

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

ON THE FOLLOWING MEASURE:

H.B. NO. 3377, S.D. 1, RELATING TO HIGHWAY SAFETY.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, March 27, 2008 **TIME:** 9:45 AM

LOCATION: State Capitol, Room 211
Deliver to: Committee Clerk, Room 210, 1 copy

TESTIFIER(S): WRITTEN TESTIMONY ONLY
(For more information, please call Mark K. Miyahira,
Deputy Attorney General, at 586-1160.)

Chair Baker and Members of the Committee:

The Department of the Attorney General appreciates the intent of this measure, but is concerned about certain provisions within the bill.

The purpose of this bill is to require installation of an ignition interlock device on the vehicle of a person arrested for operating a vehicle under the influence of an intoxicant that will prevent the person from starting or operating the vehicle with more than a minimal alcohol concentration while the person's case is pending and the person's license is revoked pursuant to chapter 291E, Hawaii Revised Statutes. This bill will also provide for certification of these devices and vendors and creates an indigent fund to pay for the installation and operation of these devices in vehicles of the indigent. The bill will also establish a task force to plan for the implementation of the ignition interlock device program.

The Department appreciates the intent of this measure to establish an ignition interlock implementation task force and a 2010 effective date. These provisions will permit the task force and the Legislature to resolve a number of outstanding issues prior to the implementation of the ignition interlock device program.

The Department is concerned about certain provisions currently within the bill.

In section 5, on page 13, lines 14-15, the bill amends the revocation period of a respondent, whose records shows three or more prior alcohol or drug enforcement contacts during a ten-year period from a lifetime revocation to a maximum revocation of ten years. The bill also shortens the time period when the prior alcohol or drug enforcement contacts may occur from ten years to five years.

The Department opposes these changes as these individuals pose the greatest risk to the safety of the community. If the three or more prior alcohol or drug enforcement contacts during the five years preceding the notice of the current administrative revocation are the result of three or more convictions for operating under the influence of an intoxicant within a five-year period, this individual would be currently facing a charge of habitually operating a vehicle under the influence of an intoxicant, a class C felony. A person convicted under this felony charge would be facing a mandatory license revocation for a period of not less than one year but not more than five years and would not be permitted to drive during this period of revocation in any vehicle, not even a vehicle equipped with an ignition interlock device. Therefore, this amendment could directly conflict with concurrent criminal sanctions. As such, there seems to be no logical reason to downgrade the administrative penalty for these cases from a lifetime revocation to a maximum ten-year revocation.

In Section 7, on page 17, there is a technical mistake as Section 7 is actually Section 6. Subsequently, Sections 8 through 17 are incorrectly numbered.

In section 8, the bill amends section 291E-61, Hawaii Revised Statutes, to permit an individual to operate a vehicle, equipped with an ignition interlock device, during the period of license revocation. However, the ability to operate a vehicle will, in many cases, be hampered by section 287-20, Hawaii Revised Statutes, which prohibits an individual, whose license has been suspended or revoked pursuant to

part III of chapter 291E or upon conviction of any offense pursuant to law, from operating a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility.

Under the current law, section 287-20, does not apply in circumstances where a license is suspended pursuant to section 291E-61(b)(1), which includes a first-time offense, or any offense not preceded within a five-year period by a conviction for an offense of operating a vehicle under the influence of an intoxicant or for an offense under section 291E-4. However, as the proposed amendment would revoke the license of a person convicted pursuant to section 291E-61(b)(1), section 287-20, would be applicable. The amendment would prevent an individual from operating a vehicle, equipped with an ignition interlock device, during the one-year period of revocation, until proof of financial responsibility had been furnished.

The Department of the Attorney General would point out that Senate Draft 1 of this bill, in Section 2, amended section 287-20, Hawaii Revised Statutes, to exempt a person whose license has been suspended pursuant to section 291E-61(b)(1) through (4), from having to furnish and maintain proof of financial responsibility, in order to be able to operate a motor vehicle. This amendment was made in response to concerns raised by the Department of the Attorney General and the Office of the Public Defender that section 287-20 may prevent people from being able to drive their vehicle even after being ordered to install an ignition interlock device into their vehicle. However, the amendment set forth in Section 2 will not solve the problem because it only exempts a person whose license has been suspended pursuant to section 291E-61(b)(1) through (4) when the Senate and the House version of this bill amend section 291E-61 so as to require a revocation of license and privilege to operate a vehicle. Therefore, the amendment set forth in Section 2 will not exempt individuals convicted under section 291E-61(b)(1) through (b)(4) from having to provide financial responsibility pursuant to section 287-20 before being able to operate a motor vehicle.

