

SB 1174



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

S.B. NO. 1174, RELATING TO MOTOR VEHICLES.

BEFORE THE:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

DATE: Thursday, February 12, 2009 **TIME:** 4:00 PM

LOCATION: State Capitol, Room 225

TESTIFIER(S): Mark J. Bennett, Attorney General
or William F. Cooper, Deputy Attorney General

Chair Gabbard and Members of the Committee:

The Department of the Attorney General has concerns about this measure.

This measure will adopt the motor vehicle emission standards established in the California Code of Regulations for passenger cars, light duty trucks, and medium duty passenger vehicles. Under Title 42 U.S.C. section 7543 (section 209 of the federal Clean Air Act), no State or political subdivision thereof, besides California if it obtains a waiver to do so, shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines.

This measure relies on Title 42 U.S.C. section 7507 (section 177 of the federal Clean Air Act) in order for the State of Hawaii to adopt and enforce the motor vehicle emission program standards of the State of California if California is granted a waiver. Title 42 U.S.C. section 7507 is titled, "New motor vehicle emission standards in nonattainment areas." It allows states, other than California, that are in nonattainment in certain areas and have United States Environmental Protection Agency plans for their nonattainment areas, to adopt California's approved motor vehicle emission standards. A state

is considered to be in nonattainment when it is currently not able to meet one or more of the National Ambient Air Quality Standards for the criteria pollutants designated in the Clean Air Act. Hawaii currently does meet all of the National Ambient Air Quality Standards for all criteria pollutant designated in the Clean Air Act and is considered to be in attainment.

Since Hawaii is currently considered to be in attainment, Hawaii's adoption and enforcement of this measure could be challenged on the basis that it is not allowed to do so under Title 42 U.S.C. section 7543 and does not qualify for the California waiver under Title 42 U.S.C. section 7507.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
CHRISTOPHER G. PABLO
ANNE T. HORIUCHI
MIHOKO E. ITO

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
cpablo@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com

MEMORANDUM

TO: Senator Mike Gabbard
Chair, Committee on Energy and Environment

FROM: Anne T. Horiuchi

DATE: February 11, 2009

RE: **S.B. 1174 – Relating to Motor Vehicles**
Hearing: Thursday, February 12, 2009 at 4:00 p.m., Room 225

I am Anne Horiuchi testifying on behalf of the Alliance of Automobile Manufacturers (“Alliance”). The Alliance strongly opposes S.B. 1174, calling for the implementation of the California Low Emissions Vehicle Program – or CA LEV – in Hawaii.

The Alliance is a trade association representing eleven car and light truck manufacturers including: BMW, Chrysler, Ford, GM, Jaguar Land Rover, Mazda, Mitsubishi, Mercedes-Benz, Porsche, Toyota, and Volkswagen.

To begin a discussion of the technical and policy implications associated with CA LEV, it is important to understand the three components of the program.

The first component is the Low Emission Vehicle program, or LEV II. LEV II regulates smog and ozone-forming emissions such as exhaust PM_{2.5}, NO_x, volatile organic compounds, carbon monoxide, and air toxics.

The second component is the Zero Emission Vehicle Mandate, or ZEV Mandate. The ZEV Mandate is a battery-powered/hydrogen fuel cell mandate also intended to reduce smog and ozone-forming emissions.

These two smog and ozone forming emissions provisions in the California program provide NO MEASURABLE environmental or clean air benefit beyond the existing federal program, called Tier 2, which Hawaii already follows. Often the adoption of the CA LEV standards is painted as an effort to “clean the air;” however, that misrepresents the benefit that the CA LEV program provides. A new car is a clean car –

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whether it is sold in California or Hawaii, and both the California and federal programs provide a 70% reduction in tailpipe emissions.

It is the third component – the proposed fuel economy standards – that most people associate with CA LEV. These standards are also referred to as California's greenhouse gas emissions standards, AB 1493, or the Pavley standards. Current law does not allow any state, including California, to enforce California's fuel economy standards at this time for reasons outlined below.

The automobile industry shares the goals of S.B. 1174 – a clean environment, energy independence, and greatly reduced greenhouse gas emissions. We just disagree on the methods of achieving them. The Alliance strongly supports an aggressive, comprehensive, and national approach to the climate change issue as opposed to the California standards, which will likely result in product restrictions, relinquishes Hawaii's authority to California, and establishes a patchwork of constantly changing regulations.

The Alliance's commitment to reducing greenhouse gas emissions through a national solution lead to the Alliance's strong support of the Energy Independence and Security Act of 2007, or EISA.

The centerpiece of EISA is a requirement that automakers achieve an unprecedented minimum 40 percent increase in Corporate Average Fuel Economy (CAFE) standards by 2020, resulting in a minimum 30 percent reduction in CO₂ emissions. It is important to emphasize the word *minimum* as EISA calls for regulatory agencies to set standards through 2020 based on the maximum feasible technology available to auto manufacturers.

In April 2008, the National Highway Traffic Safety Administration, or NHTSA, responded to EISA and released its proposal for national fuel economy standards through 2015. This proposal calls for an annual 4.5 percent increase in fuel economy over a five year period, far exceeding the 3.3 percent annual increase proposed by Congress in EISA. ***NHTSA's proposed rule sets federal fuel economy standards for the car and light truck fleet that are higher than CA LEV's proposed standards in model years 2011, and then again in 2013 – 2015.***

While the single, national standard that was established by EISA and is being promulgated by NHTSA is shaping up to be just as effective as California's

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proposed fuel economy program, it still provides the flexibility necessary for automakers to meet the aggressive standards.

On January 26, President Obama directed the Department of Transportation (DOT) and NHTSA to quickly finalize the new CAFE standards for model year 2011. In order to adhere to appropriate lead time requirements for manufacturers, the model year 2011 standards must be finalized by March 30, 2009. Additionally, President Obama directed DOT and NHTSA to thoroughly review the proposed standards for subsequent model years to ensure that all comments and legal considerations are reflected in the final rule.

The auto industry shares President Obama's urgency in finalizing these standards and would further encourage DOT and NHTSA to release all model year standards simultaneously.

