



*The Judiciary, State of Hawai‘i*  
*Ka ‘Oihana Ho‘okolokolo, Moku‘āina ‘o Hawai‘i*

**Testimony to the Thirty-Third Legislature, 2026 Regular Session**

**Senate Committee on Judiciary**  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Friday, February 27, 2026 at 10:30 a.m.  
State Capitol, Conference Room 016 & Videoconference

By

Jennifer Awong  
Staff Attorney, Circuit Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate No. 2392, Senate Draft 1, Relating to Traffic Safety.

**Purpose:** Specifies that operating a vehicle under the influence of an intoxicant while a highly intoxicated driver is a misdemeanor for a first offense, or any offense not preceded within a ten-year period. Specifies and imposes additional sentencing and probation requirements for a person convicted of a misdemeanor operating a vehicle under the influence of an intoxicant offense. Upgrades the offense of operating a vehicle under the influence of an intoxicant while a highly intoxicated driver to a class C felony under certain conditions. Specifies and imposes additional sentencing and probation requirements for a class C felony offense of operating a vehicle under the influence of an intoxicant while a highly intoxicated driver. Prohibits a deferred acceptance of guilty plea guilty for persons convicted of operating a vehicle under the influence of an intoxicant. (SD1)

**Judiciary's Position:**

The Judiciary provides the following comments to advise the committee of the potential impacts the bill will have on court operations and resource requirements. The Judiciary takes no position on either the proposed legislation or the policy behind the bill.

The proposed legislation amends section 291E-61(b)(4) of the Hawai‘i Revised Statutes (H.R.S.) to elevate the offense of operating a vehicle under the influence of an intoxicant



("OVUII") while a highly intoxicated driver to a misdemeanor and to a class "C" felony if the defendant was a highly intoxicated driver and had a prior OVUII conviction within the previous ten years – from the current petty misdemeanor. Defendants charged with misdemeanors and class "C" felonies have a right to a jury trial in circuit court. Since January of 2022, six months after effective date of Act 216 (2021) which first set forth additional penalties for defendants convicted of OVUII as a "highly intoxicated driver,"<sup>1</sup> there have been 861 charges involving highly intoxicated drivers across the State for an average of 216 cases per year.

It is anticipated that this legislation may increase the caseloads in circuit court and the probation departments by an average of 128 cases per year in the First Circuit, 68 cases per year in the Third Circuit, 18 cases per year in the Fifth Circuit, and two cases per year in the Second Circuit. For reference, there are currently approximately 1,200 jury trials pending in the Circuit Court of the First Circuit, with the eight trial divisions averaging a caseload of approximately 150 cases.

Given this anticipated statewide increase in jury trials and demand for probation services, and in light of the constitutional right of all defendants to a speedy trial, the Judiciary may require an additional circuit court judge (and statutory authorization for the same) and full staff on O'ahu, possibly additional resources in other circuits, as well as additional funding for probation services statewide.

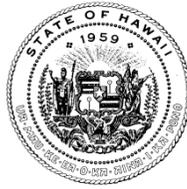
Relatedly, the Judiciary's Driving While Impaired (DWI) Court is a voluntary treatment court on O'ahu and, although anyone may apply for the program, the target population includes those with one instance of high BAC (0.15 or greater). The goal of the DWI Court Program is for participants to attain sobriety through a comprehensive, court-regulated, treatment plan that provides intervention support for non-violent offenders. The Judiciary appreciates the Legislature's appropriation of additional resources for the DWI Court during the 2025 legislative session and looks forward to expanding the program.

Thank you for the opportunity to testify on Senate Bill 2329 SD 1.

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<sup>1</sup> "Highly intoxicated driver" is defined under H.R.S. § 291E-1 as "a person whose measurable amount of alcohol is: (1) .15 or more grams of alcohol per one hundred milliliters or cubic centimeters of the person's blood; or (2) .15 or more grams of alcohol per two hundred ten liters of the person's breath."

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

Friday, February 27, 2026  
10:30 AM  
State Capitol, 016

**SB2392,SD1**  
**RELATING TO TRAFFIC SAFETY**

Senate Committee on Judiciary

The Department of Transportation (DOT) strongly supports S.B. 2392, S.D. 1, which specifies that operating a vehicle under the influence of an intoxicant (OVUII) while a highly intoxicated driver is a misdemeanor for a first offense, or any offense not preceded within a 10-year period; upgrades the offense of OVUII while a highly intoxicated driver to a class C felony under certain conditions; and specifies and imposes additional sentencing and probation requirements for a class C felony offense of OVUII while a highly intoxicated driver.

This bill addresses a critical issue of highly intoxicated drivers on our roadways. The DOT views this as a significant step towards reducing impaired driving and protecting the lives of our community members and visitors on Hawaii's roads.

The enhanced penalties proposed in this bill, including mandatory rehabilitation programs, extended license revocation periods, ignition interlock device installation, increased fines, community service, and imprisonment terms, align with our department's goal of implementing effective countermeasures against impaired driving. These stricter consequences serve not only as punishment but also as deterrents, encouraging individuals to separate the acts of drinking and driving.

The additional probation requirements outlined in the bill further support the rehabilitation and monitoring of offenders, which is crucial in preventing recidivism and ensuring long-term behavioral changes. By implementing a comprehensive approach that combines punitive measures with rehabilitative efforts, this legislation has the potential to significantly reduce the incidence of highly intoxicated driving on our roads.

The DOT is primarily concerned with improving highway safety and protecting lives. We believe that S.B. 2392 S.D. 1 will contribute to changing behaviors so that people plan ahead and arrange for alternatives to driving while impaired, such as using rideshare services, public transportation, or designating a sober driver.

