

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

Testimony of Linda Smith
Senior Policy Advisor to the Governor

Before the

Senate Committee on Transportation and International Affairs

Monday, March 10, 2008
1:30 PM

HB2034 HD1

Senator English and Members of the Committee:

The Office of the Governor supports this measure, which makes it a violation of the traffic code to leave young children unattended in vehicles.

The purpose of this measure is to protect young children from being left unattended in motor vehicles. In light of incidents in Hawaii and around the nation where leaving children unattended in cars have led to tragic consequences, it is time for the State to take action.

As mentioned in the committee report for HB2034 HD1, this bill:

- 1) Makes it a violation of the Statewide Traffic Code for the vehicle operator or an adult passenger to leave a child under the age of nine unattended in a vehicle for five or more minutes;
- 2) Allows law enforcement, firefighter, or rescue team personnel to use whatever means reasonably necessary to protect the unattended child or others and to remove the unattended child from the motor vehicle, if they determine that the child is in physical danger or poses a danger to others;
- 3) Requires law enforcement, firefighter, or rescue team personnel to immediately report the matter to a police officer if the person having care or custody of the unattended child cannot be located within a reasonable time;
- 4) Allows the police officer to whom the matter is reported to assume protective custody of the child without a court order or consent of the child's family;
- 5) Includes testing of an applicant's knowledge of this new violation on the driver's licensing

examination; and

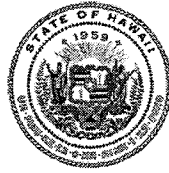
- 6) Requires rental car companies to post notice of this new law in their rental vehicles.

According to Kids in Cars, a nonprofit organization leading the charge for legislation on this subject, California, Connecticut, Florida, Illinois, Louisiana, Maryland, Nebraska, Nevada, Pennsylvania, Tennessee, Texas, and Washington (12 states) already have laws prohibiting children from being left unattended in motor vehicles. In addition, Kentucky and Missouri have laws that take effect when an injury or death occurs.

As previously cited in the testimony of the Department of the Prosecuting Attorney of Honolulu:

“When the outside temperature is 80 degrees F (a common occurrence in Hawaii), the temperature inside a car receiving direct sunlight can reach 110 degrees F after 5 minutes. When a child’s (or any other person’s) body temperature reaches 106 degrees F, he or she can die or suffer permanent disability from heat stroke. Children left unattended in cars have also died from strangulation by a power window, inadvertently knocking a vehicle into gear, carbon monoxide poisoning, falling out of the car and being run over, choking on a toy or being kidnapped. A 2003 Center for Disease Control and Prevention study reports that during July 2000 to June 2001, an estimated 9,160 non fatal injuries and 78 fatal injuries occurred in children 14 and younger as a result of being left unattended in or around motor vehicles that were not in traffic.”

The Office of the Governor believes this measure is necessary in order to discourage parents from leaving children unattended in vehicles in the State of Hawaii, and therefore respectfully requests its passage.



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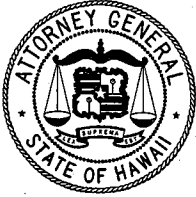
Senator English and Members of the Committee:

Chair English, thank you for scheduling House Bill 2034 HD1 for hearing. The Office of the Governor supports this measure, which makes it a violation of the traffic code to leave young children unattended in vehicles. The measure has been amended to clarify that the provision requiring testing of an applicant's knowledge of the violation on the driver's licensing examination should not be repealed when section 286-108, HRS, is re-enacted as a result of Act 72, Session Laws of Hawaii 2005.

The purpose of this measure is to protect young children from being left unattended in motor vehicles. In light of incidents in Hawaii and around the nation where leaving children unattended in cars have led to tragic consequences, it is time for the State to take action.

According to Kids in Cars, a nonprofit organization leading the charge for legislation on this subject, California, Connecticut, Florida, Illinois, Louisiana, Maryland, Nebraska, Nevada, Pennsylvania, Tennessee, Texas, and Washington (12 states) already have laws prohibiting children from being left unattended in motor vehicles. In addition, Kentucky and Missouri have laws that take effect when an injury or death occurs.