With the adoption of EISA in December 2007, U.S. EPA recognized the establishment of a strong national program and denied California's request to implement its own fuel economy regulations as part of the existing CA LEV program. This action prohibits California and all other states from implementing CA LEV's proposed fuel economy regulations at this time.

Again, on January 26, President Obama directed EPA to review its decision regarding California's waiver request; however the outcome of that review remains in question. The President's assurance that he's seeking a "comprehensive approach that makes our economy stronger and our nation more secure," positively reflects the auto industry's position that EISA is the appropriate mechanism to regulate transportation sector greenhouse gases, not the California standards.

Until a resolution is reached on the California waiver, states that adopt CA LEV will only be able to implement its smog and ozone forming emissions programs, which again, provide no environmental benefit above and beyond the existing federal emissions program.

In lieu of all the recent federal activity pertaining to both state and national fuel economy standards and the arguments outlined above, the Alliance believes that implementing CA LEV through S.B. 1174 is the wrong public policy choice for the following reasons:

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1. The California program will result in product restrictions.

You may be asking why automakers believe EISA is better than California's proposed fuel economy standards. The answer is simple. California's program is too aggressive too soon for the time frame automakers need to design and launch our vehicles. The only cost-effective way to comply with California's program is to *restrict the sale of specific vehicles*.

A national standard allows manufacturers to balance Hawaii's fleet, which leans toward trucks, against California's fleet, which leans toward cars. The California standards call for each state to conform to California's designated fuel economy averages. In order to comply in Hawaii, automakers will likely rely on product restrictions. This will severely limit the availability of the light trucks and SUVs that Hawaii residents favor.

2. The ZEV Mandate is the most expensive regulation in the history of the California Air Resources Board.

The latest estimate by CARB is that this regulation may cost upwards of \$1 billion dollars for just the six largest automakers alone for "zero emission vehicles" every single year. And this is just in California.

But the ZEV Mandate isn't just expensive for manufacturers – it requires a commitment by the state for the infrastructure necessary to support the advanced technology vehicles mandated in this regulation. Hydrogen fueling stations and battery electric charging stations are necessary if the state adopts a program that mandates electric and hydrogen fuel cell vehicles.

3. Hawaii should not cede its regulatory authority to California.

CA LEV is a California program designed by California legislators and regulators – none of whom are accountable to Hawaii or its residents. By adopting CA LEV, Hawaii is ceding its authority to a state that is vastly different and tying itself to all future regulatory changes that California makes.

EISA applies a high standard to all 50 states that is good for both consumers and energy security. Individually, states also have an important role to play in addressing transportation sector greenhouse gases. Among other initiatives, the Alliance

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believes that states can supplement the federal government's work by incentivizing the purchase and use of alternative fuel and advanced technology vehicles, as well as investigate fleet modernization programs to get older, higher emitting vehicles off the road.

Our engineers have been handed a very challenging mandate in EISA. We ask that you allow our experts to work towards achieving EISA's aggressive goal without being sidelined by the burden of complying with individual state programs designed to meet the same goal. The Alliance asks that you hold S.B. 1174 in committee.

The Alliance has extensive information regarding our position on CA LEV. For more information please contact Laura Dooley with the Alliance, or contact Gary Slovin, the Alliance's local representative.

Laura Dooley
Director, State Affairs
Alliance of Automobile Manufacturers
1401 I Street, NW
Washington, DC 20005
202-326-5543
ldooley@autoalliance.org

Gary Slovin, Esq.
Managing Partner
Goodsill Anderson Quinn & Stifel LLP
1099 Alakea Street, Suite 1800
Honolulu, HI 96813
808-547-5746
gslovin@goodsill.com

**SENATE COMMITTEE ON
ENERGY AND ENVIRONMENT**

February 12, 2009

Senate Bill 1174 Relating to Motor Vehicles

Chair Gabbard and members of the Senate Committee on Energy and Environment, I am Rick Tsujimura, representing General Motors Corporation (GM). GM opposes Senate Bill 1174 Relating to Motor Vehicles, legislation that proposes to require adoption of the California vehicle emissions standards.

GM, as well as its trade association the Alliance of Automobile Manufacturers which includes other major automobile manufacturers, supports a nationwide program to address fuel economy and greenhouse gas emissions, and we are ready to work with the Obama Administration on developing a strong national program. We have already seen fuel economy standards proposed by the previous Administration that are tougher than California standards on trucks, and about the same for the car plus truck fleet combined. And as the Obama Administration considers the final standards that it will issue, it will be guided by the Energy Independence and Security Act of 2007 that requires that the Federal government adopt standards that are the maximum feasible.

In the meantime, GM is continuing to develop and bring to market advanced technologies to reduce emissions and improve fuel efficiency, and bringing forward these advanced technologies nationally and globally – not just in California. For smog-forming emissions, today's new vehicles, whether Federally certified or California certified, are 99% cleaner compared to pre-control vehicles. For fuel efficiency and greenhouse gas emissions, GM is aggressively pursuing a broad array of technologies over the near-, mid-, and long-term. For example, GM continues to increase production of vehicles equipped with Active Fuel Management, a technology that shuts off fuel to cylinders when full power from the engine is not needed. GM has developed multiple hybrid propulsion systems which are being deployed in a variety of models ranging from mid-size cars to SUVs and pickups to buses. The Saturn Vue Green Line, Saturn Aura Green Line and Chevy Malibu, are equipped with the GM Hybrid System and are available today. The Chevy Tahoe, GMC Yukon and Cadillac Escalade full size hybrid SUVs, and Chevy Silverado and GMC Sierra full-size pickups, all equipped with the 2-Mode Hybrid System, are also on the market now. And GM is developing the Chevy Volt as fast as it can, with introduction expected late in 2010. The Chevy Volt is an extended range electric vehicle, traveling 40 miles on a single charge of electricity from the battery. It is also equipped with a small internal combustion engine that kicks-in only to provide energy to the battery to extend the range. And GM has placed over 100 Chevy Equinox fuel cell vehicles in service by the end of 2008 as part of a program known as Project DriveWay, the largest program of its type to date. These vehicles will provide valuable customer feedback that will be used to help guide future fuel cell vehicle development.