We respectfully urge the Committee to pass this measure, as it represents a crucial step in our ongoing efforts to combat impaired driving and its devastating consequences.

Thank you for the opportunity to testify in strong support of this bill.

**DEPARTMENT OF CUSTOMER SERVICES  
KA 'OIHANA LAWELawe KUPA  
CITY AND COUNTY OF HONOLULU**

ADMINISTRATION

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February 25, 2026

The Honorable Karl Rhoads, Chair  
The Honorable Mike Gabbard, Vice Chair  
and Members of the Senate Committee on Judiciary  
State Capitol, Conference Room 016  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

SUBJECT: S.B. No. 2392, S.D. 1 - Relating To Traffic Safety  
HEARING: Friday, February 27, 2026, 10:30 a.m.

The City and County of Honolulu, Department of Customer Services (CSD) **supports** the intent of this bill and appreciates the opportunity to offer comments for your committee's consideration. Pursuant to Section 6-402 of the Revised Charter of the City and County of Honolulu, CSD Division of Motor Vehicles (DMV) administers the motor vehicle driver licensing and commercial driver's licensing programs for the island of O'ahu. While CSD appreciates the intent of the proposed legislation, we have concerns regarding its application and its legal implications.

CSD supports efforts to improve traffic safety and reduce serious injuries and fatalities caused by impaired driving. Highly intoxicated drivers pose a significant risk to the public, and stronger accountability measures, including longer periods of supervision, treatment, and monitoring, are important tools to reduce repeat offenses.

From an administrative standpoint, clearly defined license revocation periods and ignition interlock requirements are critical for effective enforcement. These measures help ensure that high-risk drivers are restricted from driving while impaired and provide practical safeguards for the public.

CSD respectfully notes that implementation of these changes will require additional resources to be operationalized. Increased workloads related to longer revocation periods, ignition interlock compliance, and coordination with the courts will necessitate additional funding, staffing, and technology support to ensure accurate, timely processing and public service continuity.

With these considerations in mind, CSD **supports** the intent of S.B. No. 2392, S.D. 1 and looks forward to working with the Legislature and partner agencies to ensure successful and workable implementation.

Thank you for this opportunity to provide testimony on S.B. No. 2392, S.D. 1.

Sincerely,

*for* Kimberly M. Hashiro  
Director

**RICHARD T. BISSEN, JR.**  
Mayor

**ANDREW H. MARTIN**  
Prosecuting Attorney

**SHELLY C. MIYASHIRO**  
First Deputy Prosecuting Attorney



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TESTIMONY ON  
S.B. 2392 SD1  
RELATING TO TRAFFIC SAFETY

February 25, 2026

The Honorable Karl Rhoads  
Chair  
The Honorable Mike Gabbard  
Vice Chair  
and Members of the Committee on Judiciary

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in support of S.B. 2392 SD1, Relating to Traffic Safety**. This measure, *inter alia*, increases the penalty to a misdemeanor or a class C felony for Operation of a Vehicle Under the Influence of an Intoxicant (“OVUII”) when the operator is a highly intoxicated driver, depending on whether the operator has prior convictions for OVUII as a highly intoxicated driver.

We support this bill because the increased penalty will act as a significant deterrent to any driver who decides to drive while intoxicated, not just highly intoxicated drivers. We also believe it will provide necessary clarifications to the OVUII sentencing process, as well as offer a fair alternative to the current OVUII language that supports the substantial public safety interest in deterring intoxicated driving using a graduated approach to criminal penalties.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports S.B. 2392 SD1**. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries. Thank you very much for the opportunity to provide testimony on this bill.

**KELDEN B.A. WALTJEN**  
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## OFFICE OF THE PROSECUTING ATTORNEY

### TESTIMONY IN SUPPORT OF SENATE BILL 2392 SD1

A BILL FOR AN ACT  
RELATING TO TRAFFIC SAFETY

COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Friday, February 27, 2026 at 10:30 a.m.  
Via Videoconference  
State Capitol Conference Room 016  
415 South Beretania Street

Honorable Chair Rhoads, Vice-Chair Gabbard and Members of the Committee on Judiciary: The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony **in strong support with comments** of Senate Bill 2392, Senate Draft. 1.

SB 2392, SD1 was drafted with the intent to enhance public safety by amending HRS Section 291E-61 to create a class C felony offense for highly intoxicated drivers who operate a vehicle under the influence of an intoxicant, whose actions put our communities at high risk of death and serious bodily injury on the roadways. The felony offense would allow appropriate interventions to stop and rehabilitate these drivers.

Intoxicated drivers pose a grave and ongoing threat to public safety in Hawai'i, and the most highly intoxicated drivers are the most dangerous. Trends show that drivers with high blood alcohol concentration are disproportionately responsible for serious crashes, catastrophic injuries, and traffic fatalities. These are not momentary lapses in judgment—driving while highly intoxicated demonstrates extreme disregard for the safety of others on our roadways, and the tragic results are no accident.

For nearly a decade, traffic safety advocates, law enforcement, prosecutors, and community organizations across the State have worked collaboratively to reduce impaired driving and save lives. While current law includes enhanced penalties for highly intoxicated drivers, those enhancements are limited and minimal. The offense continues to be treated as a petty misdemeanor, with penalties that are insufficient to deter the most dangerous offenders or provide courts with the tools necessary to address chronic alcohol abuse and dependence.

This measure recognizes that highly intoxicated driving is the most dangerous form of impaired driving and treats it with appropriate interventions. With a class C felony offense, the courts can impose meaningful supervision, accountability, and treatment over a longer period.

