



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

**BRENNON T. MORIOKA**  
INTERIM DIRECTOR

Deputy Directors  
**MICHAEL D. FORMBY**  
**FRANCIS PAUL KEENO**  
**BRIAN H. SEKIGUCHI**

IN REPLY REFER TO:

February 1, 2010

**TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION**

**HOUSE BILL NO. 2752**

**COMMITTEE ON TRANSPORTATION**

On behalf of the Hawaii Ignition Interlock Implementation Task Force, the Department supports and strongly recommends the passage of House Bill 2752. This measure incorporates the recommendations from the Task Force, which was established by Act 171 of the 2008 Legislative Session.

HB 2752 is the third legislative bill to be introduced to the Legislature in anticipation of the January 1, 2011 implementation of Hawaii's ignition interlock program. The first and second measures resulted in Acts 171 (2008) and Act 88 (2009). This bill provides the missing details needed for implementation.

Due to the State's existing economic crisis, concessions have been made to the ignition interlock program to prevent any major expenditure of state funds at this time. We see these changes as temporary, and look forward to implementing an interlock program as originally envisioned by the Task Force in better economic times.

HB 2752 includes the following:

- Establishes circumvention of the system or tampering with the interlock device by a person required to operate a vehicle equipped with a device as a petty misdemeanor offense with penalties of three to thirty days imprisonment; \$250 to \$1000 fine; and loss of the privilege to operate a vehicle during the revocation period by having an interlock device and an interlock permit. The person convicted of tampering or circumventing the system, which includes having another person start or attempt to start the vehicle, will be sentenced without possibility of probation or suspension of sentence. The penalties will increase for repeat circumvention or tampering offenders. (A second offense within a 5-year period.)
- Establishes that assisting or abetting the circumvention of or tampering with an interlock device is a misdemeanor with penalties of up to 30 days imprisonment and/or a fine of up to \$1000 for a first offense and increasing penalties for subsequent offenses. Assisting or abetting circumvention includes blowing into the device or otherwise starting the vehicle

for a person required to use an interlock; tampering with the system; or lending or renting a vehicle to a person required to have an interlock.

- In order to encourage OVUII offenders to submit to testing, the act of refusing to be tested will be a petty misdemeanor.
- Removes the category of highly intoxicated driver (a person whose blood alcohol level at the time of testing was .15 or higher) since all offenders will be required to install an interlock device during the revocation period which has been increased to one year for first offenders. The highly intoxicated subcategory of first offenders no longer seems necessary.
- Reinstates the section relating to the administrative impoundment of license plates and the revocation of vehicle registration by repeat OVUII offenders. In addition, the bill also reinstates the opportunity for a family member to obtain special plates when essential for the person(s) to drive the offender's vehicle. These reinstatements were necessary for the cases in which a person required to use an interlock pledged that he or she would not drive. The vehicle sanction then changes from an interlock requirement to plate impoundment and registration revocation.
- Clarifies that a person must hold a valid license at the time of arrest for OVUII in order to qualify for an ignition interlock permit.
- Establishes that a person convicted of OVUII shall be sentenced without possibility of probation or suspension of sentence and amends Act 88's minimum and/or maximum imprisonment times for a person convicted of OVUII:
  - 30 days maximum for a first offender (from 5 days);
  - 5 days minimum and 30 days maximum (from 5 days) for a second offender;
  - 10 days minimum and 30 days maximum (from 5 days) for a third offender;
- Removes probation from the sentencing program for all offenders. (Temporary cost-saving amendment).
- States that any OVUII offender who is driving during the revocation period in a vehicle not equipped with an interlock, will be charged under 291E-62 (Driving while license suspended or revoked for OVUII) and will be sentenced without the possibility of probation or suspension of sentence. In addition, where applicable, the person will lose his or her privilege of operating a vehicle equipped with an ignition interlock device.
- Deletes the requirement for the state to establish a special fund to pay part of the interlock costs for indigent offenders with surcharges paid by other offenders installing interlock devices in their vehicles. Deletes the definition of an "indigent person."

The Task Force did not change the prior decision to administratively revoke the driver's license of a person with three or more prior alcohol or drug enforcement contacts for a five to 10 year period.

A strong ignition interlock bill will prevent alcohol-related crashes and reduce fatalities in the state. The Task Force believes that these provisions are necessary to the implementation of the ignition interlock program and strongly recommends the passage of HB 2752.



*THE JUDICIARY, STATE OF HAWAII*

**Testimony to the House Committee on Transportation**

The Honorable Joseph M. Souki, Chair

The Honorable Karen Leilani Awana, Vice Chair

Monday, February 1, 2010, 9:00 a.m.

State Capitol, Conference Room 309

by

Ronald Sakata

Chief Adjudicator

Administrative Driver's License Revocation Office (ADLRO)

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**Bill No. and Title:** House Bill No. 2752, Relating to Highway Safety

**Purpose:** Enacts the recommendations of the Ignition Interlock Implementation Task Force made pursuant to Act 171, Session Laws of Hawaii 2008.

**Judiciary's Position:**

The Judiciary has been actively involved with the proceedings and deliberations of the ignition interlock implementation task force on an advisory basis. Accordingly, although we take no position on the intent of this measure, we have made our advice and concerns well known throughout the numerous meetings of the task force at-large and in the various subcommittees.