Furthermore, the Department would like to point out that an amendment to section 287-20, exempting all individuals convicted under section 291E-61(b)(1) through (4) from having to provide financial responsibility, may have serious ramifications on the auto insurance industry. As this issue has not been addressed, the Ignition Interlock Implementation Task Force should be required to review this issue.

In section 8, the bill amends section 291E-61, by increasing the period of license revocation. Therefore, for example, a first-time highly intoxicated offender would be facing a six-month to one-year license revocation under the administrative driver's license revocation process but would be facing a two-year license revocation pursuant to a criminal conviction. However, section 291E-61(c)(3), states in part that "No license and privilege suspension or revocation shall be imposed pursuant to this section if the person's license and privilege to operate a vehicle has previously been administratively revoked pursuant to part III for the same act." Therefore, an increase in the period of a license revocation pursuant to 291E-61 will have little effect if the person has already been ordered to serve a shorter administrative revocation.

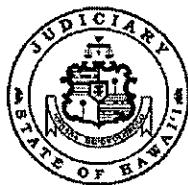
In section 8, the bill also amends section 291E-61, to authorize a court to place a criminal defendant on probation. However, section 706-624.5(2)(a), Hawaii Revised Statutes, states that as a further condition of a sentence of probation, a defendant may be sentenced to serve "five days in petty misdemeanors cases." Therefore, placing a defendant on probation would clearly conflict with the sentencing scheme in section 291E-61(b)(4)(C), where a defendant must be sentenced to serve no less than ten days but not more than thirty days of imprisonment. A sentence of probation may also conflict with the sentencing scheme in section 291E-61(b)(3)(B)(ii), where a defendant may be sentenced to serve no less than five days but not more than fourteen days of imprisonment.

In section 10, this bill amends section 804-7.1, Hawaii Revised Statutes, to require the court to order a defendant, as a condition of

bail, to install an ignition interlock device within 15 days, on any vehicle that the defendant will operate during the defendant's release on bail. There are two minor issues that should be clarified. The amendment may be read to apply only in cases where the defendant has been released on bail instead of also applying to cases where the defendant was released on recognizance or supervised release. The amendment also authorizes the court to issue a permit that will allow the defendant to drive a vehicle equipped with an ignition interlock device during the "revocation period." This appears to be a mistake as we assume that the author of the bill intended the defendant to be allowed to drive only while the criminal case was pending.

Therefore, the Department recommends that section 10, on page 36, lines 12 through 22, be amended to have subsection (c) of section 804-7.1, Hawaii Revised Statutes, read as follows:

"(c) In addition to the conditions in subsection (b) and except as provided in subsection (d), when the defendant is charged with an offense under section 291E-61, the court shall order as a condition of release on bail, recognizance, or supervised release that, within fifteen days, the defendant install an ignition interlock device, as defined in section 291E-1, on any vehicle that the defendant will operate during the defendant's release on bail, recognizance, or supervised release. Upon proof that the defendant has installed an ignition interlock device in the defendant's vehicle, the court shall issue an ignition interlock permit that will allow the defendant to drive a vehicle equipped with an ignition interlock device during the period of defendant's release on bail, recognizance, or supervised release."



The Judiciary, State of Hawaii

Testimony to the Twenty-Fourth State Legislature, 2008 Session

Senate Committee on Ways and Means
The Honorable Rosalyn H. Baker, Chair
The Honorable Shan S. Tsutsui, Vice Chair

Thursday, March 27, 2008, 9:45 a.m.
State Capitol, Conference Room 211

by
Ronald Sakata
Chief Adjudicator
Administrative Driver's License Revocation Office

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 3377, S.D. 1, Relating to Highway Safety

Judiciary's Position:

The Judiciary takes no position on the intent of House Bill No. 3377, S.D. 1, which would require installation of an ignition interlock device on the vehicle of a person arrested for driving under the influence (DUI), provide for certification of devices and vendors, and establish a task force for implementation and appropriation of funds. However, the Judiciary is extremely concerned with the provision in this bill which authorizes the court to place a defendant who is convicted of DUI on probation. This provision would require the supervision of an estimated 3,000 additional adult offenders for a period of one to five years, which would strain the adult probation office's already overburdened personnel and resources, necessitating an increase in staff and funding. Currently, there are already over 19,000 adults supervised statewide by the adult probation offices on all islands.

