



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 2690, S.D. 1, RELATING TO INTOXICATING LIQUOR.

**BEFORE THE:**

SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION AND ON JUDICIARY

**DATE:** Friday, February 23, 2024                      **TIME:** 10:15 a.m.

**LOCATION:** State Capitol, Room 229 and Videoconference

**TESTIFIER(S):**     **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Elyse C.N. Oyama,  
Deputy Attorney General, at (808) 586-1160)

---

Chairs Keohokalole and Rhoads and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

The general purpose of this bill is to prohibit individuals who have a license revocation due to a conviction for operating a vehicle under the influence of an intoxicant (OVUII), a conviction for habitually operating a vehicle under the influence of an intoxicant (HOVUII), or a revocation pursuant to the Administrative Driver's License Revocation Office (ADLRO), from purchasing or publicly consuming alcohol.

In general, when an offender is arrested for OVUII or HOVUII, law enforcement is required to provide notice to the offender regarding the ADLRO process. See section 291E-31, Hawaii Revised Statutes (HRS). At that time, the offender is required to surrender the offender's license to law enforcement. If a criminal prosecution is initiated for the OVUII or HOVUII offense, the criminal case may commence concurrently with the administrative revocation proceedings by the ADLRO. See section 291E-32, HRS. The offender's license and privilege to operate a vehicle may be revoked either pursuant to a conviction for the offense of OVUII or HOVUII, or pursuant to the ADLRO proceeding. The duration of a license revocation may vary based upon the facts of the case, the offense charged, and the judge's discretion. Additionally, the start date of the

revocation may differ depending on whether it was done pursuant to a conviction for OVUII or HOVUII or through the ADLRO.

As the revocation of an offender's license and privilege to operate a vehicle may either be done by the court in the criminal proceeding or by the ADLRO, it would be clearer and more consistent to reference both possibilities as the basis for the revocation throughout this bill. For example, on page 38, lines 12-16 (section 11(1)), the bill provides in relevant part that:

the restriction period that commences on the effective date of the **administrative revocation of the person's license** shall bear the notation "Liquor Restricted" and shall not be accepted as a valid form of identification for the purchase of liquor. (Emphasis added.)

This provision would be inaccurate if the basis of the imposed license revocation was as a result of a conviction under section 291E-61 or 291E-61.5, HRS. See section 291E-32(b), HRS, (explaining that the total period of revocation imposed in the two proceedings shall not exceed the longer period of revocation imposed in either proceeding). To address this issue, the provision above may be amended as follows:

the restriction period that commences on the effective date of the ~~[administrative revocation of the person's]~~ license revocation pursuant to an arrest under section 291E-61 or 291E-61.5 shall bear the notation 'Liquor Restricted' and shall not be accepted as a valid form of identification for the purchase of liquor.

This recommendation also applies to amendments to sections 291E-61(d) (section 9, page 35, lines 1-5) and 291E-61.6(d) (section 11(2), page 39, lines 13-17).

There may be instances where a license revocation is imposed by an ADLRO proceeding earlier than the date of a conviction. See section 291E-32(b), HRS. There may also be cases where there is no criminal conviction, but there is still a license revocation imposed by an ADLRO proceeding. On page 9, lines 16-19 (section 3), the bill provides that:

(f) **An identification card issued to an individual who has been convicted for a violation of section 291E-61 or 291E-61.5 and is prohibited from purchasing or publicly consuming liquor** shall bear the notation "Liquor Restricted." (Emphasis added.)

It would be more consistent with other portions of the bill to focus on the restriction period. We suggest amending the wording above as follows:

(f) ~~[An]~~ The identification card ~~[issued to]~~ for an individual ~~[who has been convicted for a violation of]~~ whose license and privilege to operate a vehicle is revoked pursuant to an arrest under section 291E-61 or 291E-61.5 ~~[and is prohibited from purchasing or publicly consuming liquor]~~ shall bear the notation "Liquor Restricted."

Additionally, as the "Liquor Restricted" status does not make a distinction between an individual being able to purchase liquor or publicly consuming liquor, it would be clearer to amend the sentencing provision in section 291E-61(b)(1)(G), page 26, line 20, through page 27, line 4 (section 9), to expressly authorize the prohibition of both purchasing and public consumption of liquor as follows:

(G) A restriction period, commencing on the effective date of the license revocation period under subparagraph (B) or paragraph (3) or (4), as applicable, prohibiting the purchase or public consumption of liquor by the person~~;~~ or both, if deemed appropriate by the court;

This recommendation would also apply to amendments to sections 291E-61(b)(2)(H) (section 9(1), page 28, lines 12-17) and 291E-61.5(d) (section 10, page 36, lines 5-10).

Lastly, section 291E-61.5, HRS, has two separate sentencing provisions based upon an offender's alcohol toxicology results. For consistency, section 10 of this bill, beginning at page 35, line 8, which amends section 291E-61.5(d) should also amend section 291E-61.5(c), to include similar amendments as those made to section 291E-61.5(d), as follows:

- (c) For a conviction under this section, the sentence shall be either:
  - (1) An indeterminate term of imprisonment of five years; or
  - (2) A term of probation of five years, with conditions to include:
    - (A) Mandatory revocation of license to operate a vehicle for a period no less than three years but ~~[no]~~ not more than five years, with mandatory installation of an ignition interlock device in all vehicles operated by the respondent during the revocation period;
    - (B) ~~[No]~~ Not less than ten days imprisonment, of which at least forty-eight hours shall be served consecutively;

- (C) A fine of [æ] not less than \$2,000 but [æ] not more than \$5,000, to be deposited into the drug and alcohol toxicology testing laboratory special fund;
- (D) Referral to a certified substance abuse counselor as provided in subsection (e);
- (E) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
- (F) A surcharge of up to \$50 to be deposited into the trauma system special fund if the court so orders.

