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GOVERNOR



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IN REPLY REFER TO:

January 30, 2008

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 3377

COMMITTEE ON TRANSPORTATION

We support this bill with a recommended amendment.

Hawaii is one of only five states without an ignition interlock statute. According to the Fatality Analysis Reporting System (FARS), there were 79 alcohol-related fatalities in 2007, representing 49.1 percent of all of Hawaii's traffic fatalities. Only three other states have higher percentages than Hawaii. Hawaii's high incidence of drivers who repeatedly drive under the influence poses a danger to all roadway users. The ignition interlock system would provide an economical and technically feasible solution in helping to reduce the high number of alcohol-related fatalities and injuries.

The Department of Transportation (DOT) respectfully requests that the proposed legislation include the certification subsection from House Bill 3201, which recommends that the "ignition interlock system be certified by the Underwriters Laboratory Inc. or an equivalent nationally recognized certification organization." These organizations have the expertise and infrastructure needed and have been approved by the U.S. Department of Transportation to ensure that the interlock systems perform and meet National Highway Traffic Safety Administration guidelines and standards.

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:

House Committee on Transportation

HB 3377, RELATING TO HIGHWAY SAFETY

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

January 30, 2008, 9:00am

1 **Department's Position:** The Department of Health supports the intent of this ignition interlock bill but
2 prefers the administration bill, HB 3201. We are particularly concerned about Section 11, subsections
3 (b) and (c) (page 27 and 28), which designates the DOH as the lead agency to establish standards and
4 procedures for the certification of interlock devices and for the certification for vendors who install and
5 maintain ignition interlock devices. We recommend the language in HB 3201 (section 286H-8, page 6)
6 instead, which requires the ignition interlock system to be certified by the Underwriters Laboratory Inc.
7 or an equivalent nationally recognized certification organization. These laboratories have been
8 approved by U.S. Department of Transportation and have the expertise and infrastructure needed to
9 insure that the interlock systems perform and meet National Highway Traffic Safety Administration
10 guidelines and standards. The Department is also concerned that the measure will adversely impact
11 priorities in the Executive budget and defers to the Department of Transportation as the lead agency for
12 the implementation of the ignition interlock bill.

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

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

6 **Purpose and Justification:** States that have enacted interlock legislation have shown a drop in
7 recidivism rates by 50 to 95 percent. Hawaii is one of only 5 states without an ignition interlock law.

8 Alcohol related traffic fatalities remain tragically high in Hawaii; in 2006, 41 percent (58
9 drivers) of all drivers involved in traffic fatalities tested positive for alcohol. Among drivers involved in
10 fatal crashes, those who tested positive for alcohol were at least 3 times (6% vs. 2%) more likely than
11 other drivers to have had a previous conviction for DUI (Fatal Analysis Reporting System, National
12 Highway Traffic Safety Administration - NHTSA). In 2006 there were over 6,729 DUI arrests in
13 Hawaii. Based on a study conducted in 2005 by the City and County of Honolulu, over one fourth
14 (28%) of DUI arrestees have been previously arrested for a DUI. NHTSA and Center for Disease
15 Control and Prevention (CDC) conclude, when installed and in use, ignition interlocks are effective for
16 reducing alcohol related arrests and crashes.

17 Thank you for the opportunity to testify.



Testimony to the Twenty –Fourth State Legislature, 2008 Session

House Committee on Transportation
The Honorable Joseph M. Souki, Chair
The Honorable Scott Y. Nishimoto, Vice Chair

Wednesday, January 30, 2008, 9:00 a.m.
State Capitol, Conference Room 309

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

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

Judiciary's Position:

The Judiciary takes no position on the substantive amendments proposed by this measure but is analyzing the impact of same on the operation of the Administrative Driver’s License Revocation Office for future comment. The Judiciary does support 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.

Thank you for the opportunity to provide our comments on this measure.



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Transportation**

January 30, 2008, 9:00 a.m.

³³⁷⁷
H.B. No. ~~1812~~: RELATING TO HIGHWAY SAFETY

Chair Souki and Members of the Committee:

The Office of the Public Defender supports the intent of this measure, but has objections and concerns about specific portions of this bill.

The installation of an ignition interlock device would allow a person charged with operating a vehicle under the influence of an intoxicant to immediately regain his or her driving privileges and rather than suffer from a license suspension or revocation. The ignition interlock device would “force” this person to change his or her behavior by requiring the driver to either be sober or utilize a designated driver (friend, relative, taxicab or public transportation). The requirement of a digital camera would also protect against using a sober “proxy” blowing into the device for an intoxicated driver, and protect an innocent driver from being blamed for being “locked out” by another person who blew into his device.

