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IN REPLY REFER TO:

February 4, 2008

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 3123

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

We strongly support this bill.

According to the Fatality Analysis Reporting System (FARS), there were 79 alcohol-related fatalities in 2007, representing 49.1 percent of Hawaii's traffic fatalities. Only three other states have higher percentages than Hawaii. Our state's high incidence of individuals who repeatedly drive under the influence, poses a danger to the health and safety of the public.

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. By utilizing this technology, a convicted DUI offender would not be able to start a vehicle equipped with the ignition interlock system, when under the influence.



Testimony to the Senate Committee on Judiciary and Labor

Senator Kalani J. English, Chair
Senator Mike Gabbard, Vice Chair
Monday, February 4, 2008, 2:45 p.m.
State Capitol, Conference Room 224

By

Ronald K. Sakata
Chief Adjudicator
Administrative Driver's License Revocation Office

Bill No. and Title: Senate Bill No. 3123, Relating to Vehicle Ignition Interlock Systems.

Purpose: Establishes an ignition interlock program, which directs the courts and the administrative driver's license revocation office to require use of the system as part of the sentence for driving under the influence of an intoxicant, as a condition for conditional license permits, and as a condition for being released.

Judiciary's Position:

The Administrative Driver's License Revocation Office (ADLRO) takes no position on the intent of this measure.

However, our concern, as with any amendment to the ADLRO's statutory directives, is that sufficient lead time is provided to implement any documentary and/or procedural changes.

If the measure is enacted, virtually all of ADLRO's forms, utilized by law enforcement as well as the judiciary, would require extensive changes to ensure the issue of notice to respondents is properly addressed. In terms of procedure, because the issue of conditional license permits must be raised at hearing, it is not clear what effect, if any, the additional requirement of an ignition interlock would have on the willingness of the respondent to request same, and the subsequent impact on our case load.

We have several questions regarding Section 291E-44(a)(3), as proposed in this measure:

- Should the respondent be prohibited from the use of the conditional license



Senate Bill No. 3123, Relating to Vehicle Ignition Interlock Systems
Senate Committee on Transportation and International Affairs
Monday, February 4, 2008
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permit until such time as the ignition interlock device is actually installed?

- Should that period be made to begin only at installation?
- Should there be a specified grace period allowed for the time it takes to make arrangements for the payment and installation of same?

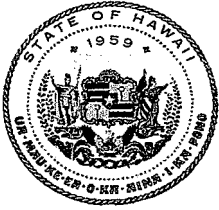
Finally, we have additional questions regarding the standards to be used to determine compliance for the proper or acceptable use of the ignition interlock devices:

- Should the vendors report failures, violations, and/or attempted disruptions to the use of the devices?
- Should there be any sanctions applied for abuse or misuse during the conditional license permit period?
- Under what conditions and when might disqualification or termination of the permit be applicable?

These oversight issues concern us if we are charged with the responsibility of supervision, as opposed to merely reviewing periodic reports from the ignition interlock vendors on the status of the respondents' use of same.

Accordingly, we respectfully request that these operational concerns be addressed and strongly urge that the effective date of January 1, 2009 be a firm date so as to afford us sufficient time to prepare for our part in the new requirements.

Thank you for the opportunity to provide testimony on this bill.



**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 Senate Committees on Transportation
and International Affairs**

February 4, 2008, 2:45 p.m.

S.B. No. 3123: RELATING TO VEHICLE IGNITION INTERLOCK SYSTEMS

Chair English 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).

While this measure would allow individuals convicted of OVUII to drive after installing an ignition interlock device on their vehicle, the driver would still be faced with a period of time where driving would be absolutely prohibited (Section 6, page 12, line 11, page 13, line 12, page 14, line 18 and page 15, line 19). Only after the expiration of the time period prohibited driving would the person be allowed to drive his vehicle equipped with the ignition interlock device. In order for this measure to work, the individual must be allowed to drive immediately after the installation of the ignition interlock device, without an absolute period of prohibited driving. If this measure is not amended to allow driving immediately upon the installation of the ignition interlock device, our office will withdraw its support for this bill.