A workload study completed by William Woodward Associates in December 2006 found that the adult probation offices needed an additional 52 full-time staff positions to reduce recidivism in the State of Hawaii. However, the Judiciary has been unable to obtain funding for these needed positions. With the addition of 3,000 more offenders to supervise, the adult probation offices would need at least 20 more full-time probation officers who would still be carrying excessive caseloads of 150 individuals. The approximate cost to fund these additional



House Bill No. 3377, S.D. 1, Relating to Highway Safety
Senate Committee on Ways and Means
Page 2

probation positions per year would be as follows: 20 positions X \$45,576 (salary per year) = \$911,520.

Currently, offenders who are arrested for operating a vehicle under the influence of intoxicants are referred to the Division of Driver Education by the Administrative Driver's License Revocation Office (ADLRO), or the courts, which ensures that, if applicable, these offenders complete an initial assessment and a 14-hour minimum substance abuse educational program, or other appropriated program requirements; perform their community service work; do their jail term; and pay their fines and fees. This system has been in effect and the courts and ADLRO are notified whether offenders have complied with their administrative revocation requirements or court sentences. This system has been working and it seems feasible to have these offices continue to be responsible for monitoring DUI offenders rather than placing them on probation.

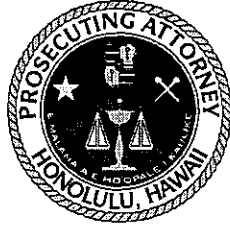
The Judiciary supports the intent of this measure to establish an ignition interlock implementation task force and will be pleased to participate to assist in the mission and objectives of the task force. We are currently analyzing the impact of this measure on the operation of the Administrative Driver's License Revocation Office for future comment.

Thank you for allowing us to testify on House Bill No. 3377, S.D. 1, Relating to Highway Safety.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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DOUGLAS S. CHIN
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**THE HONORABLE ROSALYN BAKER, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

March 27, 2008

RE: H.B. 3377, S.D. 1; RELATING TO HIGHWAY SAFETY.

Chair Baker and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of H.B. 3377, S.D. 1.

The purpose of this bill is to create a statutory framework for the imposition of an ignition interlock device upon vehicles owned or driven by person arrested for impaired driving.

We are in strong support of the use of ignition interlock devices which prevent a person from operating a vehicle when the person has measurable amounts of alcohol in their system. While community education, increased enforcement and stiffer sanctions for impaired driving have made some impact, Hawaii still has an unacceptably high number of alcohol related fatal crashes. We believe that technologies which would prevent people from driving drunk need to be examined and tried in order to reduce traffic fatalities.

Although we have concerns with some aspects of this bill, we understand this bill to be a framework or starting point for further discussions. So if further opportunities are offered to discuss these issues as well as fix, amend or fine tune the bill prior to the 2010 effective date, we support the passage of H.B. 3377, S.D. 1. We fully support the portion of the bill which establishes the Hawaii ignition interlock task force which brings the various stakeholders and constituencies together for further discussion and to address specific issues relating to the implementation of an ignition interlock program and we are willing to sit on the task force and assist the work of the task force.

In closing, we would like to thank the legislature for the opportunity to sit on the Ignition Interlock Working Group established by H.C.R. 28, H.D. 1 of 2007. The Working Group was able to identify and reach consensus on several major features that an ignition interlock law should have as well as identifying issues which required further discussion.

Thank you for this opportunity to testify.

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Ways and Means

HB 3377 SD1, RELATING TO HIGHWAY SAFETY

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

March 27, 2008, 9:45am

1 **Department's Position:** The Department of Health supports HB 3377 SD1 provided that its
2 implementation does not adversely impact the priorities of the Executive Supplemental Budget. This
3 bill accurately designates the Department of Transportation as the rule-making authority for establishing
4 standards for certification, by removing section 321-161 from this bill. In addition, by removing section
5 321-161 this bill correctly allocates funding sources for the ignition interlock special fund under the
6 Department of Transportation.

7 Ignition interlocks are an effective way of increasing the safety of all road users by mechanically
8 preventing convicted drunk drivers from operating a vehicle with alcohol in their system.

9 **Fiscal Implications:** Appropriates general funds for FY 2008-2009 for the purpose of supporting the
10 work of an ignition interlock implementation task force staffed by DOT. Also sets up an ignition
11 interlock special fund administered by the director of DOT for indigents. The special fund is funded by
12 a surcharge that is assessed when the ignition interlock is installed. All other violators pay for their own
13 ignition interlock installation and maintenance.

14 **Purpose and Justification:** States that have enacted interlock legislation have shown a 50 to 95 percent
15 decrease in repeat offenders. Hawaii is one of only 5 states without an ignition interlock law.