The Office of the Governor believes this measure is necessary in order to discourage parents from leaving children unattended in vehicles, and therefore respectfully requests its passage.



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

H.B. NO. 2034, H.D. 1, RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES

BEFORE THE:

SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

DATE: Monday, March 10, 2008 **TIME:** 1:30 PM

LOCATION: State Capitol Room 224
Deliver to: Committee Clerk, Room 205, 1 copy

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lance M. Goto, Deputy Attorney General

Chair English and Members of the Committee:

The Department of the Attorney General supports this measure.

The purpose of this bill is to protect children under the age of nine by making it a violation of the statewide traffic code for motor vehicle operators and adult passengers to leave a child unattended in a motor vehicle for five minutes or more. The bill requires the examiner of drivers to test driver's license applicants for knowledge of this violation and also requires lessors of rental vehicles to display the law regarding this violation in the rental vehicles.

Young children left unattended in a vehicle may be at great risk for injury or death. If mobile inside the vehicle, and able to touch vehicle controls, the children may also pose a great risk of danger to others. This bill addresses a situation with potentially devastating results.

We respectfully request the passage of this measure.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

March 10, 2008

MEMORANDUM

TO: Honorable J. Kalani English Chair
Senate Committee on Transportation and International
Affairs

FROM: Lillian B. Koller, Director

SUBJECT: H. B. 2034, H. D. 1 RELATING TO UNATTENDED CHILDREN IN
MOTOR VEHICLES

Hearing: Monday, March 10, 2008, 1:30 p.m.
Conference Room 224, State Capitol

PURPOSE: The purpose of H. B. 2034, H. D. 1, is to make it a violation of the statewide traffic code to leave a child unattended in a motor vehicle and to require the examiner of drivers to test driver's license applicants for knowledge of this offense.

DEPARTMENT'S POSITION: The Department of Human Services appreciates and strongly supports the intent of this bill.

The Department is concerned that this bill defines "unsupervised" as leaving a child in a motor vehicle unaccompanied by a person of at least 12 years of age. This definition is unable to take into account the maturity of a 12 year old child, for example, as would be the case if an infant

was left in a motor vehicle with a 12 year old person who has a developmental delay or other limited cognitive functioning. We suggest deletion of this definition in order to provide law enforcement officers, firefighters and rescue personnel with the maximum ability to respond to an unsafe situation without unnecessary restrictions.

Thank you for this opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
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PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE J. KALANI ENGLISH, CHAIR
THE HONORABLE MIKE GABBARD, VICE CHAIR
SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS**

**Twenty-fourth State Legislature
Regular Session of 2008
State of Hawaii**

March 10, 2008

**RE: HOUSE BILL 2034, H.D. 1; RELATING TO UNATTENDED CHILDREN IN
MOTOR VEHICLES**

HEARING: Monday, March 10, 2008, 1:30 p.m., Conference Room 224

Good afternoon, Chair English and members of the Transportation and International Affairs Committee, the Department of the Prosecuting Attorney submits the following testimony in support of H.B. 2034, H.D. 1, Relating to Unattended Children in Motor Vehicles.

The purpose of this bill is to add a new offense of Leaving a Child Unattended in a Motor Vehicle in chapter *291C, Hawaii Revised Statutes (HRS)*. The offense provides that a person is liable when the person leaves a child under age nine in a motor vehicle without being accompanied by a person at least twelve years of age; it is punishable only by a fine similar to those provided in HRS section 291C-161(b). In addition, the bill also requires the driver's license test to specifically test for the applicant's knowledge of this law and mandates that rental car agencies display information about this law.

Under current laws, if a person leaves a minor in a vehicle, the person may be subject to prosecution for the misdemeanor offense of endangering the welfare of a minor in the second degree, HRS section 709-904(2), if and only if the person **knowingly** endangered the minor's physical or mental welfare by leaving the minor in the vehicle and thereby violated a legal duty of care or protection owed to the minor. The "knowing" state of mind requires that the defendant must be aware that it is **practically certain** that his or her conduct will cause the endangering of the minor's physical or mental welfare. This is often difficult to prove.

