

Honolulu, Hawaii

May 1, 2009

RE: H.B. No. 981
H.D. 2
S.D. 2
C.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 981, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to continue to promote highway safety by statutorily establishing several recommendations of the Ignition Interlock Implementation Task Force (Task Force) established by Act 171, Session Laws of Hawaii 2008 (Act 171). Among other things, this bill:

- (1) Provides that indigent persons qualifying for state-funded ignition interlock devices must have incomes not greater than an unspecified percent of the official poverty line established by the Secretary of Health and Human Services under the Community Services Block Grant Act;



- (2) Requires the Director to select a single vendor to install and maintain ignition interlock devices under the statewide program relating to the certification and monitoring of ignition interlock devices;
- (3) Allows for the emergency override of the ignition interlock system when such override is necessary to promote highway safety;
- (4) Amends various periods of administrative revocation of license and privilege to operate a vehicle, based on the number of prior alcohol or drug enforcement contacts;
- (5) Provides penalties for failing to install an ignition interlock device during the revocation period;
- (6) Changes the "look back period" for determining whether a driver has had a prior law enforcement contact for an alcohol-related incident, from five years to ten years;
- (7) Specifies that persons committing the offense of operating a vehicle under the influence of an intoxicant (OVUII) shall be guilty of a petty misdemeanor and sentenced without the possibility of the suspension of sentence;
- (8) Amends various other sentencing provisions for persons committing the offense of OVUII;
- (9) Eliminates administrative revocation and criminal sentencing provisions for highly intoxicated drivers;
- (10) Establishes an absolute prohibition from driving during a period of probation if the person on probation does not own or have use of a vehicle in which an ignition interlock device can be installed or the person is otherwise unable to drive during the probation period;
- (11) Eliminates the provision limiting the admissibility of the refusal to submit to a test of a person's breath or blood for legally arrested individuals under the age of 21;
- (12) Establishes mandatory terms of probation for repeat OVUII offenders;
- (13) Eliminates provisions requiring the installation of an ignition interlock device and issuance of an ignition



interlock permit for defendants released on bail, recognizance, or supervised release;

- (14) Repeals statutory language regarding the issuance of conditional license permits; and
- (15) Extending the existence of the Task Force for an additional year.

Hawaii has experienced an alarmingly high number of alcohol-related traffic fatalities over the past several years. While enforcement of existing laws governing OVUII has had an impact on alcohol-related traffic fatalities, it appeared that more needed to be done to bring about substantial improvement.

In response to these alarming numbers, H.C.R. No. 28, H.D. 1, was passed during the 2007 legislative session, calling for a working group to be formed to study the issue of ignition interlocks and make recommendations leading to legislation. In 2008, legislation was recommended that established an ignition interlock device program in Hawaii and was enacted as Act 171. The program established under Act 171 would require the installation of ignition interlock devices, which prohibit a vehicle from being started until the driver of the vehicle passes a breathalyzer test that is connected to the ignition of the vehicle, on vehicles of those convicted of OVUII under certain conditions.

While Act 171 served as a framework from which to build the ignition interlock program, the complex nature of establishing the ignition interlock program in Hawaii necessitated the establishment of the Task Force to address numerous issues before the actual implementation of the program. Several of the initial recommendations of the Task Force are contained in this measure.

After further consideration, your Committee on Conference has amended this bill by:

- (1) Reinstating the below 125 percent of the official poverty line income criteria for indigent persons qualifying for state-funded ignition interlock devices;
- (2) Authorizing the Director to adopt rules pursuant to Chapter 91 to effectuate the provisions dealing with payment for the installation and maintenance of ignition interlock devices for indigent persons;



- (3) Eliminating the provision allowing for emergency override of the ignition interlock system;
- (4) Reestablishing the "look back period" at five, rather than ten, years;
- (5) Removing language specifying that OVUII offenders are guilty of a petty misdemeanor and shall be sentenced without the possibility of the suspension of sentence;
- (6) Reestablishing the maximum prison time for a first offense at five days rather than 30 days;
- (7) Establishing a period of imprisonment of not more than five days for a second offense committed within five years of a prior conviction;
- (8) Establishing a period of imprisonment of up to five days for an offense committed within five years of two prior convictions;
- (9) Changing its effective date to ensure that the intent and purpose of Act 171, Session Laws of Hawaii 2008, and this Act will be enacted and take effect at the appropriate times; and
- (10) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 981, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 981, H.D. 2, S.D. 2, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE

J. Kalani English

J. KALANI ENGLISH, Chair

Brian T. Taniguchi

BRIAN T. TANIGUCHI, Co-Chair

Joseph M. Souki

JOSEPH M. SOUKI, Co-Chair

Jon Riki Karamatsu

JON RIKI KARAMATSU, Co-Chair

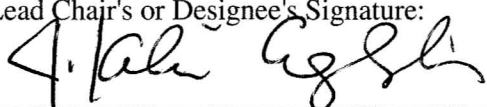
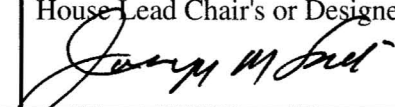
Karen Lenani Awana

KAREN LENANI AWANA, Co-Chair



CR116

Hawaii State Legislature
 Record of Votes of a
 Conference Committee

Bill / Concurrent Resolution No.: HB 981, HD 2, SD 2					Date/Time: 4-30-09 10 AM				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
ENGLISH, J. Kalani, Chr.	✓				SOUKI, Joseph M., Co-Chr.	✓			
TANIGUCHI, Brian T., Co-Chr.	✓	/			KARAMATSU, Jon Riki, Co-Chr.	✓			
SLOM, Sam	✓				AWANA, Karen Leinani, Co-Chr.	✓			
					HAR, Sharon E.	✓			
					LEE, Marilyn B.	✓			
					PINE, Kymberly Marcos	/			
TOTAL	3				TOTAL	6			
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature: 					House Lead Chair's or Designee's Signature: 				
Distribution:		Original File with Conference Committee Report			Yellow House Clerk's Office		Pink Senate Clerk's Office		Goldenrod Drafting Agency