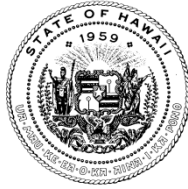


SB225

RELATING TO DRIVING UNDER THE INFLUENCE.

Amends the offense of habitually operating a vehicle under the influence of an intoxicant to include operating a vehicle under the influence of an intoxicant after at least one conviction within the previous ten years for habitually operating a motor vehicle under the influence of an intoxicant.

DAVID Y. IGE
GOVERNOR



FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN

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

IN REPLY REFER TO:

February 3, 2015
2:45 pm
State Capitol, Room 229

S.B. 225
RELATING TO DRIVING UNDER THE INFLUENCE

Senate Committee on Transportation

The Department of Transportation (DOT) **supports** S.B 321, Relating to Operating a Vehicle while Under the Influence of an Intoxicant. This bill enhances the penalty of a driver who at the time had a passenger in the vehicle fifteen years of age or younger.

The seriousness of driving under the influence of alcohol with young passengers in the vehicle is a serious offense. The protection of the young individuals who do not have a choice should be protected by the state. Traffic fatalities involving impaired drivers who have young individuals as passengers within the vehicle always have serious consequences to their families. This proposal will make the driver more aware of the severe consequences and serve as a deterrent before opting to drive. Additionally, this bill will bring the existing law in line with the zero tolerance by including drivers eighteen years of age or older, but under the age of twenty-one.

The DOT urges your support in passing S.B. 321 as it will provide a greater deterrence to those drivers who continue to put the young in harm's way.

Thank you for the opportunity to provide testimony.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE CT-GR

February 3, 2015

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Transportation
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nishihara and Members:

SUBJECT: Senate Bill No. 225, Relating to Driving Under the Influence

I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu. The HPD supports the passage of Senate Bill No. 225, Relating to Driving Under the Influence.

The passage of this bill would strengthen the existing law concerning Habitually Operating a Vehicle Under the Influence of an Intoxicant (OVUII). Currently, in order to be convicted of Habitually OVUII, a driver must have at least three prior petty misdemeanor or felony convictions for OVUII within the previous ten years. This bill would qualify a person who has a single prior conviction for Habitually OVUII as a "habitual operator" for the ten years following his or her conviction. It would not eliminate the need for the three prior petty misdemeanor OVUII convictions to initially qualify as a "habitual operator."

According to a study by the National Highway Traffic Safety Administration (NHTSA), a person with prior Driving Under the Influence (DUI) convictions is 4.1 times more likely to be involved in a fatal motor vehicle collision. Another study has shown that the chances of being involved in a fatal motor vehicle collision increase with every additional DUI arrest.

Habitually OVUII is a serious felony offense punishable by up to five years in prison in addition to driver license revocation, fines, and other sanctions. Drivers who have been stopped, arrested, and convicted for Habitually OVUII have repeatedly demonstrated their reluctance to stop driving while impaired by alcohol or drugs despite the sanctions placed upon them by the courts. Their actions create a substantial and unjustifiable risk to the general public. Allowing a single Habitually OVUII conviction to qualify a person as a "habitual operator" for the next ten years sends a strong and clear message that his or her actions are serious and will be treated as such by the criminal justice system.

The Honorable Clarence K. Nishihara, Chair
and Members
Page 2
February 3, 2015

The HPD urges you to support Senate Bill No. 225, Relating to Driving Under the Influence.

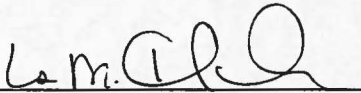
Thank you for the opportunity to testify.

Sincerely,

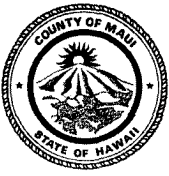


CALVIN TONG, Major
Traffic Division

APPROVED:



LOUIS M. KEALOHA
Chief of Police



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

February 2, 2015

The Honorable Clarence K. Nishihara, Chair
and Members of the Committee on Transportation
The Senate
State Capitol
Honolulu, HI 96813

Re: Senate Bill No. 225, RELATING TO DRIVING UNDER THE INFLUENCE

Dear Chair Nishihara and Members of the Committee:

The Maui Police Department strongly supports S.B. No. 225.