1 Alcohol related traffic fatalities remain tragically high in Hawaii; in 2006, 41 percent (58
2 drivers) of all drivers involved in traffic fatalities tested positive for alcohol. Among drivers involved in
3 fatal crashes, those who tested positive for alcohol were at least 3 times (6% vs. 2%) more likely than
4 other drivers to have had a previous conviction for DUI (Fatal Analysis Reporting System, National
5 Highway Traffic Safety Administration - NHTSA). In 2006 there were over 6,729 DUI arrests in
6 Hawaii. Based on a study conducted in 2005 by the City and County of Honolulu, over one fourth
7 (28%) of DUI arrestees have been previously arrested for a DUI. NHTSA and the Centers for Disease
8 Control and Prevention (CDC) conclude, when installed and in use, ignition interlocks are effective for
9 reducing alcohol related arrests and crashes.

10 HB 3377 SD1 addresses the key recommendations that were made by the Interlock Working
11 Group which was established after the legislature passed resolution HCR 28 HD1 in 2007 requesting the
12 Department of Transportation study the feasibility of requiring vehicle ignition interlock devices for
13 convicted drunk driving offenders. Recommendations from that working group include creating
14 interlock laws with mandatory sentencing for all convicted impaired driving offenders, a varying
15 sentence length dependant on the offender's compliance and establishing penalties for tampering and
16 circumvention of interlock devises.

17 Thank you for the opportunity to testify.

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 3377, S.D. 1

March 27, 2008

RELATING TO HIGHWAY SAFETY

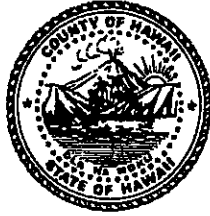
Among other provisions, House Bill No. 3377, S.D. 1, creates an ignition interlock special fund to be administered by the Director of Transportation. Moneys in the special fund would be expended by the Director of Transportation to fund the cost of installing and operating ignition interlock devices in the vehicles of persons who are required to install the device but who are indigent. The bill provides a definition of indigent.

The ignition interlock special fund would consist of amounts collected from:

- A surcharge assessed of persons required to install an ignition interlock device.
- A certification fee paid by vendors who sell or install ignition interlock devices.

As a matter of general policy, we are against the creation of any new special fund and revolving fund that does not meet the requirements of Sections 37-52.3 and 37-52.4, HRS. Special and revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is unclear if the ignition interlock special fund would be self-sustaining.

Harry Kim
Mayor



Dixie Kaetsu
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i

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March 25, 2008

The Honorable Rosalyn Baker
Chair, Committee on Ways and Means
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Baker and Committee Members:

Re: HB 3377, SD1

I would like to express my support for the installation of ignition interlock devices on vehicles of people who are arrested for driving under the influence.

The idea of ignition interlocks is not new. In the past, the Legislature has been reluctant to go down this road, primarily because the ignition interlock systems were not considered entirely reliable. My understanding is that, now, the technology has advanced to the point where the systems are dependable. Given the carnage on our roads that can result from people driving under the influence, I hope you will agree that it is time to use these devices as a way of saving lives and preventing tragedies.

I hope you will approve a version of HB 3377 that allows this important proposal to move to conference.

Aloha,

Harry Kim
Mayor

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

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CHRISTOPHER G. PABLO, ESQ.
ANNE T. HORIUCHI, ESQ.
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JOANNA J. H. MARKLE*
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March 25, 2008

TO: **The Honorable Rosalyn H. Baker, Chair**
Senate Committee on Ways and Means
State Capitol, Room 210
Honolulu, Hawaii 96813

Via Email: testimony@Capitol.hawaii.gov

FROM: Joanna Markle

RE: **H.B 3377, SD1 - Relating to Highway Safety**
Hearing Date: Thursday, March 27, 2008 @ 9:45 a.m., Room 211

Dear Chair Baker and Members of the Committee on Ways and Means:

I am Joanna Markle testifying on behalf of the Alliance of Automobile Manufacturers. The Alliance of Automobile Manufacturers ("Alliance") is a trade association of 10 car and light truck manufacturers, including BMW Group, Chrysler LLC, Ford Motor Company, General Motors, Mazda, Mercedes Benz USA, Mitsubishi Motors, Porsche, Toyota and Volkswagen.

The Alliance supports H.B. 3377, SD1. The Alliance served as a member of the Ignition Interlock Working Group, which was established pursuant to H.C.R. 28, Session Laws of 2007, and we are pleased that this bill includes many of the working group's recommendations. Ignition interlock has proven effective in battling drunk driving such as in New Mexico, West Virginia, and Ohio where the recidivism rates have decreased 50 to 90 percent. We urge you to support this bill.