Creation of this offense would be significantly easier to prove since it would not require proof that the defendant was aware of the risk to the child; all that would have to be proven is that the person left the minor in the car without the required supervision. Given the number of incidents reported to the police involving unattended minor children whose parents have left them in the car

under hazardous conditions, we believe this proposed offense is sorely needed. Unsupervised children under the age of 9, are vulnerable to physical injury due to the considerable potential for danger inherent to motor vehicles. For example, when the outside temperature is 80 degrees F (a common occurrence in Hawaii), the temperature inside a car receiving direct sunlight can reach 110 degrees F after 5 minutes. When a child's (or any other person's) body temperature reaches 106 degrees F, he or she can die or suffer permanent disability from heat stroke. Children left unattended in cars have also died from strangulation by a power window, inadvertently knocking a vehicle into gear, carbon monoxide poisoning, falling out of the car and being run over, choking on a toy or being kidnapped. A 2003 Center for Disease Control and Prevention study reports that during July 2000 to June 2001, an estimated 9,160 nonfatal injuries and 78 fatal injuries occurred in children 14 and younger as a result of being left unattended in or around motor vehicles that were not in traffic.

At least one dozen states have now adopted legislation specifically prohibiting leaving children alone in a motor vehicle. It is time for Hawaii to join the ranks of those states that have already acted to promote the safety of children in motorcars through this simple, but effective, means. The nominal fine attached to the violation proposed in this bill will serve as a reasonable reminder to parents, and an effective preventive measure for reducing the potential of this totally avoidable risk to our children.

For this reason, we strongly urge your support for the passage of House Bill 2034, H.D. 1. Thank you for your time and consideration.

I want to testify regarding proposed HB 2034/SB 2245 for many reasons. I support this bill to be a traffic violation, though I feel putting a 5-minute time limit is dangerous, as many interpretations throughout the community can delay quick responses needed to save a child's life. I request that the 5-minute rule be omitted so that quick responses are available to save lives of children. There are currently more occurrences of abduction regarding children when a parent or caregiver leaves them unattended in a motor vehicle. These reports have plagued media over the last 4 years. The average time that a thief takes to steal a car ranges from 1-4 minutes, dependant on their experience. According to the National Insurance Crime Bureau Report, Hawaii alone has had approximately 4,935 cars stolen in 2006 with 2007 data still pending. Since the increase in car thefts leave a potential for abductions to increase. A car thief only means to take a car, but takes a sleeping infant leaving a distraught parent worrying for the child's safety.

I am testifying on behalf of one child that died in Hawaii in 2004, my daughter, Aslyn Ryan. Though there are many dangers regarding leaving a child alone in a car, hyperthermia is the cause that took our child.

Our little girl, Aslyn, died on February 7th, 2004 after suffering from hyperthermia after prolonged exposure to extreme environmental conditions in a car at Kapiolani Medical center while we were stationed in Hawaii.

Our mission now is to prevent other parents and families from the heartache we have suffered. Hawaii has lost 3 children to hyperthermia deaths since 1998, according to media reports (in general, states do not track children who die or are injured as a result of being left in a vehicle.) Nationwide, for the year of 2007, 925 children were injured from being left unattended in cars with 231 children dying from those injuries. This is a profound issue.

On the morning of Feb 5th my husband dropped our 1 year old daughter off for child care at her sitters house. Our day went the same as it always had but at 2:30 PM we were called to come to the ER because our child was suffering from respiratory problems. Her temperature was almost 106 degrees when the ambulance arrived at the sitter's residence.

I never, as a nurse, could have dreamed what the horror of walking into the ER to see a code being performed on my own child would be.

Over the next 48 hours of her life, in the Intensive Care Unit, she suffered from the trauma that this incident caused. She suffered multiple strokes, and needed continuous blood transfusions from bleeding from her intestines, kidneys, and nose. She suffered many other hypoxic and hyperthermia related injuries. A parent's most heart heartbreaking moment in life is having the neurologist tell you that your baby was no longer the baby we once knew and the medical staff was prolonging her death. She struggled to survive but on February 7th 2004 she lost her fight for life. We laid her to rest on February 14th 2004.

The difficulty recovering over the last 4 years was magnified by the fact that that the sitter caring for her that day was never punished nor was she found criminally negligent. Through the investigation, she told multiple different versions of what happened but the overlying reality and medical evidence that she allegedly left her in a car and this outweighed any other story she told. Truth never changes.