The availability of felony-level probation gives the justice system the ability to assess risk and monitor an offender's compliance with substance abuse counseling and rehabilitation to prevent future harm.

Importantly, this bill is not solely punitive in its intent. SB 2392 SD1 balances accountability with rehabilitation by emphasizing substance abuse evaluation, treatment, ignition interlock requirements, and structured probation. These provisions protect the public while also addressing the underlying alcohol abuse issues that often drive repeat offenses.

SB 2392 SD 1 addresses the opposition's concerns regarding graduated sanctions and addresses any ambiguity within existing law under Chapter 853. This bill includes three substantial changes to the original SB 2392: 1) a first conviction as a highly intoxicated driver would be a misdemeanor offense, instead of a felony, and punishable by either 10 days jail and statutory provisions or 1 year probation with no less than 5 days in jail and statutory provisions; 2) a second conviction as a highly intoxicated driver within ten years would be a class C felony offense and punishable by either a five-year prison term or four years probation with no less than thirty days jail and statutory provisions; and 3) amend HRS Section 853 to include OVUII as an excluded offense to clarify any ambiguity on the availability of a deferral.

After reviewing the current draft language of a SB 2392 SD1 and conferring with Department of Transportation, two proposed additional changes are suggested in order to be consistent with existing law:

- Page 8, line 17: (vi) A surcharge of up to \$25, if the court so orders, to be deposited into the **trauma system special fund**;
- Page 8, line 20: (B) A term of probation of **one year**, with conditions to include...

A proposed SD2 version (here attached as Attachment #1) has been included for the Committee's consideration with the changes highlighted in yellow.

SB 2392 SD1 will protect the public, promote public safety, and deter those who choose to drive while highly intoxicated from hurting themselves or others. Alcohol-related traffic fatalities in Hawai'i make it clear that stronger action is necessary. Every fatal or life-altering crash caused by a highly intoxicated driver is preventable. This legislation sends a clear message that Hawai'i will not tolerate conduct that endangers lives and devastates families, while still offering a path toward rehabilitation and recovery.

For the foregoing reasons, the County of Hawai'i, Office of the Prosecuting Attorney **strongly supports** the passage of Senate Bill 2392, Senate Draft 1 and inclusion of the suggestions within the attached proposed SD2. Thank you for the opportunity to testify on this matter.

**ATTACHMENT #1**

THE SENATE

**S.B. NO.** 2392  
PROPOSED  
SD2

THIRTY-THIRD LEGISLATURE, 2026  
STATE OF HAWAII

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**A BILL FOR AN ACT**

RELATING TO TRAFFIC SAFETY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that studies indicate  
2 that many traffic collisions and fatalities involve "highly  
3 intoxicated" impaired drivers. For nearly a decade, traffic  
4 safety advocates across the State have collaborated to promote  
5 traffic safety legislation to deter impaired driving, strive for  
6 accountability in the criminal justice system, and save  
7 lives. Furthermore, alcohol abuse trends demonstrate a need to  
8 take appropriate action to promote public health and protect  
9 public safety.

10           Under existing law, enhancements exist for individuals  
11 convicted of the offense of operating a vehicle under the  
12 influence of an intoxicant deemed to be a highly intoxicated  
13 driver. However, these enhancements are limited to additional  
14 fines, minimal jail time, and an additional driver's license  
15 revocation period, while the offense itself remains a petty  
16 misdemeanor. These enhancements are not sufficient to address

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1 the concerns and deter this hazardous conduct. In addition to  
2 the possibility of a prison term, if the facts and circumstances  
3 so warrant, a misdemeanor and subsequently a class C felony  
4 sanction will provide court supervision authorities with a more  
5 appropriate period to assess, monitor, and rehabilitate highly  
6 intoxicated drivers and properly address any potential alcohol  
7 abuse or dependence needs through appropriate treatment.

8 The purpose of this Act is to enhance public safety by  
9 upgrading the offense of operating a vehicle under the influence  
10 of an intoxicant while a highly intoxicated driver to a  
11 misdemeanor; upgrading the offense of operating a vehicle under  
12 the influence of an intoxicant as a second offense while a  
13 highly intoxicated driver to a class C felony; and specifying  
14 additional probation requirements.

15 SECTION 2. Section 291E-61, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17 "(b) A person committing the offense of operating a  
18 vehicle under the influence of an intoxicant [~~shall be sentenced~~  
19 ~~without possibility of probation or suspension of sentence as~~  
20 ~~follows~~]:

21 (1) [~~Except as provided in paragraph (4), for~~] For the  
22 first offense, or any offense not preceded within a

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1           ten-year period by a conviction for an offense under  
2           this section or section 291E-4(a), except as provided  
3           in paragraph (4), shall be sentenced without  
4           possibility of probation or suspension of sentence to  
5           all of the following:

- 6           (A) A fourteen-hour minimum substance abuse  
7                 rehabilitation program, including education and  
8                 counseling, or other comparable programs deemed  
9                 appropriate by the court;
- 10          (B) Revocation of license to operate a vehicle for no  
11                 less than one year and no more than eighteen  
12                 months;
- 13          (C) Installation during the revocation period of an  
14                 ignition interlock device on all vehicles  
15                 operated by the person;
- 16          (D) Any one or more of the following:
- 17                 (i) Seventy-two hours of community service work;
- 18                 (ii) No less than forty-eight hours and no more  
19                         than five days of imprisonment; or
- 20                 (iii) A fine of no less than \$250 and no more  
21                         than \$1,000;