In addition to the foregoing, any vehicle owned and operated by the person committing the offense shall be subject to forfeiture pursuant to chapter 712A. In addition to all other penalties provided, any person convicted under this section shall be prohibited, for a restriction period commencing on the effective date of the license revocation period under subparagraph (A), from purchasing or publicly consuming liquor or both, if deemed appropriate by the court.

(If the Legislature wishes to preserve the amendments made above to section 291E-61.5(c) beyond June 30, 2028, when the section is reenacted, the effective date section of the bill will need to address the repeal and reenactment provision for section 291E-61.5 enacted by section 11 of Act 196, Session Laws of Hawaii 2021, as amended by Act 148, Session Laws of Hawaii 2023. The same applies to the amendments made to section 291E-61 in section 9 of the bill from page 25, line 8, through page 35, line 7).

Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



**TESTIMONY BY:**  
EDWIN H. SNIFFEN  
DIRECTOR  
KA LUNA HO'OKELE  
  
Deputy Directors  
Nā Hope Luna Ho'okele  
DREANALEE K. KALILI  
TAMMY L. LEE  
ROBIN K. SHISHIDO

**STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I**  
**DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 23, 2024  
10:15 a.m.  
State Capitol, Room 229

**S.B. 2690, S.D. 1**  
**RELATING TO INTOXICATING LIQUOR**

Senate Committees on Commerce and Consumer Protection and Judiciary

The Hawaii Department of Transportation **supports** the intent of S.B. 2690, S.D. 1, which prohibits any person convicted of operating a vehicle under the influence of an intoxicant from purchasing or publicly consuming alcohol for a certain period.

We support this bill as it may deter individuals from driving while impaired.

Thank you for the opportunity to provide testimony.



Mothers Against Drunk Driving  
Hawaii State Office  
madd.org/Hawaii

745 Fort Street  
Suite 303  
Honolulu, HI 96813

808.532.6232 direct  
877.MADD.HELP victim support  
877.ASK.MADD

February 23, 2024

To: Senator Karl Rhoads, Chair, Senate Committee on Judiciary; Senator Mike Gabbard, Vice Chair; and Members of the Committee

From: Alice Liu, Program Director; Mothers Against Drunk Driving (MADD) Hawaii

Re: Senate Bill 2690 – RELATING TO INTOXICATING LIQUOR.

---

I am Alice Liu, testifying with comments on behalf of the members of MADD Hawaii on Senate Bill 2690.

MADD applauds efforts to address Hawaii's grievous impaired driving problem. Senate Bill 2690 is an interesting and creative approach to this problem, and as such deserves attention.

We are perplexed, however, by several issues including, foremost, enforcement. If the agencies involved can devise workable enforcement measures, and if the bill can be amended to lower the illegal BAC limit to .05 from .08, MADD would in all probability support SB 2690.

Thank you for the opportunity to testify,

Alice Liu



**LATE**

Date: February 22, 2024

To: The Honorable Senator Karl Rhoads, Chair  
The Honorable Senator Mike Gabbard, Vice Chair  
Members of the Senate Committee on Judiciary

Re: Oppose SB2690 SD1, Relating to Intoxicating Liquor.

Hrg: Friday, February 23<sup>rd</sup>, 2024, at 10:15am, Conference Room 229

---

**Position: Oppose**

Aloha, my name is Rick Collins, the Director of the Hawai'i Alcohol Policy Alliance (Alliance), a program of the Hawai'i Public Health Institute.<sup>1</sup> This bill would prohibit any person convicted of operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant from purchasing or publicly consuming alcohol for a certain period.

Reducing alcohol-related traffic deaths and crashes is important. The Alliance appreciates the Legislature's desire to keep our roadways safer. However, at this time, there is no scientific research on the topic, nor any studies or research that show this legislation to have any effect on reducing alcohol-related traffic fatalities, crashes, or any other alcohol-related consequences.

Additionally, this proposal is a "downstream solution to an upstream problem." This legislation takes effect only after someone receives a DUI. Waiting until this point often results in a DUI-related crash or fatality. The evidence is clear that the most effective legislation addresses "upstream solutions" that work to prevent DUIs from ever occurring. One such proposal is SB2384, which reduces the blood alcohol concentration threshold for alcohol-impaired driving from 0.08 to 0.05. This legislation is to prevent DUIs from occurring in the first place. This policy is shown through numerous studies to be an effective way to prevent and reduce alcohol-related traffic crashes and deaths.

The Alliance urges the Legislature to further research if the prohibition of alcohol for a person convicted of a DUI has an impact on alcohol-related traffic crashes, fatalities or other consequences prior to passing this bill. We recommend that this proposed strategy be included in the work group proposed in HB1934 HD2, which would provide an opportunity for a body of experts to review the efficacy of this strategy further ensure there are no unintended consequences with this policy.



We appreciate the Legislature's desire to address alcohol impairment on our roadways. We advocate for policies that are backed by science and are shown to work. There is no evidence to suggest that the approach in SB2690 SD1 would curb alcohol-related consequences or be without any unforeseen harms.

Please include this strategy into the responsibilities of the work group convened through HB1934 HD2. That will allow time to review and study this strategy and if it will reduce alcohol-related harms to our community. We implore you to move the proposed strategy in SB690 SD1 to be included as one of the proposed strategies of HB1934 HD2.

Mahalo for your consideration of our testimony on this important measure.

Rick Collins,  
Director  
Hawai'i Alcohol Policy Alliance

If you have any questions, please feel free to contact me at [rick@hiphi.org](mailto:rick@hiphi.org) or (808) 591-6508, x22.

---

<sup>i</sup> Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.