With all of these advanced technologies, the point is that GM is developing them for national and global markets. These technologies are not being developed solely for states that

have adopted California standards. In terms of advanced technology vehicle availability, fuel economy, and reductions in greenhouse gas and smog-forming emissions, Hawaii has nothing to gain by adopting California's emission standards. But it does have something to lose.

Flex-fuel vehicles powered by E85 ethanol, a technology that can do the most to reduce petroleum usage and greenhouse gas emissions in the near-term, are being restricted in all states that have adopted California standards. This is due to the inflexible nature of California's smog emission standards. No manufacturer has achieved California's most stringent smog emission standard category, Super Ultra Low Emission Vehicle or SULEV, which is required for about 40% of a manufacturer's fleet. This is an impediment to GM's plans to provide more and more FFVs to consumers. GM has over 3.5 million E85 FFVs on U.S. roads today. GM is building about 500,000 E85 FFVs annually, and expects to increase production by over 50% by 2010. And by 2012, GM has committed to making half of its North American production as E85 FFVs. GM is also actively working with businesses and governments in numerous states to get E85 refueling stations installed. Fueling FFVs with E85 represents the best opportunity to reduce greenhouse gas emissions, particularly in the near-term. Instead of gasoline, if an FFV is refueled with E85 with the ethanol being derived from corn, greenhouse gas emissions are reduced by about 20%¹. Refueling with E85 with the ethanol being derived from cellulosic sources reduces greenhouse gas emissions by over 60%². Unfortunately, GM expects the sales restrictions for E85 FFVs to increase once California adopts its third generation of smog-emission standards, LEV III. And if Hawaii were to adopt California standards it would be bound to adopt LEV III as well, and for that matter any other changes that California makes in the future as Hawaii would be required to maintain identical standards to California's.

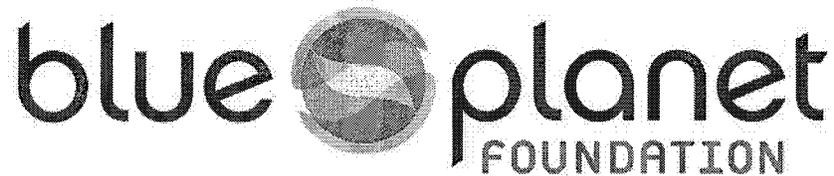
In addition, Federal law generally prohibits a state from adopting or attempting to enforce any standard relating to the control of emissions from new motor vehicles or motor vehicle engines. Federal law does allow a state to adopt and enforce a motor vehicle emission program enacted in California, if California is granted a waiver by the Federal government, IF the state is in a "nonattainment" area. Hawaii does not fit the Federal definition of a "nonattainment" area and thus would not be able to enact the California standards under Federal law.

In conclusion I want to reiterate that GM supports the goals of Hawaii to reduce emissions and improve fuel economy. GM disagrees that the right approach for achieving these goals is by adopting the California program. GM supports a national program to address both vehicle emissions and vehicle fuel efficiency. GM believes that petroleum-based fuels can no longer be the single source of energy for automobiles. Policies need to support alternative fuels and vehicles and not restrict their use. GM is working aggressively to become part of the solution with our many efforts on pushing advanced technology forward. But this must be combined with policies to help consumers adopt this technology, and make alternative fuels available to consumers to enable them to utilize these fuels.

Thank you for the opportunity to present this testimony.

¹ Michael Wang, Argonne National Laboratory.

² Ibid.



SENATE COMMITTEE ON ENERGY & ENVIRONMENT

February 12, 2008, 4:00 P.M.

Room 225

(Testimony is 2 pages long)

TESTIMONY IN STRONG SUPPORT OF SB 1174

Chair Gabbard and members of the committee:

The Blue Planet Foundation strongly supports Senate Bill 1174, adopting California's "Clean Cars Act." Passage of this measure—nearly identical to SB 1233—is the single most basic, effective action that the legislature can take this session to increase the efficiency of vehicles sold in the future in Hawaii.

Hawai'i has an opportunity to make Hawaii's future cars go much further on a gallon of gas. Just last week, President Barack Obama issued a clear directive to his Environmental Protection Agency to move forward on allowing states to adopt higher fuel efficiency standards for cars and trucks. California and 13 other states have adopted "clean car" standards in an effort to push automakers to further improve fuel efficiency. With the critical mass of states joining the effort to require cleaner cars, automakers globally will be forced to produce vehicles that produce less greenhouse gas pollution and cost less to operate.

Senate Bill 1174 is modeled after California's Clean Car law, passed in 2002. That law requires automakers to cut emissions by nearly a third by 2016—the equivalent of boosting the average fuel economy of cars and light trucks to 35 miles per gallon from the current average of 27.

Since California enacted the Clean Cars law, 13 additional states adopted identical fuel efficiency provisions. Those states, in addition to California, have been prevented from implementing their laws, however. The Bush Administration's Environmental Protection Agency (EPA) refused to grant the necessary waiver to allow the states' to adopt more stringent standards than federal law provides. The Obama Administration indicated a change in that position today, however, with a clear directive to the EPA to move quickly on investigating whether to grant the waiver to California and the other states. Granting the waiver—as is anticipated—would enable Hawaii to adopt the same aggressive fuel economy standards—if the legislature approves SB 1233.

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org

55 Merchant Street 17th Floor • Honolulu, Hawaii 96813 • 808-954-6142 • blueplanetfoundation.org

California estimates that the Clean Cars program will reduce overall greenhouse gas emission from passenger cars by 18 percent in 2020 and 27 percent cut in 2030. The regulations do not call for radical vehicle changes. They are designed instead to tap technologies, methods, and cleaner fuels available now to reduce emissions of four chief greenhouse gases (GHG) contributing to global warming:

- carbon dioxide,
- methane,
- nitrous oxide, and
- hydrofluorocarbons.

The standards apply to new motor vehicles and require declining fleetwide average emissions.

This is precisely the time for Hawai'i to add its voice to the other states, since it sends a clear policy signal to stimulate market demand for clean, fuel efficient vehicles. As more states join the initiative, this becomes the de facto national standard, and avoids the potential political gridlock in Washington. Passing the bill now also sends a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

Beyond the national policy benefits of passing this legislation, there are several important benefits to the state of Hawai'i.