Thank you very much for this opportunity to submit testimony.

SENATE COMMITTEE ON
WAYS AND MEANS

March 27, 2008

HB 3377, SD 1 Relating to Highway Safety

Chair Baker and members of the Senate Committee on Ways and Means, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm opposes House Bill 3377, SD1 as amended in the previous committees (TIA/JDL) by adding language to section 2 of the measure which would limit the application of the existing requirements for demonstrating financial responsibility following a DUI conviction. The amended section provides:

SECTION 2. Section 287-20, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Whenever a driver's license has been suspended or revoked:

(1) Pursuant to section 291E-65 or part III of chapter 291E, except as provided in section 291E-41(f);

(2) Upon a conviction of any offense pursuant to law; or

(3) In the case of minors, pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility; provided that this section shall not apply to a license suspended pursuant to section 291E-61(b)(1) through (b)(4),¹ or 291E-64(b)(1), any conviction of a moving violation,

¹(b) A person committing the offense of operating a vehicle under the influence of an intoxicant shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) Except as provided in [paragraph] (2), for the first offense, or any offense not preceded within a five-year period by a conviction for an offense under this section or section 291E-4(a):
- (A) A fourteen-hour minimum substance abuse rehabilitation program, including education and counseling, or other comparable program deemed appropriate by the court;
 - (B) Ninety-day prompt suspension of license and privilege to operate a vehicle during the suspension period, or the court may impose, in lieu of the ninety-day prompt suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the ninety-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in substance abuse treatment programs;
 - (C) Any one or more of the following:
 - (i) Seventy-two hours of community service work;
 - (ii) Not less than forty-eight hours and not more than five days of imprisonment; or
 - (iii) A fine of not less than \$150 but not more than \$1,000; and
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;

any administrative license suspension pursuant to chapter 291A, or the first conviction within a five-year period for driving without a valid motor vehicle insurance policy.

This subsection shall not apply to a suspension or revocation of a provisional license under section 286-102.6(d)."

The addition of the short clause would make DUI convictions free from the requirements to demonstrate financial responsibility, which is critical for insurance companies. The Attorney General in its testimony on this measure has repeatedly noted the serious ramifications on auto insurance. This proof of financial responsibility, commonly called SR22s, are one of the few ways that insurers are given notice about DUI's. Without the SR22, insurers would be denied the use of an essential tool, and would be forced to underwrite or continue to insure drivers with DUI convictions. By doing so, good drivers with insurance will pay for the costs of the drivers with convictions not reported to insurers. We object to that outcome.

We respectfully request that section 2 be stricken from the measure.

Thank you for the opportunity to present this testimony.

-
- (2) For a first offense committed by a highly intoxicated driver, or for any offense committed by a highly intoxicated driver not preceded within a five-year period by a conviction for an offense under this section or section 291E-4(a):
 - (A) A fourteen-hour minimum substance abuse rehabilitation program, including education and counseling, or other comparable program deemed appropriate by the court;
 - (B) Prompt suspension of a license and privilege to operate a vehicle for a period of six months with an absolute prohibition from operating a vehicle during the suspension period;
 - (C) Any one or more of the following:
 - (i) Seventy-two hours of community service work;
 - (ii) Not less than forty-eight hours and not more than five days of imprisonment; or
 - (iii) A fine of not less than \$150 but not more than \$1,000; and
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
 - (3) For an offense that occurs within five years of a prior conviction for an offense under this section or section 291E-4(a) by:
 - (A) Prompt suspension of license and privilege to operate a vehicle for a period of one year with an absolute prohibition from operating a vehicle during the suspension period;
 - (B) Either one of the following:
 - (i) Not less than two hundred forty hours of community service work; or
 - (ii) Not less than five days but not more than fourteen days of imprisonment of which at least forty-eight hours shall be served consecutively;
 - (C) A fine of not less than \$500 but not more than \$1,500; and
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
 - (4) For an offense that occurs within five years of two prior convictions for offenses under this section or section 291E-4(a):
 - (A) A fine of not less than \$500 but not more than \$2,500;
 - (B) Revocation of license and privilege to operate a vehicle for a period not less than one year but not more than five years;
 - (C) Not less than ten days but not more than thirty days imprisonment of which at least forty-eight hours shall be served consecutively;
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
 - (E) Forfeiture under chapter 712A of the vehicle owned and operated by the person committing the offense; provided that the department of transportation shall provide storage for vehicles forfeited under this subsection



AAA.com

March 25, 2008

The Honorable Rosalyn H. Baker
Chair, Ways and Means Committee
Hawaii State Capitol, Room 210
415 South Beretania Street
Honolulu, HI 96813
Fax 808-586-6071

Re: HB 3377
Position: Support
Hearing Date: March 27, 2008

Dean Chairwoman Baker:

AAA Hawai'i supports HB 3377, which requires installation of an ignition interlock device (IID) on the vehicle of a person arrested for driving under the influence that prevents persons from starting or operating motor vehicles with more than a minimal alcohol concentration in their system while their case is pending or license is revoked.

