



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2245, RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Monday, February 25, 2008 **TIME:** 10:00 AM

LOCATION: State Capitol Room 016
Deliver to: Committee Clerk, Room 226, 1 copy

TESTIFIER(S): WRITTEN TESTIMONY ONLY.
(For more information, please call Lance M. Goto,
Deputy Attorney General, at 586-1160.)

Chair Taniguchi 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.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-fourth State Legislature
Regular Session of 2008
State of Hawaii

February 25, 2008

RE: SENATE BILL 2245; RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES

HEARING: Monday, February 25, 2008, 10:00 a.m., Conference Room 016

Good morning Chair Taniguchi and members of the Judiciary and Labor Committee, the Department of Prosecuting Attorney submits the following testimony in support of S.B. 2245, 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 Senate Bill 2245. Thank you for your time and consideration.

LATE

testimony

From: Carolyn Fujioka [carolyn.fujioka.atxn@statefarm.com]
Sent: Monday, February 25, 2008 9:46 AM
To: testimony
Subject: FW: Testimony SB2245 (Late)

**Testimony to the Senate Committee On Judiciary and Labor
Conference Room 016, State Capitol
Monday, Feb. 25, 2008 10:00 a.m.**

RE: Senate Bill 2245

Chair Taniguchi, Vice Chair Hee, 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 Senate Bill 2245.

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 never 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.