1. First, the majority of our oil is used in transportation, and we will simply be unable to meaningfully reduce our oil dependence unless we adopt efficiency standards for automobiles that go beyond the federal Corporate Average Fuel Economy standards.
2. Second, Hawaii will be unable to meet its climate change targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.

Now is the time to act, to join the rest of the country in showing leadership in energy independence and economic revitalization.

Senate Bill 1174 is a smart measure for Hawaii—it helps us achieve our clean energy goals without spending a dime of taxpayers' dollars. Please give the Clean Cars Act the green light.

Thank you for the opportunity to testify.

From: Dave Rolf [drolf@hawaiiidealer.com]
Sent: Wednesday, February 11, 2009 4:06 PM
To: ENETestimony
Subject: Testimony in STRONG OPPOSITION to SB1233 and SB1174
Attachments: patchworkproven.pdf

February 11, 2009

Testimony in OPPOSITION to portions of SB 1233
Relating to Vehicular Emissions
And In OPPOSITION to SB 1174
Relating to Motor Vehicles
Presented to the Senate Committee on Energy and the Environment

At the hearing 4 p.m. Thursday, February 12, 2009
in Conference Room 225, Hawaii State Capitol

Submitted by David H. Rolf, for the Hawaii Automobile Dealers Association
Hawaii's Franchised New Car Dealers

Chair Gabbard members of the committee,

Our previous testimony has expressed our serious concerns about these two measures (SB 1233 and SB1174). We send the background documents from the National Automobile Dealers Association to familiarize the committee with the serious problems such a "patchwork" approach will have for automakers and specifically for Hawaii consumers. Please see the attachment.

We respectfully request you HOLD SB 1233 and SB1174. Please see the attachment submitted as testimony OPPOSED.

Respectfully submitted,

David H. Rolf
For the Hawaii Automobile Dealers Association
1100 Alakea St. Suite 2601 Honolulu, Hawaii 96813 Tel: 808 593-0031

From: Dr R Yonover [seerescue@juno.com]
Sent: Wednesday, February 11, 2009 2:08 PM
To: ENETestimony
Subject: Testimony in Support of 1233 and 1174

To Whom It May Concern,

I strongly Support Bills 1233 and 1174 for many reasons, including:

- The Clean Car Act (SB 1233 and SB 1174) will help reduce Hawaii's dependence on foreign fossil oil.
- The Clean Car Act will reduce emissions greenhouse gases contributing to global warming.
- Hawaii will be unable to meet its climate change emissions targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.
- The Clean Car Act helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.
- Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill.
- President Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.
- Passing the Act now will send a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

It is critical that we get more efficient cars. I have personally driven only 5-speed cars with no A/C for years to attain 30 to 35 mpg.

Please feel free to contact me for further information. Thanks for your consideration.

Aloha,

Dr. Robert Yonover
President
SEE/RESCUE Corporation

tel. 808-395-1688
e-mail: SeeRescue@juno.com
licensee/product website: www.RescueStreamer.com

HOUSE COMMITTEE ON ENERGY & ENVIRONMENT
February 12th, 2009, 4:00 P.M.
Room 225

TESTIMONY IN STRONG SUPPORT OF SB 1233 and SB 1174

Chair Gabbard and members of the committee:

I would like to express my support for cleaner cars which will provide us with cleaner air to breathe and minimizing illnesses plaguing our population due to polluted breathing air.

The Clean Car Act (SB 1233 and SB 1174) will help reduce Hawaii's dependence on foreign fossil oil.

The Clean Car Act will reduce emissions greenhouse gases contributing to global warming.

Hawaii will be unable to meet its climate change emissions targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.

The Clean Car Act helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.

Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill. President Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.

Passing the Act now will send a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

Thank you for the opportunity to testify.

Cynthia Ho

From: EEPtestimony
Sent: Wednesday, February 11, 2009 11:07 AM
To: ENETestimony
Subject: FW: Clean car act

From: Danielle Frohlich [mailto:dsfrohlich@hotmail.com]
Sent: Wednesday, February 11, 2009 7:48 AM
To: EEPtestimony
Subject: Clean car act

Hello-

I am writing to support the Clean Car Act (SB 1233 and SB 1174). This measure, which would allow Hawaii to participate in the nationwide movement towards more efficient vehicle standards, would be a crucial step in reducing our dependence on oil and would help Hawaii reach the targeted goals of Act 234. Hawaii, because of its particular vulnerability to fluctuations in energy costs, should be at the forefront of the movement towards greater energy efficiency.

Thanks,
Danielle Frohlich
Kailua, HI

Windows Live™: E-mail. Chat. Share. Get more ways to connect. [Check it out.](#)

From: EEPtestimony
Sent: Wednesday, February 11, 2009 11:38 AM
To: ENETestimony
Subject: FW: Testimony Supporting SB 1233 and SB 1174

From: Susan Schofield [mailto:honolulususan@yahoo.com]
Sent: Wednesday, February 11, 2009 10:58 AM
To: EEPtestimony
Subject: Testimony Supporting SB 1233 and SB 1174

HOUSE COMMITTEE ON ENERGY & ENVIRONMENT
February 12th, 2009, 4:00 P.M.
Room 225

TESTIMONY IN STRONG SUPPORT OF SB 1233 and SB 1174

Chair Gabbard and members of the committee:

- The Clean Car Act (SB 1233 and SB 1174) will help reduce Hawaii's dependence on foreign fossil oil.
- The Clean Car Act will reduce emissions greenhouse gases contributing to global warming.
- Hawaii will be unable to meet its climate change emissions targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.
- The Clean Car Act helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.
- Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill.
- President Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.
- Passing the Act now will send a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

Sincerely,
Susan R.S. Schofield
Honolulu, Hawai'i

From: EEPtestimony
Sent: Wednesday, February 11, 2009 10:52 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

From: Aimee Gaines [mailto:aimeegaines@yahoo.com]
Sent: Wednesday, February 11, 2009 12:22 AM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

HOUSE COMMITTEE ON ENERGY & ENVIRONMENT
February 12th, 2009, 4:00 P.M.
Room 225

TESTIMONY IN STRONG SUPPORT OF SB 1233 and SB 1174

Chair Gabbard and members of the committee:

President Obama made it a priority to clear the way for states to take the lead on adopting clean car standards. At the same time, Hawaii will be unable to meet its climate change emissions targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency. The Clean Car Act (SB 1233 and SB 1174) will not only help to reduce global warming pollution, but will also reduce Hawaii's dependence on foreign fossil oil. The Clean Car Act will help us to achieve our clean energy goals without spending a dime of taxpayers' dollars. Hawaii should join the 13 other states that followed California's lead in adopting the Clean Cars Bill.

