



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Transportation**

February 4, 2009, 8:30 a.m.

LATE TESTIMONY

H.B. No. 1159: RELATING TO HIGHWAY SAFETY

Chair Souki and Members of the Committee:

This measure would create a mandatory, graduated sentencing scheme for the offense of reckless driving. The penalties, which include a mandatory thirty day suspension of driver's license, mirror that of the excessive speeding offense created by this legislature in 2006. The excessive speeding offense has been widely accepted as a failure by the prosecution, defense and the courts. It has failed to target the really dangerous drivers, and because of its overly penal sentencing provisions, resulted in congested court calendars. It is for the reasons cited above that the Office of the Public Defender opposes H. B. 1159.

The excessive speeding law (HRS §291C-105) was touted as a way to reduce dangerous driving habits and an easier way to prosecute drivers who race on our highways. The criminalized driving in excess of eighty (80) miles per hour, and thirty miles over any posted speed limit. Anyone convicted of this offense would not be allowed to enter a deferred acceptance of a guilty plea, and would have a criminal record. The mandatory license suspension also triggered the requirements of SR-22. Most drivers are caught in speed traps rather than observed driving errantly or racing. Our attorneys have reported that one hundred percent of their cases are the result of speed traps, and none from racing type offenses. Two years later, this law has single-handedly led to congested court calendars, and resulted in burned out prosecutors and public defenders. Private defense attorneys have been known to charge as much for excessive speeding cases as they do for OVUII cases, because OVUII cases are easier to defend. The reason for the court congestion is simple. The requirements of SR-22 and inability to enter a deferred acceptance of a guilty plea forces defendants to fight the charge rather than plead guilty to a crime, and suffer the consequences of SR-22. If the excessive speeding law was amended by decriminalizing first offenses, allowing deferred acceptance of guilty pleas and make an exemption from the requirements of SR-22 for first offenses, the court congestion would disappear, and most defendants would plead guilty at their first appearance. The message to those drivers would be just as effective as it is under the current law.

The problems we have faced with excessive speeding cases will be mirrored if this measure passes as written. While we are not suggesting that the offense of reckless driving be decriminalized for first offenders, we recommend that this measure be

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amended to allow defendants to enter deferred acceptance of guilty pleas and/or be exempt from the requirements of SR-22 for a first offense.

expenditure.

We oppose the passage of H.B. No. 1159. Thank you for the opportunity to be heard on this matter.