no prior alcohol enforcement contact or drug enforcement contact during the ten years preceding the date the notice of administrative revocation was issued:

(i) An eighteen-month revocation of license to operate a vehicle, with mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period; or

(ii) A two year revocation of license to operate a vehicle, without mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period;

[...]

Although we agree with the apparent intent to encourage offenders to install an interlock device via the imposition of a longer administrative license suspension otherwise, we believe that the intent behind this amendment would be more effectively utilized in conjunction with the license penalties and/or interlock installation exceptions for a criminal conviction under HRS 291E-61. However, additional time to review the language for such an amendment would be appropriate to ensure that the issue can be examined in depth. Accordingly, we propose that the new language be reverted to the following language from the prior SD2 version in anticipation that a new bill would be drafted and introduced for the 2022 Legislative session.

~~(4) [A minimum of five years up to a maximum of ten years revocation of license and privilege to operate a vehicle, if the respondent's record shows three or more prior alcohol enforcement contacts or drug enforcement contacts during the ten years preceding the date the notice of administrative revocation was issued;] For a respondent who is a highly intoxicated driver:~~

(A) An eighteen-month revocation of license to operate a vehicle, with mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period, if the respondent's record shows no prior alcohol enforcement contact or drug enforcement contact during the ten year preceding the date the notice of administrative revocation was issued;

We would also propose that the phrase “revocation of license [~~and privilege~~] to operate a vehicle for the period of revocation provided in paragraphs (1) to [~~(5)~~ (4)(A)” on page 10, line 4 be amended to “revocation of license [~~and privilege~~] to operate a vehicle for the period of revocation provided in paragraphs (1) to [~~(5)~~ (4)](A)” to clarify that all periods of revocation are intended to be included in the amendment. Finally, we would suggest removing the phrase “[~~For~~] Except as provided in paragraph (4), for” on page 12, line 8 and reverting the language to its original version because: 1) the language of paragraph (4) renders the amendment unnecessary, and 2) and it is inconsistent with the language used on page 13, lines 12-14.

For these reasons, the Department of the Prosecuting Attorney, County of Maui supports S.B. 765 SD2 HD1, but requests that our proposed amendments be implemented. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

Thank you very much for the opportunity to provide testimony on this bill.

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CITY AND COUNTY OF HONOLULU

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PROSECUTING ATTORNEY



THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY

**THE HONORABLE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Thirty-first State Legislature
Regular Session of 2021
State of Hawai`i**

LATE

March 31, 2021

RE: S.B. 765, S.D. 2, H.D. 1; RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT.

Chair Luke, Vice-Chair Cullen and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of S.B. 765, S.D. 2, H.D. 1, with amendments (**in bold**).

The purpose of S.B. 765, S.D. 2, H.D. 1, is to establish higher penalties (and a definition) for operating a vehicle under the influence of an intoxicant ("OVUII") offenders who operate a vehicle while "highly intoxicated"; increase and align all license revocation periods and lookback periods; and require a longer substance abuse program for repeat OVUII offenders—as current law requires a substance abuse program only for first-time offenders, none for repeat offenders.

From April 2019 through December 2019, the Department was part of a highly dedicated working group—coordinated and facilitated by the Department of Transportation, Highway Safety Division—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 the working group was able to accomplish this, and S.B. 765, S.D. 2, H.D. 1, is largely consistent with the bills that were jointly created by that endeavor.

While we strongly support the intent of the amendments at **page 8, lines 6-10**—which is to give OVUII offenders added incentive to install Ignition Interlock, for those who are able to do so (i.e. shorter license revocation period)—we believe the language could be better phrased in a different way, perhaps with a similar provision in the criminal statutes (HRS §291E-61), correlating incentives for repeat offenders, and/or placed in different sections or subsections of the relevant statutes. For example, if worded differently or placed under a different section, the amendment could potentially be crafted less as an "option" for offenders to install Ignition Interlock, and more

in keeping with the current mandate to install Ignition Interlock, with only limited exceptions (which already exist in statute) that could then carry additional revocation time.