Thank you for the opportunity to testify.

Sincerely,

Aimee Gaines
2016 Pacific Heights Rd, Unit A
Honolulu, HI 96813
(808) 499-5304

From: EEPtestimony
Sent: Wednesday, February 11, 2009 10:53 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

-----Original Message-----

From: Karin Gill [mailto:karingill@yahoo.com]
Sent: Tuesday, February 10, 2009 10:10 PM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

The Hawai'i Clean Car Act makes sure that future cars in Hawaii go much further on a gallon of gas. Modeled after California's, the bill requires that automakers provide cars and trucks that produce 30% less greenhouse gas emissions by 2016, the equivalent to boosting average fuel economy of cars and light trucks to 35 miles per hour from the current average of 27. This will reduce Hawaii's dependency on imported oil and save residents money at the pump.

Today, 13 other states have followed California's lead by adopting clean car standards. But their efforts have been stymied by the previous White House. Until now. In his first week in office, President Obama directed his Administration to move rapidly to allow states to implement their clean car plans. Now is Hawaii's turn.

Karin Gill
Honolulu

From: EEPtestimony
Sent: Wednesday, February 11, 2009 11:01 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

From: Russ Mcgee [mailto:rmcgee05@comcast.net]
Sent: Wednesday, February 11, 2009 2:58 AM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

Please support this legislation. We need to do everything we can to get Global Warming under control. This is a good step in that direction.

Russell McGee

From: EEPtestimony
Sent: Wednesday, February 11, 2009 10:54 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

From: A McLoughlin [mailto:austinm@etiaudience.com]
Sent: Wednesday, February 11, 2009 5:19 AM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

Dear Sir/ Madame-

I believe that we must move towards cleaner burning – zero emission vehicles, soon... and Hawaii is the ideal place to start. If Hawaii can move towards using less gasoline and much less Jet Fuel then eventually the mainland can follow the examples and really get the country on the right track.

Also for these reasons:

The Clean Car Act (SB 1233 and SB 1174) will help **reduce Hawaii's dependence on foreign fossil oil.**
The Clean Car Act will **reduce emissions greenhouse gases** contributing to global warming.
Hawaii will be unable to **meet its climate change emissions targets adopted by the legislature in Act 234 (2007)** without addressing transportation efficiency.
The Clean Car Act **helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.**
Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill.
President **Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.**
Passing the Act now will **send a clear signal to Detroit** that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

Thank you for your consideration.

Best Regards,
Austin McLoughlin
Buffalo, New York

From: EEPtestimony
Sent: Wednesday, February 11, 2009 10:54 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

From: A McLoughlin [mailto:austinm@etiaudience.com]
Sent: Wednesday, February 11, 2009 5:19 AM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

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Hawaii will be unable to **meet its climate change emissions targets adopted by the legislature in Act 234 (2007)** without addressing transportation efficiency.
The Clean Car Act **helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.**
Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill.
President **Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.**
Passing the Act now will **send a clear signal to Detroit** that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

Thank you for your consideration.

Best Regards,
Austin McLoughlin
Buffalo, New York

From: EEPtestimony
Sent: Wednesday, February 11, 2009 11:38 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

-----Original Message-----

From: don blackwell [mailto:averyblackwell@yahoo.com]
Sent: Wednesday, February 11, 2009 10:55 AM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

I would like to inquire as to why Hawaii does not have industry in place to manufacture solar panels for electricity.....more miles to the gallon is not the solution to green house effect. Perhaps laying electrical grids over existing roadways as to run electric cars in much the same manner as street cars.....like slot cars we used to race as kids.

From: EEPtestimony
Sent: Wednesday, February 11, 2009 11:37 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

From: ljinlaw@aol.com [mailto:ljinlaw@aol.com]
Sent: Wednesday, February 11, 2009 10:04 AM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

HOUSE COMMITTEE ON ENERGY & ENVIRONMENT
February 12th, 2009, 4:00 P.M.
Room 225

TESTIMONY IN STRONG SUPPORT OF SB 1233 and SB 1174

Chair Gabbard and members of the committee:

I write to you as a concerned mother and grandmother.

As you know, our Legislature now has a golden opportunity to help eliminate offensive automobile air pollution, encourage less dependency on foreign and imported oil, and make life on our islands better for all citizens--including over 154,000 citizens suffering from some sort of lung and/or respiratory disease.

We need to join the ranks of other states and progressively provide protection for the citizens of our state. Forward thinking at this time, by passing SB 1233 and SB 1174, will further the environmental policies of President Obama as well as establish Hawaii as a state willing to come forward and do whatever is necessary to help save our environment. There can be no doubt that all states and countries must work together to end dependency on oil and hence to stop global warming.

Additionally, these two bills do not impose a tax burden on citizens during the current difficult economic downturn. The beauty of our *aina* is dependent upon our Legislature's good judgment when deciding environmental policy. It is now time to take a firm and aggressive stance with regard to such important policy.

Thank you for the opportunity to testify.

Lennie J. Nickels- Carlson
1516 Halekoa Drive
Honolulu, HI 96821
ljinlaw@aol.com

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From: EEPtestimony
Sent: Wednesday, February 11, 2009 10:52 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

From: Jennifer Homcy [mailto:jen@tr3ees.com]
Sent: Tuesday, February 10, 2009 11:37 PM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

I support SB1233 and SB1174. This legislation will help Hawaii become a more sustainable and resource independent state. The Hawai'i Clean Car Act makes sure that future cars in Hawaii go much further on a gallon of gas. Since the bill requires that automakers provide cars and trucks that produce 30% less greenhouse gas emissions by 2016, the equivalent to boosting average fuel economy of cars and light trucks to 35 miles per hour from the current average of 27, this will reduce Hawaii's dependency on imported oil and save residents money at the pump. California and other states have passed this type of legislation, and Hawaii should continue to take a leadership role in responsible consumerism and be good stewards of the environment.