We object to the across the board increase of the minimum license revocation from ninety (90) days to a year for a first-time arrest and from a year to two (2) years for a second time arrest. It seems suspicious that the beneficiary of an increase in the license revocation period will be the ignition interlock vender. The vender will quadruple their income from first-time offenders, and double their income for second-time offenders, with an increase of the revocation period. Not every person charged with OVUII will be choose or be able to install an ignition interlock device. The increase in the license revocation will hurt these individuals even more than those who were able to install the interlock device.

We also object to the requirement that all OVUII offenders be placed on at least one year probation. This requirement will require a complete overhaul of the district court probation system. With approximately five thousand (5,000) OVUII cases a year, the current district court system would not be able to handle the increase in probation revocation hearings, proof of compliance hearings and probation appointments. Be prepared to fund an additional judge, two (2) public defenders, and approximately twenty (20) additional probation officers. The district court staff, already overburdened by the requirement of JIMS will also have to be increased.

Potential vendors must be carefully scrutinized. When ACS, the company that sold us the van cam technology and the ill fated JIMS computer program, briefed the judiciary and legislature, we were equally impressed with their slick sales job and lofty promises. Needless to say, the van cam project was shelved after a few months, and the Judiciary has cancelled its contract with the JIMS vendor.

The SR-22 requirement for second, third and felony OVUII offenders should be revisited. What is the sense of requiring an offender to install an ignition interlock device if they are subject to the three (3) year license suspension requirement of SR-22? The SR-22 law requires an offender to post proof of financial responsibility (\$25,000) with the City Department of Financial Responsibility, or be subject to a three year license suspension. If this measure passes, there should be an accompanying waiver of the SR-22 law.

We should not pass this measure merely because Hawaii is one of the few states without an ignition interlock device law. While many states have enacted similar legislation, only a few states are currently utilizing ignition interlock devices. Ignition interlock devices may help to reduce drunk driving fatalities, but it will not eliminate them entirely. Thank you for the opportunity to testify on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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**THE HONORABLE JOSEPH SOUKI, CHAIR
HOUSE COMMITTEE ON TRANSPORTATION**
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

January 30, 2008

RE: H.B. 3377; RELATING TO HIGHWAY SAFETY.

Chair Souki and members of the House Committee on Transportation, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of the intent of H.B. 3377.

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, such as the elimination of an administrative lifetime revocation of license for persons with three or more prior alcohol or drug enforcement contacts and the reduction of the period of time the prior enforcement contacts must occur from the present offense, 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 will support the passage of

H.B. 3377. 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.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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January 28, 2008

TO: Representative Joseph M. Souki
Chair, Committee on Transportation
Hawaii State Capitol, Room 433
Via E-mail: TRNtestimony@Capitol.hawaii.gov
FROM: Joanna Markle
RE: H.B 3377 - Relating Highway Safety

Hearing Date: Wednesday, January 30, 2008, 9:00 a.m., Room 309

Dear Chair Souki and Members of the Committee on Transportation:

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. 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 to support this bill.

Thank you very much for this opportunity to submit testimony.



Mothers Against Drunk Driving HAWAII
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January 30, 2008

To: Representative Joseph Souki, , Chair, House Committee on Transportation;
Representative Scott Nishimoto, Vice Chair; and members of the Committee

From: Carol McNamee – Founder, MADD-Hawaii

Re: HB 3377 – Relating to Highway Safety

I am Carol McNamee testifying on behalf of the membership of Mothers Against Drunk Driving – Hawaii, in strong support of HB 3377.

During the 2007 legislative session Representative Souki introduced HCR 28 HD 1, calling for the Department of Transportation, together with MADD, to form a Working Group 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 which took shape under HCR 28 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 this committee, representatives of the Governor and Lieutenant Governor, and other community groups. MADD is not testifying on behalf of the Working Group but certain Working Group consensus items will be mentioned in our testimony.

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 Speaker of the House and the President of the Senate on Dec. 21st and are available here this morning to members who wish copies — as are copies of several other informative pieces on ignition interlock.

The most important of these provisions appear in the report’s Executive Summary and can be characterized as follows:

1. All convicted DUI offenders, not just repeat offenders, must be sentenced to have interlock devices. Even the first time offender is a serious danger to the public. By the

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time someone has been arrested for his first DUI, he has driven drunk on an average of 87 previous occasions. New Mexico has found that interlocks are as effective with first offenders (approximately 60% reduction in recidivism when on the vehicle) as they are for multiple offenders.