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- 1 (E) A surcharge of \$25 to be deposited into the  
2 neurotrauma special fund; and
- 3 (F) A surcharge of up to \$25, if the court so orders,  
4 [~~or up to \$25~~] to be deposited into the trauma  
5 system special fund;
- 6 (2) For an offense that occurs within ten years of a prior  
7 conviction for an offense under this section, except  
8 as provided in paragraph (5), shall be sentenced  
9 without possibility of probation or suspension of  
10 sentence to all of the following:
- 11 (A) A substance abuse program of at least thirty-six  
12 hours, including education and counseling, or  
13 other comparable programs deemed appropriate by  
14 the court;
- 15 (B) Revocation of license to operate a vehicle for no  
16 less than two years and no more than three years;
- 17 (C) Installation during the revocation period of an  
18 ignition interlock device on all vehicles  
19 operated by the person;
- 20 (D) Either one of the following:
- 21 (i) No less than two hundred forty hours of  
22 community service work; or

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- 1                   (ii) No less than five days and no more than  
2                   thirty days of imprisonment, of which at  
3                   least forty-eight hours shall be served  
4                   consecutively;
- 5                   (E) A fine of no less than \$1,000 and no more than  
6                   \$3,000, to be deposited into the drug and alcohol  
7                   toxicology testing laboratory special fund;
- 8                   (F) A surcharge of \$25 to be deposited into the  
9                   neurotrauma special fund; and
- 10                  (G) A surcharge of up to \$50, if the court so orders,  
11                  to be deposited into the trauma system special  
12                  fund;
- 13                  (3) In addition to a sentence imposed under paragraphs (1)  
14                  and (2), any person eighteen years of age or older who  
15                  is convicted under this section and who operated a  
16                  vehicle with a passenger, in or on the vehicle, who  
17                  was younger than fifteen years of age, shall be  
18                  sentenced to an additional mandatory fine of \$500 and  
19                  an additional mandatory term of imprisonment of forty-  
20                  eight hours; provided that the total term of  
21                  imprisonment for a person convicted under this  
22                  paragraph shall not exceed the maximum term of

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1 imprisonment provided in paragraph (1) or (2), as  
2 applicable. Notwithstanding paragraphs (1) and (2),  
3 the revocation period for a person sentenced under  
4 this paragraph shall be no less than two years;

5 (4) ~~[In addition to a sentence imposed under paragraph~~  
6 ~~(1), for] For [a] the first offense [~~under this~~~~  
7 ~~section], or [an] any offense not preceded within a~~  
8 ~~ten-year period by a conviction for an offense under~~  
9 ~~this section, [any person who is convicted under this~~  
10 ~~section] and was a highly intoxicated driver at the~~  
11 ~~time of the subject incident, shall be [sentenced to~~  
12 ~~an additional mandatory term of imprisonment for~~  
13 ~~forty-eight consecutive hours and an additional~~  
14 ~~mandatory revocation period of six months; provided~~  
15 ~~that the total term of imprisonment for a person~~  
16 ~~convicted under this paragraph shall not exceed the~~  
17 ~~maximum term of imprisonment provided in paragraph~~  
18 ~~(1). Notwithstanding paragraph (1), the revocation~~  
19 ~~period for a person sentenced under this paragraph~~  
20 ~~shall be no less than eighteen months,] guilty of a~~  
21 ~~misdemeanor and shall be sentenced to either:~~

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- 1           (A) A term of imprisonment of not less than ten days
- 2           and all the following:
- 3           (i) A fourteen-hour minimum substance abuse
- 4           rehabilitation program, including education
- 5           and counseling, or other comparable programs
- 6           deemed appropriate by the court;
- 7           (ii) Revocation of license to operate a vehicle
- 8           for no less than eighteen months and no more
- 9           than two years;
- 10          (iii) Installation during the revocation period of
- 11          an ignition interlock device on all vehicles
- 12          operated by the person;
- 13          (iv) A fine not less than \$500 and no more than
- 14          \$2,000;
- 15          (v) A surcharge of \$25 to be deposited into the
- 16          neurotrauma special fund; and
- 17          (vi) A surcharge of up to \$25, if the court so
- 18          orders, to be deposited into the trauma
- 19          system special fund; or
- 20          (B) A term of probation of one year, with conditions
- 21          to include:

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- 1 (i) A fourteen-hour minimum substance abuse  
2 rehabilitation program, including education  
3 and counseling, or other comparable programs  
4 deemed appropriate by the court;
- 5 (ii) Revocation of license to operate a vehicle  
6 for no less than eighteen months and no more  
7 than two years;
- 8 (iii) Installation during the revocation period of  
9 an ignition interlock device on all vehicles  
10 operated by the person;
- 11 (iv) A term of imprisonment of no less than five  
12 days;
- 13 (v) A fine not less than \$500 and no more than  
14 \$2,000;
- 15 (vi) A surcharge of \$25 to be deposited into the  
16 neurotrauma special fund; and
- 17 (vii) A surcharge of up to \$25, if the court so  
18 orders, to be deposited into the trauma  
19 system special fund.
- 20 (5) [~~In addition to a sentence under paragraph (2), for~~]  
21 For an offense that occurs within ten years of a prior  
22 conviction for an offense under this section, [~~any~~]

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1 ~~person who is convicted under this section]~~ and was a  
2 highly intoxicated driver at the time of the subject  
3 incident, shall be ~~[sentenced to an additional~~  
4 ~~mandatory term of imprisonment of ten consecutive days~~  
5 ~~and an additional mandatory revocation period of one~~  
6 ~~year; provided that the total term of imprisonment for~~  
7 ~~a person convicted under this paragraph shall not~~  
8 ~~exceed the maximum term of imprisonment provided in~~  
9 ~~paragraph (2), as applicable. Notwithstanding~~  
10 ~~paragraph (2), the revocation period for a person~~  
11 ~~sentenced under this paragraph shall be no less than~~  
12 ~~three years;]~~ guilty of a class C felony and shall be  
13 sentenced to either:

14 (A) An indefinite term of imprisonment of five years;

15 or

16 (B) A term of probation of four years, with

17 conditions to include:

- 18 (i) A substance abuse program of at least  
19 thirty-six hours, including education and  
20 counseling, or other comparable programs  
21 deemed appropriate by the court;

22

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- 1                   (ii) Revocation of license to operate a vehicle
- 2                                 for no less than three years and no more
- 3                                 than four years;
- 4                   (iii) Installation during the revocation period of
- 5                                 an ignition interlock device on all vehicles
- 6                                 operated by the person;
- 7                   (iv) A term of imprisonment of no less than
- 8                                 thirty days;
- 9                   (v) A fine of no less than \$2,000 and no more
- 10                                than \$5,000, to be deposited into the drug
- 11                                and alcohol toxicology testing laboratory
- 12                                special fund;
- 13                   (vi) A surcharge of \$25 to be deposited into the
- 14                                neurotrauma special fund; and
- 15                   (vii) A surcharge of up to \$50, if the court so
- 16                                orders, to be deposited into the trauma
- 17                                system special fund.

18           (6) A person sentenced pursuant to paragraph (1) (B) may  
19           file a motion for early termination of the applicable  
20           revocation period if the person:

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- 1 (A) Was not sentenced to any additional mandatory  
2 revocation period pursuant to paragraph (3) or  
3 (4);
- 4 (B) Actually installed and maintained an ignition  
5 interlock device on all vehicles operated by the  
6 person for a continuous period of six months,  
7 after which the person maintained the ignition  
8 interlock device on all vehicles operated by the  
9 person for a continuous period of three months  
10 without violation;
- 11 (C) Includes with the person's motion for early  
12 termination a certified court abstract  
13 establishing that the person was not sentenced to  
14 any additional mandatory revocation period  
15 pursuant to paragraph (3) or (4);
- 16 (D) Includes with the person's motion for early  
17 termination a certified statement from the  
18 director of transportation establishing that:
- 19 (i) The person installed and maintained an  
20 ignition interlock device on all vehicles  
21 operated by the person for a continuous  
22 period of six months; and

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1                   (ii) After the six-month period, the person  
2                   maintained the ignition interlock device on  
3                   all vehicles operated by the person for a  
4                   continuous period of three months without  
5                   violation; and

6                   (E) Has complied with all other sentencing  
7                   requirements.

8                   Nothing in this paragraph shall require a court to  
9                   grant early termination of the revocation period if  
10                  the court finds that continued use of the ignition  
11                  interlock device will further the person's  
12                  rehabilitation or compliance with this section;

13                  (7) If the person demonstrates to the court that the  
14                  person:

15                  (A) Does not own or have the use of a vehicle in  
16                  which the person can install an ignition  
17                  interlock device during the revocation period; or

18                  (B) Is otherwise unable to drive during the  
19                  revocation period,

20                  the person shall be prohibited from driving during the  
21                  period of applicable revocation provided in paragraphs

22                  (1) to (5); provided that the person shall be

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1           sentenced to the maximum license revocation period,  
2           the court shall not issue an ignition interlock permit  
3           pursuant to subsection (i), and the person shall be  
4           subject to the penalties provided by section 291E-62  
5           if the person drives during the applicable revocation  
6           period; and

7           (8) For purposes of this subsection, "violation" means:

8           (A) Providing a sample of .04 or more grams of  
9           alcohol per two hundred ten liters of breath when  
10          starting the vehicle, unless a subsequent test  
11          performed within ten minutes registers a breath  
12          alcohol concentration lower than .02 and the  
13          digital image confirmed the same person provided  
14          both samples;

15          (B) Providing a sample of .04 or more grams of  
16          alcohol per two hundred ten liters of breath on a  
17          rolling retest, unless a subsequent test  
18          performed within ten minutes registers a breath  
19          alcohol concentration lower than .02 and the  
20          digital image confirms the same person provided  
21          both samples;

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- 1 (C) Failing to provide a rolling retest, unless an  
2 acceptable test is performed within ten minutes;  
3 (D) Violating section 291E-66; or  
4 (E) Failing to provide a clear photo of the person  
5 when the person blows into the ignition interlock  
6 device."

7 SECTION 3. Section 853-4, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows: (a) This  
9 chapter shall not apply when:

10 (1) The offense charged involves the intentional,  
11 knowing, reckless, or negligent killing of another  
12 person;

13 (2) *[Repeal and reenactment on June 30, 2026. L*  
14 *2020, c 19, §15.]* The offense charged is:

15 (A) A felony that involves the intentional,  
16 knowing, or reckless bodily injury, substantial  
17 bodily injury, or serious bodily injury of  
18 another person; or

19 (B) A misdemeanor or petty misdemeanor that  
20 carries a mandatory minimum sentence and that  
21 involves the intentional, knowing, or reckless

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1           bodily injury, substantial bodily injury, or  
2           serious bodily injury of another person;  
3           provided that the prohibition in this paragraph  
4 shall not apply to offenses described in section 709-906(18);

5           (3) The offense charged involves a conspiracy or  
6           solicitation to intentionally, knowingly, or  
7           recklessly kill another person or to cause serious  
8           bodily injury to another person;

9           (4) The offense charged is a class A felony;

10          (5) The offense charged is nonprobationable;

11          (6) The defendant has been convicted of any offense  
12          defined as a felony by the Hawaii Penal Code or has  
13          been convicted for any conduct that if perpetrated in  
14          this State would be punishable as a felony;