Please support SB 1233 and SB 1174.

Sincerely,
Jennifer Homcy

Jennifer Homcy
TR3EES Founding Partner
"Time to Rethink, 3volve, Engage, Educate, Sustain"
PO Box 671
Haleiwa, Hawaii 96712
(808) 375-7460 (c)
(808) 888-0605 (o)
www.tr3ees.com
jen@tr3ees.com

Save a TR3EE! Think before you print.

From: Jeff Sacher [jsacher@kona.net]
Sent: Wednesday, February 11, 2009 3:00 PM
To: ENETestimony
Subject: SB 1233 and SB 1174

Aloha,

Very simply: Please pass SB 1233 and SB 1174 out of Committee. Clean energy is far too important for our state.

Mahalo,
Jeff Sacher
Kawaihae, Big Island

From: Laurens Laudowicz [lau@100pg.com]
Sent: Wednesday, February 11, 2009 4:07 PM
To: ENETestimony
Cc: jeff@blueplanetfoundation.org
Subject: Testimony in Support of 1233 and 1174

TESTIMONY IN STRONG SUPPORT OF SB 1233 AND SB 1174 Chair Gabbard and members of the committee

100% Green strongly supports Senate bills 1233 and 1174, adopting California's "Clean Cars Act." Passage of these measures is the single most basic, effective action that the legislature can take this session to increase the efficiency of vehicles sold in the future in Hawaii.

Hawai'i has an opportunity to make Hawaii's future cars go much further on a gallon of gas. Just last week, President Barack Obama issued a clear directive to his Environmental Protection Agency to move forward on allowing states to adopt higher fuel efficiency standards for cars and trucks. California and 13 other states have adopted "clean car" standards in an effort to push automakers to further improve fuel efficiency.

With the critical mass of states joining the effort to require cleaner cars, automakers globally will be forced to produce vehicles that produce less greenhouse gas pollution and cost less to operate. Senate bills 1233 and 1174 are modeled after California's Clean Car law, passed in 2002. That law requires automakers to cut emissions by nearly a third by 2016—the equivalent of boosting the average fuel economy of cars and light trucks to 35 miles per gallon from the current average of 27. Since California enacted the Clean Cars law, 13 additional states adopted identical fuel efficiency provisions. Those states, in addition to California, have been prevented from implementing their laws, however

The Bush Administration's Environmental Protection Agency (EPA) refused to grant the necessary waiver to allow the states' to adopt more stringent standards than federal law provides. The Obama Administration indicated a change in that position today, however, with a clear directive to the EPA to move quickly on investigating whether to grant the waiver to California and the other states.

Granting the waiver—as is anticipated—would enable Hawaii to adopt the same aggressive fuel economy standards—if the legislature approves SB 1233 and SB 1174.

California estimates that the Clean Cars program will reduce overall greenhouse gas emission from passenger cars by 18 percent in 2020 and 27 percent cut in 2030. The regulations do not call for radical vehicle changes. They are designed instead to tap technologies, methods, and cleaner fuels available now to reduce emissions of four chief greenhouse gases (GHG) contributing to global warming:

- carbon dioxide,
- methane,
- nitrous oxide, and
- hydrofluorocarbons.

The standards apply to new motor vehicles and require declining fleetwide average emissions. This is precisely the time for Hawai'i to add its voice to the other states, since it sends a clear policy signal to stimulate market demand for clean, fuel efficient vehicles. As more states join the initiative, this becomes the de facto national standard, and avoids the potential political gridlock in Washington.

Passing the bill now also sends a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need. Beyond the national policy benefits of passing this legislation, there are several important benefits to the state of Hawai'i.

1. First, the majority of our oil is used in transportation, and we will simply be unable to meaningfully reduce our oil dependence unless we adopt efficiency standards for automobiles that go beyond the federal Corporate Average Fuel Economy standards.

2. Second, Hawaii will be unable to meet its climate change targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.

Now is the time to act, to join the rest of the country in showing leadership in energy independence and economic revitalization. Senate bills 1233 and 1174 are smart measures for Hawaii—they help us achieve our clean energy goals without spending a dime of taxpayers' dollars. Please give the Clean Cars Act the green light.

Thank you for the opportunity to testify.

Sustainably,

Laurens Laudowicz

Life is beautiful, i don't want to miss a moment of it. I respond to emails twice a week. If you need to talk to me immediately, please try my cell at 808.351.2891

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From: Christine Watanabe [cwatanabe@aloharecruiting.com]
Sent: Wednesday, February 11, 2009 5:27 PM
To: ENETestimony
Subject: Testimony in strong support of SB 1233 and SB 1174

SENATE COMMITTEE ON ENERGY & ENVIRONMENT
February 12th, 2009, 4:00 P.M.
Room 225

TESTIMONY IN STRONG SUPPORT OF SB 1233 and SB 1174

Chair Gabbard and members of the committee:

- The Clean Car Act helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.
 - Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill.
 - President Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.
 - Passing the Act now will send a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.
- Thank you for the opportunity to testify.



<http://www.aloharecruiting.com>

From: Susan Schofield [honolulususan@yahoo.com]
Sent: Wednesday, February 11, 2009 5:00 PM
To: ENETestimony
Subject: Fw: Testimony Supporting SB 1233 and SB 1174

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

February 12th, 2009, 4:00 P.M.
Room 225

TESTIMONY IN STRONG SUPPORT OF SB 1233 and SB 1174

Chair Gabbard and members of the Committee:

- The Clean Car Act (SB 1233 and SB 1174) will help reduce Hawaii's dependence on foreign fossil oil.
- The Clean Car Act will reduce emissions greenhouse gases contributing to global warming.
- Hawaii will be unable to meet its climate change emissions targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.
- The Clean Car Act helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.
- Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill.
- President Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.
- Passing the Act now will send a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

Sincerely,
Susan R.S. Schofield
Honolulu, Hawaii



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

LATE

SENATE COMMITTEE ON ENERGY & ENVIRONMENT

February 12, 2008, 4:00 P.M.