While such a concept may seem simple at the outset, Hawaii’s OVUII laws are extremely comprehensive, and interconnected in numerous ways, such that a change in one section almost inevitably affects multiple other sections. Moreover, each of the counties has slightly different policies, procedures and infrastructure that make it even more important for all stakeholders to carefully consider and jointly discuss any proposed changes. **To ensure that the intent of this subsection can be fully realized, and minimize the likelihood of any unintended consequences, we respectfully ask that the Committee remove it**, for the time being, and allow stakeholders to discuss its revision for next session.

In addition, we note that a key component was removed from the original language of this bill, such that under the S.D. 2 and H.D. 1 version, offenders would not be required to install Ignition Interlock devices in one or more vehicles registered to them (previously found in S.B. 765, S.D. 1, at page 6, lines 5-6; page 7, lines 19-20; page 8, lines 7-8 and 17-18; page 9, lines 16-17; and page 21, line 15). When the working group discussed potential weaknesses in the current OVUII enforcement statutes, it was noted that—based on statistics provided by the current Ignition Interlock vendor—Ignition Interlock is typically only installed by about 20% of all offenders, at any given time. We strongly believe that Ignition Interlock devices are an important and effective tool for decreasing the incidence of OVUII on Hawaii’s roads, and generally an effective means of ensuring that whomever is driving that vehicle (with Ignition Interlock installed) is not OVUII.

If every OVUII offender who has a registered vehicle were required to install an Ignition Interlock device, for the duration of the license revocation, that would significantly increase the number of vehicles with these devices, and thus ensure greater safety when offenders are operating those vehicles. Thus, we **recommend that the requirement for offenders to install Ignition Interlock in at least one vehicle registered to them, be added back into the bill**. If there is concern that Ignition Interlock devices are too expensive for some vehicle owners, even with the discounted rates for indigent individuals, the Department encourages the Committee to consider establishing an Ignition Interlock “indigent fund.” This could possibly be done by requiring every offender (who can afford it) to pay a small fee, which would then be used to support those few offenders who have registered vehicles, but are unable to afford an Ignition Interlock device.

On a more technical level, the Department also suggests two other amendments:

- **Page 10, lines 3-4:** Because there is no apparent reason to single-out subsection (b)(4)(A) for an offenders’ license revocation period, the inclusion of “(A)” appears to be an error, and we **recommend that the language be amended as follows** (changes in bold):

~~privilege]~~ to operate a vehicle **shall be** for the period of revocation provided in paragraphs (1) to [~~(5)]~~ (4) ~~(A)~~

- **Page 12, line 8:** We respectfully **recommend deleting all proposed amendments on this line**, as there does not appear to be any reason to state, “Except as provided in paragraph (4)” here, where the “highly intoxicated” penalty provisions in paragraph (4) would actually be added onto the original penalty, not in place of them. Additionally, it would be inconsistent to have such language in paragraph (1), but no such language in paragraph (2), which can have similar add-on penalties from paragraph (5). Moreover, paragraph (3) can

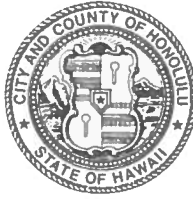
also add onto the original penalties from paragraphs (1) and (2)—if a child is in the vehicle at the time of offense—yet there is no mention of it in either paragraphs (1) or (2), nor is any mention necessary.

The Department greatly appreciates the Committee's attention to strengthening Hawaii's laws regarding OVUII, in a concerted efforts to keep our communities safe from intoxicated drivers, and the Committee's overall dedication to keeping our roads safe for everyone's use.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of S.B. 765, S.D. 2, H.D. 1, with suggested amendments. Thank you for the opportunity to testify on this matter.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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JOHN D. MCCARTHY
AARON TAKASAKI-YOUNG
DEPUTY CHIEFS

OUR REFERENCE CT-LC

March 31, 2021

The Honorable Sylvia Luke, Chair
and Members
Committee on Finance
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 308
Honolulu, Hawaii 96813

Dear Chair Luke and Members:

SUBJECT: Senate Bill No. 765, S.D. 2, 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 this bill as it defines a "highly intoxicated driver" and also establishes the penalties for a respondent who is a highly intoxicated driver. Increases of related penalties could be a deterrent for would-be violators. Any measure that could potentially keep impaired drivers off of our roads should be considered or implemented.