We object to the across the board increase of the minimum license revocation from ninety (90) days to a year and ninety days for a first-time arrest and from six months to two (2) years for a highly intoxicated driver. It seems suspicious that the beneficiary of an increase in the license revocation period will be the ignition interlock vender. The vender will quintuple their income from first-time offenders, and quadruple their income for highly intoxicated drivers, with an increase of the revocation period. Not every person charged with OVUII will 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 ask that this committee insert language requiring the installation of a digital camera linked with the ignition interlock device. The requirement of a digital camera would protect against using a sober "proxy" blowing into the device for an intoxicated driver, and also protect an innocent driver from being blamed for being "locked out" by another person who blew into his device.

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.

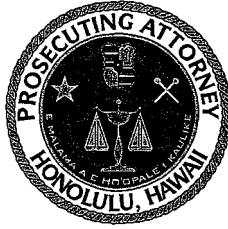
The SR-22 requirement for second, third and felony OVUII offenders should be revisited. What is the sense of requiring an offender to install an ignition interlock device if they are subject to the three (3) year license suspension requirement of SR-22? The SR-22 law requires an offender to post proof 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.

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

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

February 4, 2008

RE: S.B. 3123; RELATING TO VEHICLE IGNITION INTERLOCK SYSTEMS.

Chair English and members of the Senate Committee on Transportation and International Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of the intent of S.B. 3123.

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.

We do have concerns with some aspects of this bill, including the fact that imposition of the ignition interlock is discretionary instead of mandatory, except in the cases of third time offenders. We also note that, as written, this bill would take effect on January 1, 2009, which would give affected agencies only six to seven months to implement the changes that this bill would cause. In addition, there does not appear to be any opportunity for fine tuning or amendment of the provisions

prior to implementation. Given the legal complexities of this issue and the unresolved issues of resources and the changes in procedures needed for implementation, we prefer the approach of S.B. 3234 which has delayed implementation date of July 1, 2010 and a task force which is mandate to review issues related to ignition interlock and fine tune the bill prior to its implementation.

Thank you for this opportunity to testify.



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February 4, 2008

Testimony To: Senate Committee on Transportation and International Affairs
Senator J. Kalani English, Chair

Presented By: Tim Lyons, Legislative Liaison
Anheuser Busch Companies

Subject: S.B. 3123 – RELATING TO VEHICLE IGNITION INTERLOCK SYSTEMS.

Chair English and Members of the Committee:

I am Tim Lyons, Legislative Liaison for Anheuser Busch Companies and we generally support this bill.

Ignition interlocks are the wave of the future and it is only a matter of time before all cars will have some type of alcohol testing built into the operational aspect of the car. Recently, a system was demonstrated in Japan which has sensors in the headrest which samples the drivers breath and others have included a mechanism in the seatbelt buckle that test for alcohol.

Our concern however, is two-fold. One is the "Super Law" that is imposed by Section three (3) of the bill mandating that a person's alcohol concentration must be less than .02 pending their adjudication, when the standard for all other citizens is .08.

Secondly, we also do not believe that ignition interlocks should be provided for first time offenders but rather for repeat offenders and for those who test at abusive levels such as .15.

For the Committee's information, as of late 2007, there are only four (4) states out of approximately forty (40) that mandate ignition interlock systems for first time offenders and we feel this is because other states are going with this technology but they are going with it cautiously. While we realize that there are individuals that need to be caught, there are also a good number of individuals that do get caught, have caused no accidents or other problems, and as a result of the process, never drive drunk again. We think that it is important to remember that it is not illegal to have a drink; it is illegal to drink too much and drive.

Based on the above, we support this bill but would like to see it redirected in the two (2) areas we mentioned above.

Thank you.



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February 4, 2008

To: Senator Kalani English, Chair, Senate Committee on Transportation and International Affairs; Senator Mike Gabbard, Vice Chair; and members of the Committee

From: Arkie Koehl, Chairman – Public Policy Committee, MADD-Hawaii

Re: Senate Bill 3123– Relating to Vehicle Ignition Interlock Systems

I am Arkie Koehl speaking on behalf of the membership of MADD Hawaii in support of the intent of SB 3123. MADD gratefully acknowledges the Legislature's interest in the ability of interlock technology to exacerbate our state's increasingly serious impaired driving problem, noting that twelve bills have been introduced in this biennium.

After years of successful decline in alcohol-related traffic fatalities in Hawaii, the trend has reversed. In 2006 Hawaii ranked worst in the nation, with 52% of our traffic fatalities being alcohol-related. This disturbing percentage is baffling, because our state leaders — legislative, executive, Judiciary and community — have done so much to combat drunk driving.