(Testimony is 3 pages long)

TESTIMONY IN SUPPORT OF SB 1174

Chair Gabbard and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, *supports* SB 1174, which requires the adoption of the State of California motor vehicle emission standards. Failure to do so will virtually guarantee that Hawai'i becomes the repository of "rejected" vehicles -- less efficient and more polluting SUVs and trucks -- that can no longer be sold in California and 13 other states.

Legal Background

When Congress enacted the Clean Air Act ("CAA"), codified at 42 U.S.C. §§ 7401 et seq., it expressly preempted all state regulation of new motor vehicle emissions. *See id.* § 7543(a) (codifying § 209(a) of the CAA). However, as an exception to this general preemption, Congress allowed California alone among the states to implement its own vehicle emissions standards, subject to certain conditions. *See id.* § 7543(b) (codifying § 209(b) of the CAA). Under § 209 of the act, California may request a waiver of preemption from the EPA for its emissions standards once California has determined that those standards are no less protective of public health than federal regulations. *See id.* The EPA must grant the waiver unless it finds that California's "no less protective" determination was arbitrary and capricious or that the standards are not necessary to meet compelling and extraordinary conditions. *See id.*

In 1977, Congress added another limited exception to the general preemption stated in § 209(a) of the CAA. Section 177 of the act, codified at 42 U.S.C. § 7507,¹ permits any state to adopt emissions standards if (1) the standards are "identical to California standards for which a waiver has been granted" and (2) such standards are adopted at least two years before commencement of the particular model year to which they apply.

There is nothing in this language indicating Hawai`i has to be an attainment or nonattainment state to proceed under this provision.

Underlying Principles

California and thirteen other states, including New York, New Jersey, Connecticut, Massachusetts, Pennsylvania, Oregon, and Washington have adopted the California standards. Three other states have indicated they plan to adopt the California standard.² Together, these states account for **about half of the American market for**

¹ Specifically, this provision states:

Notwithstanding section 7543(a) of this title, any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 7543(a) of this title respecting such vehicles if - (1) such standards are identical to the California standards for which a waiver has been granted for such model year, and (2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator). Nothing in this section or in subchapter II of this chapter shall be construed as authorizing any such State to prohibit or limit, directly or indirectly, the manufacture or sale of a new motor vehicle or motor vehicle engine that is certified in California as meeting California standards, or to take any action of any kind to create, or have the effect of creating, a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards (a "third vehicle") or otherwise create such a "third vehicle".

42 U.S.C. § 7507 (Jan. 2003).

² See <http://www.nytimes.com/2009/01/26/us/politics/26calif.html?pagewanted=2&r=1&hp>

cars and light trucks. Plainly joining this large swatch of America will not have a disastrous impact on our economy. Rather, it prevents Hawai`i from becoming a dumping ground for inefficient automobiles that cannot be sold anywhere else.

Beyond the national policy benefits of passing this legislation, there are several important benefits to the state of Hawai`i.

1. First, the majority of our oil is used in transportation, and we will simply be unable to meaningfully reduce our oil dependence unless we adopt efficiency standards for automobiles that go beyond the federal Corporate Average Fuel Economy standards.
2. Second, Hawai`i will be unable to meet its climate change targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.

Now is the time to act and to join the rest of the country in showing leadership in energy independence and economic revitalization. Hawai`i needs clean and highly efficient vehicles powered by sustainable and steadily lower carbon fuels and clean electricity as well as communities with accessible and convenient alternatives to driving. Please give this Bill the "green light."

Thank you for the opportunity to testify.

From: EEPtestimony
Sent: Wednesday, February 11, 2009 10:45 PM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174



From: Denis Markian Wichar [mailto:deedub@webtv.net]
Sent: Wednesday, February 11, 2009 5:45 PM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

I live in Washington State & helped make our state a Green Car state. Please, Hawai'i. Join us.
Mahalo!

Den Mark Wichar
Vancouver WA

From: Barb Morgan [bmorgan@punahou.edu]
Sent: Thursday, February 12, 2009 7:37 AM
To: ENETestimony
Cc: pfmorgan@aol.com
Subject: Testimony in Support of 1233 and 1174



Our family is deeply concerned about the impact of global warming on Hawaii and have taken many personal steps to reduce our "carbon footprint" and live more sustainably (solar water, photovoltaics, water catchment, grey water, vegetable gardens, worms and compost, Prius and Honda Hybrids).

We believe our legislature should be doing everything possible to incentivise individuals and institutions to change their actions in energy, transportation, waste and supporting the local economy. We also believe that regulations as well as public expenditures will be necessary for some of the changes to take place. The partnership of the federal and local governments is essential – and the time is NOW. We will pay dearly – especially in Hawaii – for any delay or procrastination. Our isolation, our shoreline exposure, and our limited land mass are all reasons for us to realize the urgency of a drastic change in our individual and collective behavior.

Barb and Paul Morgan
2891 Oahu Avenue
Honolulu, HI 96822

From: EEPtestimony
Sent: Thursday, February 12, 2009 8:58 AM
To: ENETestimony
Subject: FW: Testimony in Support of 1233 and 1174

LATE

-----Original Message-----

From:Carolynn Bell-Tuttle [mailto:cbell@assets-school.net]
Sent: Thursday, February 12, 2009 8:55 AM
To: EEPtestimony
Subject: Testimony in Support of 1233 and 1174

HOUSE COMMITTEE ON ENERGY & ENVIRONMENT
February 12th, 2009, 4:00 P.M.
Room 225

TESTIMONY IN STRONG SUPPORT OF SB 1233 and SB 1174

Chair Gabbard and members of the committee:

- * The Clean Car Act (SB 1233 and SB 1174) will help reduce Hawaii's dependence on foreign fossil oil.
- * The Clean Car Act will reduce emissions greenhouse gases contributing to global warming.
- * Hawaii will be unable to meet its climate change emissions targets adopted by the legislature in Act 234 (2007) without addressing transportation efficiency.
- * The Clean Car Act helps us achieve our clean energy goals without spending a dime of taxpayers' dollars.
- * Hawaii will join the 13 other states that followed California's lead in adopting Clean Cars Bill.
- * President Obama made it a priority to clear the way for state's to take the lead on adopting clean car standards.
- * Passing the Act now will send a clear signal to Detroit that their bailout restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

Thank you for the opportunity to testify.