15          (7) The defendant is found to be a law violator or  
16          delinquent child for the commission of any offense  
17          defined as a felony by the Hawaii Penal Code or for  
18          any conduct that if perpetrated in this State would  
19          constitute a felony;

20          (8) The defendant has a prior conviction for a felony  
21          committed in any state, federal, or foreign  
22          jurisdiction;

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1           (9) A firearm was used in the commission of the  
2 offense charged;

3           (10) The defendant is charged with the distribution of  
4 a dangerous, harmful, or detrimental drug to a minor;

5           (11) The defendant has been charged with a felony  
6 offense and has been previously granted deferred  
7 acceptance of guilty plea or no contest plea for a  
8 prior offense, regardless of whether the period of  
9 deferral has already expired;

10          (12) The defendant has been charged with a misdemeanor  
11 offense and has been previously granted deferred  
12 acceptance of guilty plea or no contest plea for a  
13 prior felony, misdemeanor, or petty misdemeanor for  
14 which the period of deferral has not yet expired;

15          (13) *[Repeal and reenactment on June 30, 2026. L*  
16 *2020, c 19, §15.]* The offense charged is:

17               (A) Escape in the first degree;

18               (B) Escape in the second degree;

19               (C) Promoting prison contraband in the first  
20 degree;

21               (D) Promoting prison contraband in the second  
22 degree;

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- 1 (E) Bail jumping in the first degree;
- 2 (F) Bail jumping in the second degree;
- 3 (G) Bribery;
- 4 (H) Bribery of or by a witness;
- 5 (I) Intimidating a witness;
- 6 (J) Bribery of or by a juror;
- 7 (K) Intimidating a juror;
- 8 (L) Jury tampering;
- 9 (M) Promoting prostitution;
- 10 (N) Abuse of family or household member except
- 11 as provided in paragraph (2) and section 709-
- 12 906(18);
- 13 (O) Sexual assault in the second degree;
- 14 (P) Sexual assault in the third degree;
- 15 (Q) A violation of an order issued pursuant to
- 16 chapter 586;
- 17 (R) Promoting child abuse in the second degree;
- 18 (S) Promoting child abuse in the third degree;
- 19 (T) Electronic enticement of a child in the
- 20 first degree;
- 21 (U) Electronic enticement of a child in the
- 22 second degree;

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1 (V) Commercial sexual exploitation pursuant to  
2 section 712-1200.5;

3 (W) Street prostitution and commercial sexual  
4 exploitation under section 712-1207(1) (b) or  
5 (2) (b);

6 (X) Commercial sexual exploitation near schools  
7 or public parks under section 712-1209;

8 (Y) Commercial sexual exploitation of a minor  
9 under section 712-1209.1;

10 (Z) Habitual commercial sexual exploitation  
11 under section 712-1209.5;

12 (AA) Violation of privacy in the first degree  
13 under section 711-1110.9;

14 (BB) Violation of privacy in the second degree  
15 under section 711-1111(1) (d), (e), (f), (g), or  
16 (h);

17 (CC) Habitually operating a vehicle under the  
18 influence of an intoxicant under section 291E-  
19 61.5(a);

20 (DD) Promoting gambling in the first degree; ~~or~~

21 (EE) Promoting gambling in the second degree; or

# S.B. NO.

1                    (FF) Operating a vehicle under the influence of an  
 2                    intoxicant under section 291E-61;

- 3            (14) The defendant has been charged with:
- 4                    (A) Knowingly or intentionally falsifying any
- 5                    (B) report required under part XIII of chapter
- 6                                11, with the intent to circumvent the law or
- 7                                deceive the campaign spending commission; or
- 8                    (B) Violating section 11-352 or 11-353; or

9            (15) The defendant holds a commercial driver's license

10                    and has been charged with violating a traffic

11                    control law, other than a parking law, in

12                    connection with the operation of any type of

13                    motor vehicle.

14            SECTION 4. Statutory material to be repealed is bracketed

15 and stricken. New statutory material is underscored.

16            SECTION 5. This Act shall take effect upon its approval.

17

INTRODUCED BY: \_\_\_\_\_

\_\_\_\_\_

**S.B. NO.**

# S.B. NO.

**Report Title:**

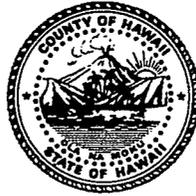
Relating to Traffic Safety; Operating a Vehicle Under the Influence of an Intoxicant; Highly Intoxicated Driver

**Description:**

Specifies that operating a vehicle under the influence of an intoxicant while a highly intoxicated driver is a class C felony and outlines additional requirements for probation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

**C. Kimo Alameda, Ph.D.**  
*Mayor*



**Reed K. Mahuna**  
*Police Chief*

**William V. Brillhante Jr.**  
*Managing Director*

## **County of Hawai`i**

### **POLICE DEPARTMENT**

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

February 24, 2026

Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair  
And Members  
Committee on Judiciary  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Senators Rhoads and Gabbard and Committee Members,

RE: SENATE BILL 2392 SD1 RELATING TO TRAFFIC SAFETY  
DATE: FEBRUARY 27, 2026  
TIME: 10:30 A.M.  
PLACE: CONFERENCE ROOM 016 & VIDEOCONFERENCE

The Hawai`i Police Department (HPD) supports SB2392 SD1, which strengthens Hawai`i's laws relating to operating a vehicle under the influence of an intoxicant (OVUII), particularly for individuals identified as highly intoxicated drivers. This measure enhances penalties for high-risk impaired driving behavior, expands supervision options, and removes deferred plea eligibility for OVUII offenses.