HB 3377 should be enacted for a number of good reasons. In the past year, our state has moved into the unenviable position of leading the nation in its rate of drinking and driving. In 2006, 52% of Hawai'i's traffic fatalities were alcohol related, a rate 27% higher than the 41% national average. And, the DUI problem in Hawai'i seems to be getting worse. In 1998, 47% of Hawaiian traffic fatalities were alcohol-related.

The state has made a number of commendable attempts to deal with the problem, including implementation of a minimum age 21 for legal consumption of alcohol, zero tolerance for drivers under 21 who consume alcohol and drive, and a .08% blood alcohol limit for drivers over age 21. But additional efforts are clearly needed to address our very serious DUI problem.

Hawai'i's recently released Strategic Highway Safety Plan proposed some important new ideas. These included special courts to processes drinking and driving cases, mandatory server training programs for all retail outlets selling alcohol, specialized training for police, prosecutors and the judiciary, high visibility sobriety checkpoints, and establishing an IID program for convicted drinking drivers.

Providing service to more than 10 million members
1130 N. Nimitz Highway, Suite A170, Honolulu, HI 96817





AAA.com

AAA Hawai'i was pleased to have worked with the ongoing ignition interlock Working Group to develop a series of recommendations about the potential use of this measure. While the measure will only be used on those previously arrested for DUI, who make up about one-third of drinking and driving arrestees, research shows that this device is capable of reducing DUI recidivism by 15%-69% while the device is on a vehicle.

Many issues remain to be worked out before a full ignition interlock device program can be implemented in Hawai'i, but AAA Hawai'i is pleased to see our state moving forward in its attempt to deal with this deadly problem.

Therefore AAA Hawai'i is pleased to support HB 3377 and its effort to develop an IID program for the state and to fund a new Task Force to address a number of IID issues that still need to be resolved. AAA Hawaii recommends that among the issues the Task Force addresses is whether the most effective approach to IID programs includes use of the device for first offenders and use of brief, rather than lengthy, license suspensions. We note that research to date has been mixed with regard to the effectiveness of IIDs for first offenders, and one study showed a downside to using IIDs with brief license suspensions. That study, in California, found that the number of non-alcohol-related crashes increased among offenders installing interlocks, probably because of their increased opportunity to drive.

AAA Hawai'i urges the state to mandate both administrative and outcome evaluations of the effectiveness of IIDs as part of HB 3377 and the work of the Task Force. In addition, the Legislature should consider adding a sunset provision should evaluations not show the program to be effective.

Respectfully submitted,

Richard E. Velazquez
AAA Hawai'i Regional Manager

Providing service to more than 10 million members

1130 N. Nimitz Highway, Suite A-70, Honolulu, HI 96817



We're always with you.



March 25, 2008

**Hawai'i SB 3234/HB3377
Support**

AAA Hawai'i supports AB 3234 and HB3377, which require installation of ignition interlock devices (IIDs) on vehicles of persons arrested for driving under the influence to prevent them from starting or operating a motor vehicle with more than a minimal alcohol concentration in their system while their case is pending or their license is revoked.

There are good reasons Hawai'i needs to implement AB 3234/HB3377. In the past year, our state has moved into the unenviable position of leading the nation in its rate of drinking and driving. In 2006, 52% of Hawai'i's traffic fatalities were alcohol related, a rate 27% higher than that (41%) of the US as a whole.

And, Hawai'i's problem seems to be getting worse. In 1998, for example, 47% of Hawaiian traffic fatalities were alcohol-related.

Hawai'i has made a number of attempts to deal with the problem – a minimum age 21 for legal consumption of alcohol, zero tolerance for drivers under 21 who consume alcohol and drive, and a .08% blood alcohol limit for drivers over age 21. But additional efforts are clearly needed to address our very serious problem.