The HPD strongly urges you to support Senate Bill No. 765, S.D. 2, 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

SB-765-HD-1

Submitted on: 3/29/2021 8:39:07 PM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chad Taniguchi	Hawaii Bicycling League	Support	No

Comments:

The Hawaii Bicycling League strongly supports SB765SD2HD1 to drastically increase the penalties for those convicted of being highly intoxicated or habitually intoxicated while driving a motor vehicle.

The purpose of SB765 is to serve as a deterrent to those who continuously drive after drinking, time after time. This bill aims to stop them before they seriously injure or kill innocent users of the road.

The streets belong to us all for safe use. Those who commit traffic violence on others should not be on the streets driving. They can walk, bicycle, take transit, or be driven by others.

This is one way to reach Vision Zero, our state law, to eliminate all serious injuries and deaths on our roads.

Imagine Safe Streets.



Mothers Against Drunk Driving HAWAII
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hi.state@madd.org

March 31, 2021

To: Representative Sylvia Luke, Chair, House Committee on Finance;
Representative Ty J.K. Cullen, Vice Chair; and members of the Committee

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

Re: Senate Bill 765, SD2, HD1 – Relating to Operating a Vehicle Under the
Influence of an Intoxicant

I am Carol McNamee testifying on behalf of MADD Hawaii in **strong support** of Senate Bill 765,SD2,HD1, relating to Operating a Vehicle Under the Influence of an Intoxicant. We are also suggesting one amendment.

MADD is concerned that the recent amendment to give first offenders a choice between a two year revocation period or an 18 month revocation period and mandatory use of an ignition interlock will be confusing to the arrestee. In addition, it will probably result in a lower use of interlocks which is contrary to local and national traffic safety long range planning. We recommend that Section 4. Section 291E-41(b)(4)(A)(ii) be deleted (page 8 lines 6 – 10).

MADD supports the concept of increasing penalties for individuals who are arrested and found to be driving with a BAC of .15 or higher. These individuals fall into the category of “high risk drivers” who, along with repeat offenders and drivers who refuse to be tested, pose an increased danger to other highway users: vehicle drivers and passengers, bicyclists and pedestrians. Research has clearly shown that the higher a driver’s BAC, the greater risk he or she is to others on the road. Hawaii statutes reflected increased penalties for these high-risk drivers before 2011 when the highly intoxicated driver section was removed for reasons unrelated to its effectiveness. This bill establishes administrative and criminal revocation periods for the high BAC driver – from 18 months for a first offender up to 6 years for drivers who have two or more prior alcohol or drug enforcement contacts.

MADD also supports other changes that have been proposed in this bill, including increasing the “look back” period which defines who is a repeat offender and therefore how long a revocation period will be imposed on the person arrested.

Another change adds a mandatory interlock requirement for Habitual Offenders and a number of other suggested sanctions for the repeat “habitual” offender.

This is an important measure for strengthening Hawaii's OVUII statutes by (1) removing the most dangerous drivers from the road; and (2) raising the deterrent value of the statutes by increasing the penalties for this group of drivers. MADD encourages the House Finance committee to pass SB 765, SD2,HD1 - with our suggested amendment - to strengthen Hawaii's OVUII statutes and keep dangerous drivers off our roads.

Thank you for this opportunity to testify.

March 31, 2021

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Members of the House Committee on Finance

RE: SB765 SD2 HD1 Relating to Operating a Vehicle Under the Influence of an Intoxicant. – SUPPORT

AAA Hawaii **supports** SB765 SD2 HD1. This bill 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, (2) extending the look-back period from five to ten years for impaired driving offenses; and (3) ensuring ignition interlock devices are installed on all vehicles operated by the offender.