Current law provides only limited sentencing enhancements for highly intoxicated drivers, such as an additional forty-eight hours of jail and extended license revocation, while the underlying offense remains a petty misdemeanor. These consequences are often insufficient to deter individuals who pose a significant danger due to extremely high blood alcohol concentrations (BAC).

SB2392 SD1 updates this framework by establishing a tiered system of penalties for highly intoxicated drivers. Under this bill, a first offense within a ten-year period becomes a misdemeanor with increased mandatory penalties, including longer license revocations, minimum jail terms, and expanded substance abuse treatment requirements. For individuals who commit a subsequent high-BAC OVUII offense within ten years, the bill authorizes charging the offense as a Class C felony. This upgrade gives the courts greater authority to impose meaningful consequences and long-term probation supervision while ensuring appropriate treatment interventions.

SENATE BILL 2392 SD1 RELATING TO TRAFFIC SAFETY

DATE: FEBRUARY 27, 2026

TIME: 10:30 A.M.

PLACE: CONFERENCE ROOM 016 & VIDEOCONFERENCE

Page 2

This bill also gives courts clearer tools to promote accountability and compliance through conditions of probation, the use of ignition interlock devices, and structured pathways for early termination of revocation for individuals who demonstrate responsible use of ignition interlock systems. Importantly, SB2392 SD1 eliminates eligibility for deferred acceptance of guilty or no-contest pleas for all OVUII offenses, ensuring that convictions are appropriately reflected and considered in future sentencing.

The need for strengthened measures is evident. Impaired driving remains a significant threat on Hawai'i roads. HPD data continue to show that a substantial portion of OVUII arrests involve drivers with very high BAC levels, creating extremely hazardous conditions for all roadway users. Enhanced penalties and supervision for these high-risk drivers will help reduce repeat offenses and improve public safety.

For these reasons, the Hawai'i Police Department respectfully urges the Committee to pass SB2392 SD1. Thank you for the opportunity to testify.

Respectfully submitted,



SHERRY D. BIRD  
ACTING POLICE CHIEF



# POLICE DEPARTMENT COUNTY OF KAUA'I



**DEREK S.K. KAWAKAMI**, MAYOR  
**REIKO MATSUYAMA**, MANAGING DIRECTOR

**ELLIOTT K. KE**, CHIEF OF POLICE  
**MARK T. OZAKI**, DEPUTY CHIEF OF POLICE

February 25, 2026

The Honorable Senator Karl Rhoads, Chair  
And Honorable Members of the Committee on Judiciary  
Hawai'i State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

**RE: Testimony in Support of Senate Bill 2392 SD1, Relating to Traffic Safety**

Honorable Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

On behalf of the Kaua'i Police Department, I am submitting testimony in **SUPPORT** of SB 2392 SD1, which strengthens the offense of Operating a Vehicle Under the Influence of an Intoxicant (OVUII) when committed by a "highly intoxicated driver," establishes enhanced sentencing provisions, and provides for a Class C felony offense under specified circumstances.

SB 2392 SD1 appropriately recognizes that drivers who operate a vehicle with a blood alcohol concentration significantly above the legal limit pose an elevated and unacceptable risk to the public. By providing enhanced penalties and probation conditions for highly intoxicated drivers—and elevating certain qualifying offenses to a Class C felony—the measure reflects the heightened danger associated with extreme impairment and reinforces meaningful accountability.

In my experience enforcing traffic laws, alcohol impairment—along with speed and distracted driving—is consistently a major contributing factor in serious and fatal crashes. Drivers found to have nearly double the legal blood alcohol concentration of .08 percent present substantially diminished judgment, reaction time, and vehicle control. Enhanced penalties for these cases are appropriate to reflect the increased risk and to strengthen deterrence.

The National Highway Traffic Safety Administration (NHTSA) reports more than 12,000 people were killed nationally in alcohol-impaired driving crashes in 2023, accounting for roughly 30% of all traffic fatalities in the United States that year. Hawai'i's alcohol-related fatality rate has exceeded the national average in recent years, according to a recent report by the Hawai'i Alcohol Policy Alliance, with at least 40% of traffic fatalities statewide from 2011–2022 involving alcohol. The impact is evident on Kaua'i as well. In 2024, Kaua'i recorded 201 DUI (Driving Under the Influence) arrests and 8 traffic fatalities, 4 of which involved impaired drivers. In 2025, there have been 133 DUI arrests and 8 traffic fatalities, 6 involving impaired drivers. These figures show that impaired driving remains a significant factor in serious and fatal crashes, underscoring the need to strengthen accountability and improve road safety.

SB 2392 SD1 is a reasonable, evidence-based measure that strengthens public safety, enhances deterrence, and provides courts with meaningful tools for supervision and rehabilitation of highly intoxicated drivers.

Chair Rhoads  
February 25, 2026  
Re: SB 2392 SD1  
Page 2 of 2

For these reasons, the Kaua'i Police Department respectfully urges the Committee to **pass SB 2392 SD1**.  
Thank you for the opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Elliott K. Ke". The signature is written in a cursive, flowing style.

Elliott K. Ke  
Chief of Police  
Kaua'i Police Department



## TESTIMONY IN STRONG SUPPORT OF SB 2392, SD1 RELATING TO TRAFFIC SAFETY

**Date:** February 27, 2026

**To:** Senate Committee on Judiciary (JDC) **Chair:** Senator Karl Rhoads

Aloha Chair Rhoads, Vice Chair Gabbard, and members,

On behalf of the **Keiki Injury Prevention Coalition**, I am Lisa Dau, RN, Injury Prevention Coordinator. **We strongly support SB 2392, SD1.**

In 2025, Hawai'i recorded 129 traffic fatalities — our deadliest year in nearly two decades. Alcohol-impaired driving, especially by highly intoxicated drivers, is a major contributor to these preventable deaths and injuries involving keiki as passengers, pedestrians, or cyclists.