This proposed bill amends the offense of habitually operating a vehicle under the influence of an intoxicant to include operating a vehicle under the influence of an intoxicant after at least one conviction within the previous ten years for habitually operating a motor vehicle under the influence of an intoxicant.

This bill will close a loophole in the current law by keeping a person's habitual operator status for a period of ten years, and make that status apply to subsequent offenses within that time period.

The Maui Police Department asks your committee to **STRONGLY SUPPORT** S.B. No 225.

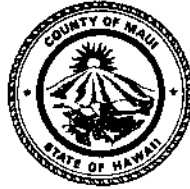
Thank you for the opportunity to testify.

Sincerely,

[Handwritten signature of Tivoli S. Faaumu]

TIVOLI S. FAAUMU
Chief of Police

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Acting Prosecuting Attorney
ROBERT D. RIVERA
Acting First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD K. MINATOYA
Deputy Prosecuting Attorney
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 225 - RELATING TO DRIVING UNDER THE INFLUENCE

February 3, 2015

The Honorable Clarence K. Nishihara
Chair
The Honorable Breene Harimoto
Vice Chair
and Members
Senate Committee on Transportation

Chair Espero, Vice Chair Harimoto and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** SB 225 - Relating to Driving Under the Influence. SB 225 seeks to expand the definition of "*habitual operator of a vehicle while under the influence of an intoxicant*" as it exists under HRS Section 291E-61.5(b). Under the current law, a prior felony conviction for Habitually Operating a Vehicle Under the Influence of an Intoxicant ("HOVUII") is treated the same as a prior petty misdemeanor conviction for Operating a Vehicle under the Influence of an Intoxicant ("OVUII") for purposes of triggering a subsequent HOVUII charge. Because of this, a loophole exists where a person committing OVUII after being convicted of HOVUII may not have the status of a habitual operator.

For example, under the current law, a person was convicted of OVUII in 2002, 2003 and 2010, and was also convicted for HOVUII in 2012. If the person commits OVUII in 2014, the person cannot be charged with HOVUII even though he/she was determined to be a habitual operator just two years prior. The problem is that the HOVUII conviction is treated the same as an OVUII conviction. The 2002 and 2003 convictions must be disregarded, leaving the person

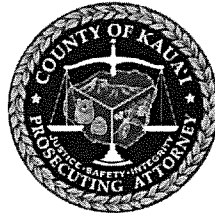
with only two prior convictions. SB 225 will close this loophole by keeping a person's habitual operator status for a period of ten years, and make that status apply to subsequent offenses within that time period.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** the passage of this bill. We ask that the committee **PASS SB 225**.

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

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Lihu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

TESTIMONY IN SUPPORT OF
SB225 – RELATING TO DRIVING UNDER THE INFLUENCE

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

Senate Committee on Transportation
February 3, 2015, 2:45 p.m., Conference Room 229

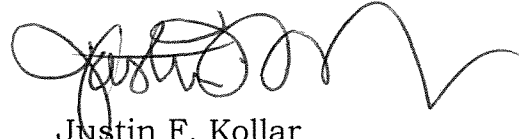
Chair Nishihara, Vice Chair Harimoto, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, **STRONGLY SUPPORTS** SB 225 – Relating to Driving Under the Influence. The Bill addresses a loophole by expanding the definition of "*habitual operator of a vehicle while under the influence of an intoxicant*," as it exists under HRS Section 291E-61.5(b). Under current law, a prior felony conviction for Habitually Operating a Vehicle Under the Influence of an Intoxicant ("HOVUII") is treated the same as a prior petty misdemeanor conviction for Operating a Vehicle Under the Influence of an Intoxicant ("OVUII"). Because of this, a loophole exists where a person committing OVUII after being convicted of HOVUII may not have to status of a habitual operator.

