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IN REPLY REFER TO:

February 26, 2008

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 2421, HD 1

COMMITTEE ON JUDICIARY

We support this bill. Bicycles must be able to mix with motor vehicle traffic on public roads when necessary, and we do not believe this revised definition will compromise the safety of our roadways.

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JUDtestimony

From: John Wendell [REDACTED]
Sent: Saturday, February 23, 2008 11:05 PM
To: JUDtestimony
Subject: Testimony, 2/26/2008 2:45, HB2421 HD1

**Testimony to be presented regarding HB 2421, HD 1, Tuesday, February 26, 2008, 2:45 p.m.
 Conference Room 325, State Capital by John Wendell.**

Chair Waters, Vice Chair Oshiro, and the members of the House Committee on Judiciary I appreciate the opportunity to comment on HB 2421, HD1. I fully support the original version of HB2421 but oppose the changes to the bill that were made by the House Committee on Transportation in HD1 and therefore recommend that your committee restore HB2421 to its original form. I will now detail why I support the original bill and why I oppose the amendments.

Under current law a bicycle with a small electric motor is classified as a moped and not as a bicycle (see §291C-1) however, the performance characteristics of a bicycle with a small electric motor is more like a bicycle powered solely by human power than a moped. This is fairly obvious if you consider that the maximum speed on flat terrain for a bicycle with a small electric engine is 20 mph under HB2421 while §291C-1 sets it at 30mph for a moped. Moderately fit bicyclists can reach a speed of 20 mph on level terrain and many can maintain that speed for very long distances. The benefit of a small electric motor is that it allows people who have physical limitations to be able to bicycle in a manner comparable to other cyclists. Since there is essentially no difference in the performance characteristics between an electric bicycle and a completely human powered bicycle it makes sense to subject them both to the same rules of the road which is exactly what HB2421 does. There are however two amendments made to the original bill in HD1 that are misguided and should be removed.

The original version of HB2421 defined all bicycles with small electric motors as bicycles but HD 1 changed that to only include electric motor bicycles with two wheels. The Committee on Transportation apparently made this change based on the testimony of the Department of Transportation (DOT). I reproduce the DOT testimony here:

Bicycles are able to mix with motor vehicle traffic on public roads because they are narrow in width. This makes them fairly easy to pass, provided they are ridden close to the right side of the roadway. Since three-wheeled bicycles are nearly always ridden at a much slower speed than two-wheeled bicycles, they tend to be ridden only on sidewalks or areas where they do not mix with motor vehicle traffic. More people may elect to use a three-wheeled bicycle if it can easily travel at about 20 mph. Since 20 mph is a rather fast speed for this type of bicycle on a sidewalk, there will be a greater probability of three-wheeled bicycles on the roadway mixing with motor vehicle traffic. A motorized bicycle with three wheels will be significantly wider than one with two wheels. Three-wheeled bicycles will increase the probability of inconveniencing other road users because they will be more difficult to pass. We, therefore, recommend that the second definition of "bicycle" be limited to only two wheels.

The DOT position is logically inconsistent, factually inaccurate, and discriminatory. HRS §291C-1 currently defines a bicycle as "every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, and including any vehicle generally recognized as a bicycle though equipped with two front or two rear wheels except a toy bicycle." Under this definition three

wheeled bicycles are allowed to ride on the roadway and have the same rights and are subject to the same restrictions as two-wheeled bicycles. Most people ride three-wheeled bicycles for one of two reasons: they have balance problems that make it impossible or unsafe to ride a two-wheeled bicycle, or they are at greater risk than most people for injury from a fall (for example, people with osteoporosis). Most of the people in these two groups are also not as strong as the average bicycle rider and are the ones most likely to need the assistance of an electric motor. The DOT testimony is disturbing because it attempts to deny the disabled equal access to the roadway because DOT believes granting equal access to the disabled will inconvenience some motorists! One would think DOT never heard of the Americans with Disabilities Act. For shame.

Besides being discriminatory, the DOT's testimony is factually inaccurate and illogical on many accounts. It is dangerous to ride a bicycle on the sidewalk and in business districts, all of Waikiki, and when going over 10mph, it is illegal. Nonetheless, DOT seems to prefer three-wheeled bicycles on the sidewalk instead of on the roadway because they are afraid some motorists will be inconvenienced. Once again, DOT seems willing to put the interests of motorists before those of pedestrians. DOT's asserts that three-wheeled bicycles more likely to inconvenience other road users than two-wheeled bicycles because they are more difficult to pass and slower. Well, with an electric motor they are certainly not going to be slower! As far as more difficult to pass, DOT bases this on the statement that a motorized three wheel bicycle "will be significantly wider than one with two wheels." The larger width does not make them harder to pass. In the first place, while a two-wheeled bicycle is physically narrower, it doesn't drive itself, so its real width is the width of the rider. When the rider is included into the equation, the width of a three-wheeled bicycle will be only slightly larger than a two-wheeled bicycle. However, this small difference in width does not make a three-wheeled bicycle even slightly more difficult to pass. This is because a two-wheeled bicycle has to wobble slightly back and forth to maintain its balance (a bicycle rider actually keeps a bicycle upright by steering the bicycle under itself as it begins to fall) while a three wheel bicycle doesn't have this wobble. This wobbling makes the effective width of a two-wheeled bicycle virtually identical to the three-wheeled bicycle. Add to this the fact that a two-wheeled bicycle has to steer around debris more often than a three-wheeled bicycle because even a small rock can cause a two-wheeled bicycle to lose its balance, one can make the case that it is actually easier to safely pass a three-wheeled bicycle than a two-wheeled one.

However, the biggest logical fallacy of DOT's argument is the assumption that by not classifying an electric-powered three-wheeled bicycle as a bicycle they are somehow keeping them off the roadway. Under current law an electric powered three-wheeled bicycle is a moped, not including them in the definition of a bicycle does not keep them off the road, which seems to be DOT's intent, it simply continues the current practice of regulating them as mopeds instead of as bicycles. For the reasons already enumerated above it is better public policy to regulate them as bicycles.

The other change in HD1 was to include language that prohibits The BUS from carrying bicycles that don't meet particular specifications. Specifically HD1 contains the following language:

... only bicycles meeting the following general specifications will be allowed to be transported on buses used in public transportation systems:

- (1) A wheel base no longer than forty-four inches;
- (2) Tires that are 2.3 inches wide;
- (3) Wheel diameters of twenty inches or larger; and
- (4) A total weight of no more than fifty-five pounds.

This language was added at the request of the City and County of Honolulu's Department of Transportation Services (DTS). DTS gave as a reason that the electric bicycles would not be allowed on the bike racks on The BUS and asked for the inclusion of this language. However, The BUS already has

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the authority to refuse to carry bicycles that cannot be accommodated by their racks. For example, they currently don't accept three-wheeled bicycles, or tandem bicycles, or any bicycle that for whatever reason The BUS operator deems unsafe to carry on the bicycle rack. The BUS does not need legislative authority to do this and it makes no sense to ask the Legislature to micro-manage them in this regard. The actual language in HD1 speaks directly to the pitfalls of trying to micro-manage such things. How many bicycles do you think have tires that are 2.3 inches wide? I would guess that at least 90% of the bicycles I see on The BUS bicycle racks every day do not meet these criteria. Let's keep this out of the HRS and let The BUS continue to manage their own affairs.

Sincerely,

John P. Wendell

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