The plans my family had had included life with Aslyn, but now time has been filled with the educating the community though the Hot Spot Program we have founded in her memory and we do whatever is be possible to educate the community to prevent others from enduring the pain we have to suffer every day. No parent should ever have to feel this pain. No parent should ever feel that there is no justice.

Our program has been to educate the community on the dangers of leaving a child alone in a car can include:

- Heat stroke/Death
- Strangulation in a car window
- Injury from being backed over or setting a car in motion
- Abduction by a stranger

Dozens of children have died every year across the country and these children have come from all areas of the country and from all parts of society and all racial backgrounds.

In 2007, more than 35 children were only known to have died through media reports, these numbers do not include those that were left in a hot car, saved just in time, or those who have suffered but have not died as a result of being left in cars.

Many law enforcement and first responders we work with state that they see this all the time, but numbers are severely underestimated. Our country lacks ICD-9 codes for hospitals to adequately track these deaths and reports due to hyperthermia. Police and Fire Departments across the country encompass the reports of children left unattended in cars into welfare check codes or in children locked in cars categories.

Nationally only 50% of cases where a caregiver or parent has left a child in a car, has been charged with a crime.

The most significantly, far too many children have lost their lives to something that is completely preventable. Whether it be an accident or intentional, how can we send a message that this is wrong. Our children are our legacy and we as a nation need to heed to the realization that we must protect our future. Children are dying from being left unattended in Motor Vehicles on warm/hot days depriving the community of their unrealized potential.

Some of these parents or caregivers have arrived at a store with their baby sleeping in the car seat. Not wanting to awaken the child, they leave them inside the car because they are only going into the store for a **minute**. As they gather what they need in the store, a minute turns into 5 minutes. When they are ready to check out, the checkout line is full which in turn turns into another 5 minutes. As they are leaving the store, they run into a friend and talk for another five minutes. Now, all of the sudden, the child has been restrained in the hot car for over **15 minutes**.

The temperature inside a car can skyrocket quickly. It is a metal box with no air circulation. A child or anyone is not going to be able to tolerate it for very long. Heat is much more dangerous to children than it is to adults. A child's small size makes it hard for the child to shed heat. When left in a hot vehicle, a young child's core body temperature may increase 3-5 times faster than that of an adult. This could cause permanent injury or even death.

On an 100 degree day your car can reach 124 degree day within 15 minutes and even an 89 degree day your car can reach 108 degrees within 20 minutes. Cracking windows does nothing to help lower the temperature.

Help us with our educational message by making this Bill a traffic violation, but please do not pass it with a time period. Our Hot Spot education teaches immediately calling for assistance when a child is discovered in a car. Help us save the Hawaii keiki by passing a bill that makes this a traffic violation. Send a clear message that this is a preventable injury and that those who violate this law will be held accountable. Do not let what happened to Aslyn happen to anyone ever again.

Deona Ryan
Chair, Hot Spot
9186 E Wolfberry St.
Tucson, AZ 85747

testimony

From: Carolyn Fujioka [carolyn.fujioka.atxn@statefarm.com]
Sent: Friday, March 07, 2008 2:45 PM
To: testimony
Subject: Testimony- HB2034, HD1

**Testimony to the Senate Committee On Transportation and International Affairs
Conference Room 224, State Capitol
Monday, March 10, 2008 1:30 p.m.**

RE: House Bill 2034, HD1

Chair English, Vice Chair Gabbard, and committee members:

I am Carolyn Fujioka, on behalf of State Farm Mutual Automobile Insurance Company, a mutual company owned by its policyholders. State Farm supports House Bill 2034, HD1.

State Farm has a long history of committing resources to helping improve auto safety, in particular, its partnership with The Children's Hospital of Philadelphia, the first academic-corporate partnership devoted to the safety of children in motor vehicles.

State Farm strongly supports the bill's provision that young children should not be left unattended in motor vehicles under any circumstances. Although arguments have been raised against legislating "good judgment," other laws such as seat belt and child passenger safety laws have demonstrated the benefits of enacting such public policy. Requiring the law to be included in the driver's examination and rental car companies to provide notice of the prohibition to renters will help raise public awareness of the dangers of leaving a child unattended in a motor vehicle.