Carolynn Bell-Tuttle, Honolulu, HI

From: Dave Rolf [drolf@hawaiiidealer.com]
Sent: Thursday, February 12, 2009 10:35 AM
To: ENETestimony
Subject: Supplemental testimony in OPPOSITION to SB 1233 and SB1174

February 12, 2009

Supplemental Testimony in OPPOSITION to SB 1233 and SB1174
Presented to the Senate committee on Energy and Environment

At the hearing 4 p.m. Thursday, February 12, 2009
In Conference Room 225, Hawaii State Capitol

Submitted by David H. Rolf, for the Hawaii Automobile Dealers Association
Hawaii's Franchised New Car Dealers

Chair Gabbard and members of the committee,

Background

The Hawaii Automobile Dealers Association has worked with members of Congress to help create a national standard for fleet mileage requirements to address clean air issues and the need to help the country and our state move away from fossil fuels.

Any patchwork, state-by-state, approach to reaching a solution would be problematic in that it would slow the already significant efforts made toward energy independence. The Corporate Average Fuel Economy (CAFE) standards in place now give automakers breathing room to develop high mileage cars while maintaining financial, albeit wobbly, viability.

For the reasons that such a piecemeal approach may topple America's much needed manufacturing base for new vehicles, HADA opposes this bill.

In 2007, Congress passed the Energy Independence and Security Act (EISA), a law that increased the CAFE standard by 40 percent, to at least 35 mpg by 2020. Because increasing fuel economy is the only way to significantly decrease greenhouse gas (GHG) emissions from motor vehicles, this new standard will decrease GHG tailpipe emissions by 30 percent by 2020.

Pursuant to EISA, a new fuel economy standard was proposed (to be finalized by the Obama administration no later than April 2009) that is higher than California's (31.6 mpg v. 31.3 mpg).

Individual state efforts to regulate fuel economy by regulating GHG emissions from motor vehicles are unnecessary since the passage of EISA and will undermine the new CAFE law.

This effort, led by the California Air Resources Board (CARB):

Creates a Patchwork – CARB's regulation will result in a patchwork of state regulatory regimes, as compliance with their regulation is based on what each automaker delivers for sale in each "California" state. What an automaker "delivers for sale" varies because consumer demand for certain vehicles differs from state to state, meaning compliance in California is no guarantee of compliance in any other state.

Exemptions – CARB’s regulation exempts until 2016 (and then regulates these now exempt automakers at a lesser standard) major global manufacturers.

Vehicle Rationing – To comply with CARB’s regulation, every automaker must sell the “right” mix of vehicles – some vehicles above the standard and some vehicles below the standard. If consumers do not buy the right mix of vehicles, the only realistic way for an automaker to comply will be to ration sales of certain models, or deeply discount other models. Both options distort the market and hurt dealers.

Cross-Border Sales Loophole – Because of vehicle rationing, consumers will go to other states to purchase vehicles unavailable in their state. Except in Rhode Island, vehicles bought in one state and registered in another are unregulated under CARB’s regulation. This loophole is non-existent under CAFE.

Perhaps most applicable to Hawaii’s situation is this: under federal law, no state can set up standards on its own. California, which had grandfathered clean air regulations, was permitted to do so. No so-called “third program” is allowed. Federal law permits another state to adopt the California standards, but ONLY IF THAT STATE HAS A CLEAN AIR NON-ATTAINMENT AREA. **[CLEAN AIR ACT SECTION 177 (42 U.S.C. 7507)]**

Sec. 177. Notwithstanding section 209(a), any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 209(a) respecting such vehicles if-

- (1) such standards are identical to the California standards for which a waiver has been granted for such model year, and
- (2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator). Nothing in this section or in title II of this Act shall be construed as authorizing any such State to prohibit or limit, directly or indirectly, the manufacture or sale of a new motor vehicle or motor vehicle engine that is certified in California as meeting California standards, or to take any action of any kind to create, or have the effect of creating, a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards (a “third vehicle”) or otherwise create such a “third vehicle.”

For these reasons, and others, we respectfully urge that SB1233 and SB 1174 be held.

Respectfully submitted,

The Hawaii Automobile Dealers Association

David H. Rolf

1100 Alakea St. Suite 2601, Honolulu, Hawaii, 96813 Tel: 808 593-0031

Appendix D

Statutory Sections Relevant to the Regulation of New Mobile-Source Emissions

[CLEAN AIR ACT SECTION 209 (42 U.S.C. 7543)]

Sec. 209.

(a) No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that-

(A) the determination of the State is arbitrary and capricious,

(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standard shall be deemed to be at

least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

(3) in the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.

(c) Whenever a regulation with respect to any motor vehicle part or motor vehicle engine part is in effect under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any standard or any requirement of certification, inspection, or approval which relates to motor vehicle emissions and is applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).

(d) Nothing in this part shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.

(e) Nonroad Engines or Vehicles.-

(1) Prohibition on certain state standards.- No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles subject to regulation under this Act-

(A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower.

(B) New locomotives or new engines used in locomotives. Subsection (b) shall not apply for purposes of this paragraph.

(2) Other nonroad engines or vehicles.-

(A) In the case of any nonroad vehicles or engines other than those referred to in subparagraph (A) or (B) of paragraph (1), the Administrator shall, after notice and opportunity for public hearing, authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such authorization shall be granted if the Administrator finds that-

(i) the determination of California is arbitrary and capricious,

[CLEAN AIR ACT SECTION 177 (42 U.S.C. 7507)]

Sec. 177. Notwithstanding section 209(a), any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 209(a) respecting such vehicles if-

(1) such standards are identical to the California standards for which a waiver has been granted for such model year, and

(2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator). Nothing in this section or in title II of this Act shall be construed as authorizing any such State to prohibit or limit, directly or indirectly, the manufacture or sale of a new motor vehicle or motor vehicle engine that is certified in California as meeting California standards, or to take any action of any kind to create, or have the effect of creating, a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards (a "third vehicle") or otherwise create such a "third vehicle."