MADD believes that people who are still driving drunk are doing it because they can — in spite of all the laws currently in place. In response to this sad fact, most states now recommend the use of ignition interlock devices in the vehicles of DUI offenders, and several states require interlocks for all offenders. Hawaii is one of only five states with no ignition interlock law of any kind. An early 1990s interlock law in Hawaii was later repealed for various reasons, among them the inability to attract interlock companies probably because of insufficient numbers of device installations to justify companies' investments without a law requiring interlock for all offenders.

Interlock devices are small, sophisticated instruments installed into the starting circuit of vehicles. They are about the size of a cell phone. The driver blows into the device using a special technique that discourages others, who have not been trained, from performing the procedure. Some devices also come equipped with a digital camera that takes a synchronized photo of the person initiating the test. In just a few seconds, the device determines if the operator is alcohol-impaired, based on pre-programmed parameters. The vehicle starts up for a sober driver and will not start for a drinking driver. Periodic re-tests are required after the car is underway. A data logger captures and reports all pertinent data, including attempts to circumvent or tamper with the device.

Offenders, not taxpayers, absorb the costs for the installation and operation of these devices. Offenders themselves favor interlock, because they can avoid a lengthy judicial or administrative license suspension. With an interlock device, the offender is able to drive normally, pursuing his/her daily activities and career — but the public is safer, and lives are saved.

In 2007 a Working Group was formed comprising the Department of Transportation, 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 are mentioned in this 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 afternoon to members who wish copies — as are copies of several other informative pieces on ignition interlock. The most important of these provisions are attached as an appendix to this testimony.

SB 3123 mandates the use of ignition interlock devices for installation on the vehicles of first OVUII offenders during the conditional permit period where the offender may drive a vehicle to treatment programs or for work related purposes. In addition, interlock is required on the administrative revocation track after an offender has completed his or her revocation period as a condition of reapplying for another driver's license.

Although SB3123 imposes an interlock requirement at some point on almost all offenders, thereby meeting one of the Working Group's recommendations to make interlock mandatory for all offenders, the bill fails to fulfill the crucial recommendation that interlock be placed on vehicles as soon after arrest as possible. Since a significant percent of drivers inevitably choose to drive illegally on a suspended or revoked license, the quicker they adapt to interlock the more effective the measure will be, preventing offenders from driving after consuming alcohol and thereby increasing the safety of the public and the drivers themselves.

On the criminal track, SB3123 imposes the use of an interlock device only as an *optional* sanction to be ordered by the Court unless a person has two prior convictions and then installation of an interlock is mandatory but only after the end of the revocation period.

MADD also believes that since the cost of installing and servicing the interlock device should be borne by the offender, there needs to be an indigent fund established to help those unable to afford the costs involved. SB3123 does not provide for financial assistance.

MADD realizes that SB 3123 includes a number of important provisions but because of its omissions and the fact that it makes no suggestion for a time period to plan for the implementation of the complex interlock system, we prefer another Senate bill, SB 3234, which more completely covers the ground researched and agreed on by the 2007 Working Group. MADD also sees that there may be a number of valuable components in SB 3261.

Thank you for the opportunity to testify.

APPENDIX

Selected Consensus Recommendations of the Ignition Interlock Working Group (constituted under HCR 28 HD 1, 2007).

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 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. It is important to install the interlock on an offender's vehicle as soon as possible to prevent the person from "learning" that he can illegally (but probably successfully) drive on a suspended or revoked license.
4. 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.
5. 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..
6. 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.
7. 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.
8. Circumvention and tampering should be treated as new crimes.
9. 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.

GOODSILL ANDERSON QUINN & STIFEL

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February 1, 2008

TO: Senator J. Kalani English
Chair, Senate Committee on Transportation and International Affairs
Hawaii State Capitol, Room 205
Via E-mail: testimony@capitol.hawaii.gov

FROM: Joanna Markle

RE: S.B. 3123 – Relating to Vehicle Ignition Interlock Systems

Hearing Date: Monday, February 4, 2008 @ 2:45 p.m., Room 224

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 the intent of S.B. 3123. 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. 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.

Thank you very much for this opportunity to submit testimony.