This bill strengthens accountability: highly intoxicated OVUII becomes a misdemeanor for a first offense with enhanced sentencing and probation; upgrades to a Class C felony under certain conditions; and prohibits deferred acceptance of guilty pleas.

These targeted measures will deter dangerous behavior and better protect our children and families.

KIPC urges passage of SB 2392, SD1.

Sincerely,

**Lisa Dau, RN**

Injury Prevention Coordinator  
Keiki Injury Prevention Coalition



## Testimony of the Oahu Metropolitan Planning Organization

### Senate Committee on Judiciary

02/27/26 10:30 AM  
CR 016 & Videoconference

### SB2392 SD1 RELATING TO HIGHWAY SAFETY

Dear Chair Rhoads, Vice Chair Gabbard, and Committee Members,

The Oahu Metropolitan Planning Organization (OahuMPO) **supports SB2392 SD1** which specifies penalties for driving under the influence while highly intoxicated, upgrades the offense of driving while highly intoxicated under specific conditions, and outlines additional requirements for sentencing and probation.

This bill supports our goal of reducing traffic related deaths and serious injuries to zero by 2045. Traffic fatalities increased over twenty (20) percent in Hawaii, and over sixty (60) percent on Oahu from 2024 to 2025. Nearly a [third of traffic deaths in Hawaii](#) are the result of impaired driving, where drivers have a Blood Alcohol Concentration of 0.08 or higher. This statistic puts Hawaii in the bottom quarter of all states regarding impaired driving fatalities.

The OahuMPO is the federally designated Metropolitan Planning Organization (MPO) on the island of Oahu responsible for carrying out a multimodal transportation planning process, including the development of a long-range (25-year horizon) metropolitan transportation plan, referred to as the Oahu Regional Transportation Plan (ORTP), which encourages and promotes a safe, efficient, and resilient transportation system that serves the mobility needs of all people and freight (including walkways, bicycles, and transit), fosters economic growth and development, while minimizing fuel consumption and air pollution ([23 CFR 450.300](#)).

Mahalo for the opportunity to provide testimony on this measure.



February 24, 2026

COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Re: Testimony in Support of SB2392

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Garrett W. Marrero, and I live in Kihei, Hawai'i. I am the CEO and Founder of Maui Brewing Co., operating locations in Lahaina, Kaanapali, and Kihei on Maui, and Waikiki and Kailua on Oahu. Now sold in 6 States and 2 Countries, employing more than 500 teammates across Hawai'i. I am submitting this testimony in **SUPPORT** on **SB2392**, which strengthens penalties for driving under the influence.

I want to be clear at the outset: I strongly support tougher DUI penalties. Dangerous and impaired driving puts lives at risk, and repeat offenders, highly intoxicated drivers, and even first-time offenders who make reckless choices must be held accountable. Strengthening enforcement and consequences for truly dangerous behavior is absolutely the right direction for Hawai'i. We **SHOULD NOT** redefine the DUI threshold lowering BAC to .05.

While it is not my place to prescribe specific punishments or sentencing structures, I do believe SB2392 reflects the *correct policy approach*: focusing on behavior, risk, and responsibility rather than redefining impairment itself.

This approach stands in contrast to proposals such as **SB2463**, which would lower the per se BAC threshold to 0.05. Based on data, experience, and practical impacts, lowering the BAC limit is the wrong tool for improving public safety in Hawai'i.

Lowering the threshold to 0.05 risks:

- **Criminalizing responsible, legal behavior** rather than targeting dangerous conduct. Many individuals at 0.05 are not meaningfully impaired, especially when accounting for body weight, food consumption, and time.
- **Diverting law enforcement resources** away from truly impaired and dangerous drivers toward marginal cases, reducing overall public safety effectiveness.
- **Creating enforcement ambiguity**, increasing contested cases, court congestion, and inconsistent outcomes.
- **Disproportionately impacting working residents and visitors**, without clear evidence of meaningful safety gains.

**Handcrafted Ales & Lagers Brewed with Aloha**  
605 Lipoa Parkway, Kihei, HI 96753  
808.213.3002

Importantly for Hawai'i, there is also a real **economic and tourism impact** to consider. Our hospitality, restaurant, and visitor industries are foundational to the state's economy and local jobs. Lowering the BAC limit sends a chilling message to visitors that Hawai'i is an outlier destination with punitive standards that differ from the rest of the country. This does not make our roads safer—it risks discouraging tourism, dining, and legitimate commerce at a time when Hawai'i can least afford additional economic headwinds.

SB2392 takes a smarter path. By strengthening penalties for DUI—particularly where there is repeat behavior, high levels of intoxication, or demonstrably dangerous conduct—the Legislature can improve public safety without overreaching, harming responsible adults, or undermining the tourism economy that supports so many local families.

I respectfully urge the Legislature to continue down this path: **stronger consequences for dangerous behavior**, not lower thresholds that expand criminalization without proven benefit. For these reasons, I **support SB2392** with comments and encourage thoughtful consideration of this approach and **oppose harmful measures like SB2463**.

Mahalo for your time and consideration!

Sincerely,

A handwritten signature in black ink, appearing to read 'Garrett W. Marrero', with a long, sweeping horizontal line extending to the right.

Garrett W. Marrero  
CEO/Founder

**SB-2392-SD-1**

Submitted on: 2/24/2026 9:53:50 PM

Testimony for JDC on 2/27/2026 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

2392 SB RELATING TO TRAFFIC SAFETY.