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 SB765 SD2 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. 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)

SB765 SD2 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)

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Auto Club Enterprises provides service to more than 14 million members



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 170,000 members in Hawaii and 60 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 SB765 SD2 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 SB765 SD2 HD1.

Sincerely,

Liane Sumida

Liane Sumida
General Manager

References

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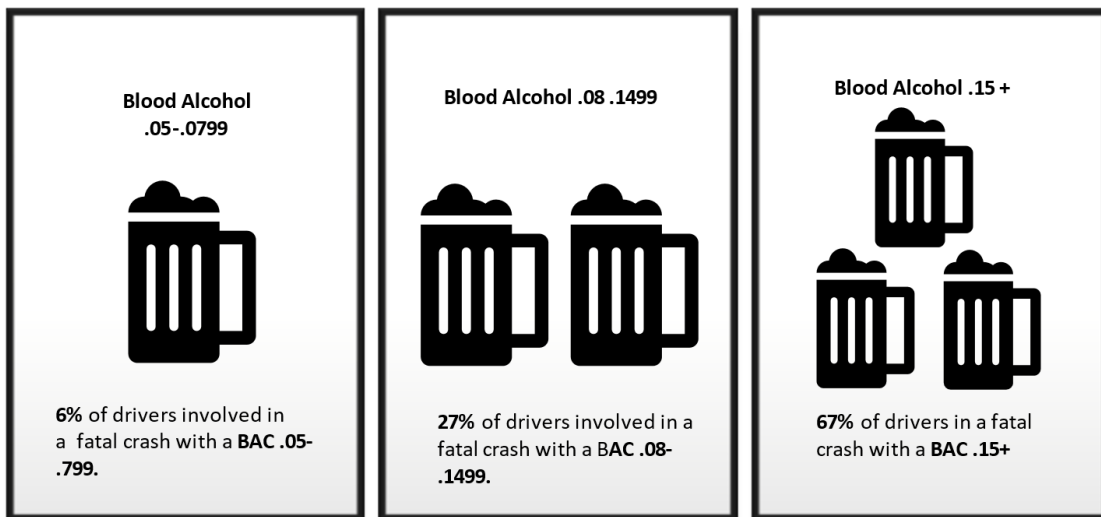


Subject: **Support SB765 SD2 HD1**

Dear Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance,

My name is Kari Benes, and I am the Chair of the Hawaii Strategic Highway Safety Plan (SHSP) Core Committee. The SHSP Core Committee is committed to supporting system changes within the impaired driving statutes that enhance the ability to detect, deter, and mitigate the complexities around impaired driving. SB765 SD2 HD1 addresses a group of drivers that are disproportionately represented in our fatal crashes.

Highly intoxicated drivers endanger themselves as well as other road users and especially more vulnerable road users such as pedestrians and bicyclists. In Hawaii, over the course of 5 years, 109 drivers involved in fatal crashes had a blood alcohol content (BAC) of .05 or greater. The graphic below demonstrates how majority of drivers involved in fatal crashes involving alcohol had a BAC of **.15 or greater (2x the legal limit)**.



1

¹ N=109 drivers involved in a fatal crash in **Hawaii** with a reported BAC level of .05 and greater. *Note of the drivers who tested with a positive BAC of .01 to .079 67% were also positive for one or more drugs. FARS 2014-2018*



SB765 SD2 HD1 aligns with SHSP's life-saving priorities in the updated 2019-2024 plan.

The Hawaii Strategic Highway Safety Plan's vision is that all of Hawaii's road users arrive safely at their destinations. You can help us achieve our goal of reducing yearly fatalities by supporting this measure.

To view the Strategic Highway Safety Plan, please visit <https://hidot.hawaii.gov/highways/shsp/>

Strategic Highway Safety Plan Mission

Save lives and reduce injuries on Hawaii's roadways through strategic partnerships and implementation of the Strategic Highway Safety Plan.