Thank you for the opportunity to testify.

Senate Committee on Transportation and International Affairs

**Attn: Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair**

**Monday, March 10, 2008, 1:30 pm
Conference Room 224**

**TESTIMONY IN STRONG SUPPORT OF H.B. 2034 HD 1:
Unattended Children in Motor Vehicles**

Aloha Chair English, Vice Chair Gabbard, and members of the Committee:

My name is Sherrie Amaral, and I am testifying as a concerned citizen of the state of Hawai'i. I strongly support H.B. No. 2034 HD 1 relating to unattended children in motor vehicles. If passed, this bill would make it an offense to leave a child unattended in a motor vehicle for five minutes or more. It would also give law enforcement the ability to act accordingly in order to protect the child.

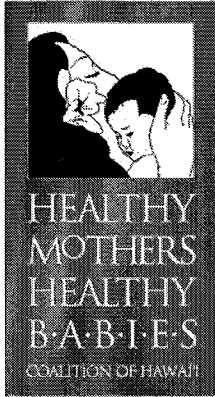
The safety and welfare of our children continues to come into focus, with more and more tragedies taking place. Many negative events can occur when a child is left unattended; these exponentially increase when you factor in a motor vehicle. According to a national report done by the United States Center for Disease Control and Prevention, between the years 2000-2001 an estimated 9,160 nonfatal injuries and 78 fatal injuries occurred among children 14 years or younger who were left unattended in or around motor vehicles that were not in traffic.

When operating a motor vehicle, the law requires us to use safety belts, car seats, etc. to ensure that we as well as our children are protected. Recently, Hawai'i passed a child restraint law, which was a positive step to further safeguard our keiki. But, even with current regulations in place, when a child is left unattended this act is counterproductive to the child's safety as well as the law.

Parents and caregivers are faced with the well-being of their children everyday. Having helped care for my nephews, I realize that sometimes it can be hard to balance daily responsibilities with children. I know I have witnessed children left unattended in cars when pulling into a supermarket parking lot on more than several occasions.

Many things are beyond our control, but this situation is not. People are aware of the possible danger but continue to leave children in this vulnerable position. We should not put our children's welfare in the backseat. By creating stronger laws we can ensure that these incidents stop occurring so frequently and help prevent future fatalities. Thank you for your time and this opportunity to testify.

**Sherrie Amaral
1218 Kaumuali'i Street
Honolulu, Hawai'i 96817
808-842-7757**



HEALTHY MOTHERS, HEALTHY BABIES COALITION OF HAWAII

Date: March 6, 2008
Committee: Transportation and International Affairs
Bill: HB 2034

Honorable Chairperson English, ViceChairperson Gabbard and Members of the Transportation and International Affairs Committee

My name is Jackie Berry, Executive Director of the Healthy Mothers, Healthy Babies Coalition of Hawaii (HMHB). HMHB is a local non-profit agency, and part of a national network of organizations and individuals committed to improving maternal, child and family health through collaborative efforts in public education, advocacy and partner development.

HMHB supports HB2034, which establishes a motor vehicle violation that prohibits leaving a child unsupervised in a motor vehicle and also requires the examiner of drivers to test driver's license applicants for knowledge of this offense. This measure applies to children under the age of nine who are left alone in a motor vehicle or with a minor under the age of fifteen.

There have been multiple well-publicized instances in Hawaii over the past few years where infants and small children have been left unsupervised in cars by their parent or caregiver. These keiki have suffered death due to heat stroke, or been inadvertently abducted when the car was stolen, as a result. Toddlers and small children left unattended in cars are also at risk for harm, due to their potentially playing with the car steering wheel, ignition, brakes or gears and setting the car in motion.

Parents are busy and may not think about the implication of leaving their infant or small child in the car, "just for a minute", but the consequences of this act can be deadly. There needs to be a clear and unequivocal message to parents and caregivers alike, that it is never safe to leave infants and small children unattended in a motor vehicle.

We appreciate your support for this bill and this important infant and child health safety issue. Thank you for this opportunity to testify today.