The state's recently released Strategic Highway Safety Plan proposed some important new ideas. These included special courts to processes drinking and driving cases, mandatory server training programs for all retail outlets selling alcohol, specialized training for police, prosecutors and the judiciary, high visibility sobriety checkpoints, and establishing an ignition interlock program for convicted drinking drivers. The ignition interlock program would require that offenders place a device on their car that blocks ignition when drivers have over a preset amount of alcohol in their breath.

AAA Hawai'i was pleased to have worked with the ongoing ignition interlock Working Group to develop a series of recommendations about the potential use of this measure. While the measure will only be used on those already arrested for OUI, who make up about one-third of drinking and driving arrestees, research shows that this device is capable of reducing OUI recidivism by 15%-69% while the device is on a vehicle.

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Many issues remain to be worked out before a full ignition interlock device program can be implemented in Hawaii. But AAA Hawaii is pleased to see our state moving forward in its attempt to deal with its deadly problem.

Therefore AAA Hawaii is pleased to support AB 3234/HB3377 and its effort to develop an IID program for the state and to fund a new Task Force to deal with the many details of the ignition interlock device issue yet to be resolved.

AAA Hawaii notes, however, that there is little research to support the precise approach that AB 3234/HB3377 establishes. For example, research has been mixed on whether mandating IIDs for *first* offenders is effective in reducing drinking and driving.

Additionally, the approach that AB 3234/HB3377 mandates on license suspension for all offenders is based on little research on its effectiveness. The AB3234 / HB3377 approach would not initially require an offender to receive a lengthy license suspension. Instead, his or her initial license suspension would be short, followed by a lengthy period when an IID would need to be installed on his or her vehicle. A California study pointed out a potential problem with this approach, however.

The California IID study found that the number of *non-alcohol*-related crashes *increased* among DUI offenders who installed interlocks. This was likely due to the increased driving they did because they were not license-suspended. Since most crashes do not involve alcohol, the potential downside to the AB3234 / HB3377 approach could be considerable.

As a result of these concerns, AAA Hawaii urges the state to mandate both administrative and outcome evaluations of the effectiveness of IIDs as it considers its support of AB 3234/HB3377. Also, AAA Hawaii recommends that the state sunset the IID program should evaluations not show the program to be effective.

Respectfully Submitted,

Richard E. Velazquez
AAA Hawaii

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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON WAYS AND MEANS
Senator Rosalyn H. Baker, Chair
Senator Shan S. Tsutsui, Vice Chair

March 27, 2008
9:45 a.m.

HB 3377, SD1

Chair Baker, Vice Chair Tsutsui and members of the committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 60% of all property and casualty insurance premiums in the state.

HIC **opposes** Section 2, page 4, line 14 and Section 6, page 17, line 3 of HB 3377, SD1, which amends Section 287-20(a), HRS and Section 291E-41, HRS by removing the requirement to file financial responsibility from an individual whose license was suspended due to the offense of:

- Operating a vehicle while highly intoxicated;
- Operating a vehicle under the influence for the second time within five years; or
- Operating a vehicle under the influence for the third time within five years.

We are unsure why a bill that intends to make our roads safer would include this provision, which may counter the good intentions of the rest of the bill. The changes in the sections we have referenced eliminate the insurance verification mechanism for some of the most dangerous drivers on our roads. These are highly intoxicated or

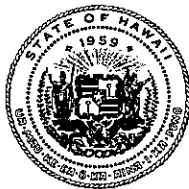
multiple DUI offenders and we believe that there is a significant public interest to make sure these high-risk drivers provide proof of financial responsibility to the state.

If the bill is approved with these provisions, HB3377, SD1 is likely to increase the premiums for safe, insured drivers. Most insurers charge additional premiums or fees for drivers required to file financial responsibility with the state. If these highly intoxicated or multiple DUI drivers no longer pay their fair share, safe drivers will pay more.

In summary, not requiring highly intoxicated or multiple DUI offenders to file financial responsibility has the potential to undermine many of the positive changes made by the Legislature to reduce the impact of drunk drivers on our roads. Doing so will also shift the cost of accidents caused by these DUI offenders to safe drivers.

We urge the committee to delete these provisions of HB 3377, SD1.

Thank you for the opportunity to submit testimony.



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

March 27, 2008

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 3377, SD 1

COMMITTEE ON WAYS AND MEANS

We support the intent of this bill, as long as the funding for the task force does not adversely impact the priorities of the Executive Supplemental Budget.

There were 79 alcohol-related fatalities in 2007, representing 49.1 percent of Hawaii's traffic fatalities, according to the Fatality Analysis Reporting System. Only three other states have higher percentages than Hawaii. Our current laws have not been sufficient in preventing the high number of DUI-related injuries and deaths. Hawaii is one of only five states without an ignition interlock statute. The ignition interlock system would provide an economical and technically feasible solution to help reduce alcohol-related injuries and deaths and keep our roads safer.