Chief among those concerns is the impact on the Judiciary's already thinly-stretched budgetary and personnel resources. In particular, ADLRO may eventually be required to conduct hearings regarding ignition interlock issues arising after the initial revocation hearings which are held in the ordinary course of our responsibilities. That impact, as of yet, cannot be accurately determined, but any additional hearings at this point will be of consequence to our current case and hearing load.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
CITY AND COUNTY OF HONOLULU

ALII PLACE  
1060 RICHARDS STREET, HONOLULU, HAWAII 96813  
AREA CODE 808 • 527-6494

PETER B. CARLISLE  
PROSECUTING ATTORNEY



DOUGLAS S. CHIN  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE JOSEPH SOUKI, CHAIR**  
**HOUSE TRANSPORTATION COMMITTEE**  
**Twenty-fifth State Legislature**  
**Regular Session of 2010**  
**State of Hawai'i**

February 1, 2010

**RE: H.B. 2752; RELATING TO HIGHWAY SAFETY.**

Chair Souki and members of the House Committee on Transportation, the Department of the Prosecuting Attorney submits the following testimony in support of H.B. 2752 with an amendment.

The purpose of this bill is to fine tune the statutory framework for the imposition of an ignition interlock device upon vehicles owned or driven by person arrested for impaired driving. To this end, the legislature established a task force which was mandated to review this issue and to make recommendations for the implementation of an ignition interlock program. A wide range of stakeholders were included in the task force including our department, which was given the opportunity to participate in and give input to the task force over the last two years. This bill is the product of the work of the task force's effort to flesh out the framework of the ignition interlock program. In particular, this bill eliminates the use of probation for repeated intoxicated drivers and substitutes less intensive supervision by proofs of compliances due to concerns about the cost and availability of probation resources.

We are in strong support of the use of ignition interlock devices which prevent a person from operating a vehicle when the person has measurable amounts of alcohol in their system. While community education, increased enforcement and stiffer sanctions for impaired driving

have made some impact, Hawaii still has an unacceptably high number of alcohol related fatal crashes. We believe that technologies which would prevent people from driving drunk need to be examined and tried in order to reduce traffic fatalities.

Although we did not agree with all the task force recommendations, we do understand that this bill and effort were intended to be the product of consensus whenever possible. Because all the task force stakeholders have different perspectives and because there are resource limitations that affect what is currently possible, we are fully cognizant that compromises were necessary in order to forge an ignition interlock program which was acceptable and workable for all the task force stakeholders. Thus, we do support the passage of H.B. 2752. However, we hope that certain changes, such as probation for second and third drunk drivers can be implemented when more state resources are available.

We also note that the penalty for a second offense for assisting or abetting the circumvention of an ignition interlock device is missing from subsection (c) on page 7 of the bill. We would suggest that (c)(1) on page 7, lines 6 and 7 of the bill be rewritten as follows:

(1) Fined not more than \$1,000 or imprisoned not more than thirty days, or both for [~~a first offense~~] any offense that does not occur within five years of two prior convictions for this offense;

Thank you for this opportunity to testify.



Mothers Against Drunk Driving HAWAII  
700 Bishop Street, Suite 1111  
Honolulu, HI 96813  
Phone (808) 532-6232  
Fax (808) 532-6004  
[www.maddhawaii.org](http://www.maddhawaii.org)

February 1, 2010

To: Representative Joseph M. Souki, Chair – House Committee on Transportation;  
Representative Karen Leinani Awana, Vice Chair; and members of the committee

From: Arkie Koehl — Chairman, Operations Council, MADD Hawaii

Re: House Bill 2752 – Relating to Highway Safety

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I am Arkie Koehl, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving in support of HB 2752. This bill updates, amends and provides full statutory detail on ignition interlock, as required of the Ignition Interlock Task Force in previous Acts 171 and 88.

The testimony of the Task Force outlines the major updates and changes in the interlock law. MADD fully endorses these Task Force recommendations. We share the disappointment of the Task Force that the state's budgetary crisis necessitates forgoing one of the key enforcement measures — probation for repeat offenders — and we share the expectation that future fiscal improvements will restore this important tool.

We respectfully urge passage of House Bill 2752. Vendor RFPs will be issued shortly, so the process of vendor selection, vendor preparation and setup in our islands, and dissemination of training and educational materials, can be completed by the start date of Jan. 1st, 2011.

Thank you for this opportunity to testify.



February 1, 2010, 9:00am

The Honorable Joseph Souki, Chair  
The Honorable Karen Awana, Vice Chair  
House Committee on Transportation

Dear Chairman Souki and Members of the Committee on Transportation,

Subject: **Support for HB 2752**

The Injury Prevention Advisory Committee strongly supports HB 2752. This Ignition Interlock bill incorporates essential recommendations made by the ignition interlock taskforce that will allow the ignition interlock law to be implemented by the effective date of January 2011.

Established in 1990, the Injury Prevention Advisory Committee (IPAC) is an advocacy group committed to preventing and reducing injury in Hawai'i. IPAC members include public and private agencies, physicians, and professionals working together to address the eight leading areas of injury that include impaired driving.

Hawaii continues to have a high rate of alcohol related traffic fatalities. In 2008, 43% drivers involved in traffic fatalities in Hawaii tested positive for alcohol. According to FARS (Fatal Analysis Reporting System) drivers with previous DUI convictions are at least 3 times more likely than other drivers to be involved in a alcohol related fatal crash. It is evident that there is an issue with casualties related to drivers with previous DUI convictions.

HB2752 includes key recommendations of requiring the Ignition Interlock for first time offenders, provisions to prevent circumvention in addition to including recent fiscal climate considerations to make recommendations of this bill feasible for all stakeholders responsible for implementing the ignition interlock program.

Thank you for allowing us to testify.

Sincerely,

Bruce McEwan  
Chair  
Injury Prevention Advisory Committee