For example, under current law, a person was convicted of OVUII in 2002, 2003, and 2010, and was also convicted of HOVUII in 2012. If that same person commits an OVUII in 2014, the person could not be charged with HOVUII even though that person was determined to be a habitual operator just two years prior. The problem is that the HOVUII is treated the same as an OVUII conviction. The 2002, and 2003 convictions must be disregarded, leaving the person with only two convictions. SB 225 will close this loophole by keeping a person's habitual operator status for a period of ten years, and make that status apply to subsequent offenses within that time period.

Accordingly, we are in **STRONG SUPPORT** of SB225. We request that your Committee **PASS** the Bill.

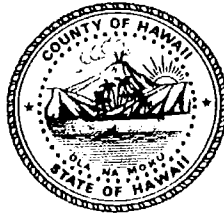
Respectfully,

A handwritten signature in black ink, appearing to read "Justin F. Kollar". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping tail that extends to the right.

Justin F. Kollar
Prosecuting Attorney

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



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WEST HAWAII UNIT
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FAX: (808) 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 225

A BILL FOR AN ACT RELATING TO DRIVING UNDER THE
INFLUENCE

COMMITTEE ON TRANSPORTATION

Sen. Clarence K. Nishihara, Chair
Sen. Breene Harimoto, Vice Chair

Tuesday, February 3, 2015, 2:45 p.m.
State Capitol, Conference Room 229

Honorable Chair Nishihara, Vice-Chair Harimoto, and Members of the Committee on Transportation, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of Senate Bill No. 225.

This measure amends the offense of habitually operating a vehicle under the influence of an intoxicant to include operating a vehicle under the influence of an intoxicant after at least one conviction within the previous ten years for habitually operating a motor vehicle under the influence of an intoxicant.

Under the current law, a prior felony conviction for Habitually Operating a Vehicle Under the Influence of an Intoxicant (HOVUII) is treated the same as a prior petty misdemeanor conviction for Operating a Vehicle under the Influence of an Intoxicant (OVUII) for purposes of triggering a subsequent HOVUII charge.

Currently, a loophole exists where a person committing OVUII after being convicted of HOVUII may not have the status of a habitual operator. This Bill will close this loophole by keeping a person's habitual operator status for a period of ten years, and make that status apply to subsequent offenses within that time period.

The Office of the Prosecuting Attorney, County of Hawai'i supports the passage of Senate Bill No. 225. Thank you for the opportunity to testify on this matter.

Respectfully,

Mitchell D. Roth
Prosecuting Attorney
County of Hawai'i



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

February 3, 2015

To: Senator Clarence K. Nishihara, Chair — Senate Committee on
Transportation; Senator Breene Harimoto, Vice Chair, and members of the
Committee

From: Arkie Koehl/Carol McNamee—Co-chairmen, Public Policy Committee -
MADD Hawaii

Re: Senate Bill 225 – Relating to Driving Under the Influence

I am Carol McNamee, offering testimony on behalf of the Hawaii Chapter of Mothers Against Drunk Driving in support of Senate Bill 225. This corrects an unfortunate loophole in our statutes relating to Habitual Offenders.

Because the offense of *Habitually Operating a Vehicle Under the Influence of an Intoxicant* – for a person who has had three convictions for OVUII and then is convicted on a fourth OVUII incident – is a felony, it creates its own “category” of impaired driving crimes. However, there is nothing in the current statutes which creates a special category, leading to the problem of another OVUII arrest and conviction, after four previous OVUII offenses, conceivably going back to being considered a first offense, a misdemeanor.

The new language proposed in this bill will correct the problem by clarifying that an OVUII offense following a conviction for Habitually Operating a Vehicle Under the Influence of an Intoxicant would also result in a felony charge of HOVUII.

MADD encourages the passage of SB 225 to correct a problem in the statutes relating to the most serious OUVII offenders.

Thank you for this opportunity to testify.