Last year Hawaii received \$429,000 in Section 410 federal funding, which funds alcohol countermeasures statewide including paying for overtime for county police departments to conduct sobriety checkpoints. The DOT recommends that the following provisions be included in the legislation to ensure we continue to receive this critical federal funding from the National Highway Traffic Safety Administration.

1. For a **first offender**, suspend all driving privileges for a period of not less than 15 days followed immediately by a period of not less than 75 days of a restricted, provisional or conditional license, if such license restricts the offender to operating only vehicles equipped with an ignition interlock. A restricted, provisional or conditional license may be issued only to permit the offender to operate a motor vehicle to and from employment, school, an alcohol treatment program or an interlock service facility; **AND**
2. For a **repeat offender**, suspend or revoke all driving privileges for a period of not less than one year, or not less than 45 days followed immediately by a period of not less than 320 days of a restricted, provisional or conditional license, if such license restricts that offender to operating only vehicles equipped with an ignition interlock. A restricted, provisional or conditional license may be issued only to permit the offender to operate a motor vehicle to and from employment, school, an alcohol treatment program or an interlock service facility; **AND**
3. For **first offenders** and **repeat offenders**, the suspension and revocation shall take effect not later than 30 days after the date on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol.



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March 27, 2008

To: Senator Rosalyn Baker, Chair, Committee on Ways & Means; Senator Shan Tsutsui, Vice Chair; and members of the Committee

From: Arkie Koehl – Public Policy Chair, MADD-Hawaii

Re: HB 3377 SD 1– Relating to Highway Safety

I am Arkie Koehl testifying on behalf of the membership of Mothers Against Drunk Driving – Hawaii, in strong support of HB 3377 SD 1 with an important amendment.

A Working Group was established by the Legislature last year to study ignition interlock and make recommendations leading to legislation. This measure was in response to our state’s increasingly alarming alcohol-related traffic fatality rate: 52% in 2006, the highest in the nation. It also recognized the need to look at innovative preventive measures beyond those traditionally in use. Finally, it acknowledged that other states are now using ignition interlock to save lives.

The Working Group comprised many stakeholders in addition to the Department of Transportation and MADD: representatives of the insurance industry, the auto industry, the Department of Health, the Judiciary, the Department of the Attorney General, county prosecutors, county police departments, the Public Defender, several members of the Legislature including members of these committees, representatives of the Governor and Lieutenant Governor, and other community groups

The Working Group met several times during 2007, reaching consensus on a score of key provisions deemed crucial for effective interlock legislation. The Group’s findings were submitted to the Legislature in December as an official report. MADD is gratified to note that virtually all the key findings from the Working Group have been incorporated into HB 3377 SD 1.

HB 3377 was amended in the Senate TIA and JDL committees for both substantive and technical reasons, in accordance with testimony put forward in several earlier Senate and House hearings. MADD supports the adoption of these amendments with one exception. MADD has a serious concern about an amendment appearing in the SD1 on page 4, line 14 and on page 17, line 3: through (b) (4). This short amendment concerns the need for an SR22, proof of financial responsibility. The words “through (b) (4)” would extend an exemption currently afforded only first offenders to all offenders.

The committee report 2445 from TIA/JDL (Feb. 15) indicates that this amendment was “to reference new sections in 291-E 61” but MADD does not believe that the committees intended to exempt all offenders from the SR22 requirement. Therefore, MADD asks that the words “through (b) (4)” be removed from both of the above referenced locations .

Since a number of important issues in the implementation of an effective ignition interlock program in Hawaii will require further discussion, HB 3377 SD 1 wisely calls for the establishment of a Task Force to present recommendations for additional legislation prior to the 2009 session. The bill specifies the composition of the Task Force, and calls for state funding “for the purpose of supporting the work if the ignition interlock implementation task force.”

As such funding will be required from the time HB 3377 SD 1 becomes law (July 1, 2008), and as no dollar amount is heretofore specified in the body of the bill, MADD and Department of Transportation Highway Safety staff have developed a budget for the 2008/2009 fiscal year. This budget covers estimated costs for: inter-island transportation for neighbor island Task Force members named in the bill; six meetings during the year; subcommittee meetings; and one-day-a-week clerical and support staffing. The estimate totals a minimum of \$32,000 up to a possible \$50,000 depending on travel and salary costs. We urge the Committee to authorize this modest outlay.

Thank you for the opportunity to submit this testimony.