2. Interlock must be mandatory. In states where it is a sentencing option, it has not been used in large enough numbers to get any significant number of impaired drivers off the road. And interlock companies may be unwilling to set up a system in Hawaii if projected usage volumes are too low.
3. Interlock sentence length should vary: shorter for first offenders, longer for high risk drivers, second offenders, etc. Incentives for compliance, and penalties for non-compliance or cheating, are important. For example, consecutive months with no attempt to start the vehicle with a breath alcohol level, would result in early removal of the device. Conversely, repeated failed attempts to start, indicating that the offender still attempts to drink and drive, would result in extending the period of the original sentence.
4. An "ignition interlock driver's license" would be mandated. Holders would only be permitted to drive interlock-equipped vehicles. There would be provisions for an offender who was required to drive a company-owned vehicle as part of his employment.
5. As is common with interlock devices everywhere, "rolling retests" must be required — randomly timed warnings for the offender to pull off the road and again blow into the device. This is to prevent someone else from starting the car and the offender then taking the wheel impaired.
6. A digital camera synchronized with the test blow is available from some manufacturers and should be required as part of the anti-circumvention and anti-tampering tools built into most systems.
7. Circumvention and tampering should be treated as new crimes.
8. Since it is proposed that the cost of the device and system be borne by the offender, an indigent fund should be established for those with proven inability to meet the costs.

9. A period of 18 months to 2 years following passage of legislation should be allowed before the law takes effect during which time a Task Force would be authorized to address the parts of the system that are not defined in this bill and to plan for the implementation of the interlock program in Hawaii.

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MADD believes that the following additional issues should be also be addressed by the Task Force established under Section 12:

- Interlocks required for Habitual Offenders?
- Assurance that all eligible offenders are required to install interlock devices when the statutes are conformed.
- Assurance that the revocation (and interlock) periods for offenders refusing the chemical test at the time of arrest are longer than the revocation periods for offenders failing the test. (In order to encourage arrestees to take the breath or blood test.)
- Determination of whether individuals arrested for driving on a suspended or revoked

- license should be eligible for an interlock device.
- Determination of whether commercial drivers with a category 4 drivers license should be eligible for an interlock for their personal vehicle by receiving a category 3 license.

MADD proposes the following amendments to this bill:

In order to standardize the time periods for which a respondent's or offender's driving record is checked for prior alcohol-related law enforcement contacts, HB3377 sets 5 years as the "look back period." Instead of decreasing the period to 5 years, MADD strongly recommends that the look back period be a standard 10 years in conformance with recommendations of NTSB (National Traffic Safety Board). It is possible and quite likely that a number of years would elapse between arrests since a person can drive impaired at least 87 times before being arrested. (NHTSA) There are a number of places in this bill where *10 years* should be substituted for 5 years.

Page 42, lines 10-11, change "board of directors of Mothers Against Drunk Driving, Hawaii Chapter" to: Council of Mothers Against Drunk Driving Hawaii to reflect the official name of our local governing body.

MADD is extremely gratified to note that HB 3377, either in the text of the bill or in the list of issues to be discussed by the Task Force, incorporates virtually all of the suggestions of the many community stakeholders in the Working Group. We urge the passage of this bill with the suggested amendments.

Thank you for the opportunity to testify.



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER
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HOUSE COMMITTEE ON TRANSPORTATION

Representative Joseph M. Souki, Chair

Representative Scott Y. Nishimoto, Vice Chair

Wednesday, January 30, 2008

HB 3377

Chairman Souki, Vice Chairman Nishimoto and members of the Committee, my name is Tim Dayton. I am the General Manager for GEICO, the largest automobile insurer in Hawaii. **GEICO strongly supports HB 3377.** As an insurance company, we see the injuries, death and destruction that results from people driving while intoxicated and respectfully urge your support. Enactment of this Bill will make Hawaii's road safer for all of our citizens. Thank you for the opportunity to testify.

Timothy M. Dayton, CPCU



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Joseph Souki, Chair
House Transportation Committee

From: Samuel Sorich, Vice President

RE: **HB 3377 – Relating to Highway Safety**
PCI Position: Support

Date: Wednesday, January 30, 2008
9:00 a.m.; Conference Room 309

The Property Casualty Insurers Association of America (PCI) is an association of property/casualty insurers. There are more than 100 PCI member companies doing business in Hawaii. PCI members are responsible for 62 percent of the private passenger automobile premiums written in Hawaii.

PCI supports HB 3377's introduction of the use of interlock devices as part of the effort to remove dangerous drivers from Hawaii's roads. The bill establishes a system that balances the rights and obligations of persons who are suspected of or are convicted of driving under the influence of alcohol with the public's need to be protected from drunk drivers. As the bill recognizes, the implementation of the interlock device program presents some issues that will need to be resolved, but PCI is confident that the task force established by the bill can successfully address these issues.

PCI believes HB 3377 is good public policy, and PCI requests that the Committee vote Yes on the bill.