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IN REPLY REFER TO:

February 14, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 1754

COMMITTEE ON TRANSPORTATION

House Bill 1754 exempts excessive speeding from the requirement to provide proof of financial responsibility from a license suspension or revocation.

The Department opposes this bill.

Speeding is one of the leading contributing factors in fatal traffic crashes. In 2005, 13,113 lives were lost in speeding-related crashes nationwide. In Hawaii, according to the Fatality Analysis Reporting System (FARS), statewide data from 2005-2007 shows that speed-related fatal crashes consistently accounted for nearly half of all fatal crashes, and of the 439 total fatalities, 212 (or 48.3 percent) were speed-related.

By exempting excessive speeding offenders from the requirement to provide proof of financial responsibility, there will no longer be an assurance that these drivers, especially repeat violators will be held financially accountable and liable for any future collisions that they may be involved in and will continue to drive.



**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**

February 14, 2009, 9:00 a.m.

H.B. No. 1754: RELATING TO TRAFFIC VIOLATIONS

Chair Souki and Members of the Committee:

The Office of the Public Defender supports H.B. 1754, but suggests that certain amendments be made to this measure.

The excessive speeding law (HRS §291C-105) was touted as a way to reduce dangerous driving habits and an easier way to prosecute drivers who race on our highways. The law criminalizes driving in excess of eighty (80) miles per hour, and thirty miles over any posted speed limit. Anyone convicted of this offense is not allowed to enter a deferred acceptance of a guilty plea, and ends up with a criminal record. The mandatory license suspension also triggers the requirements of SR-22. Most drivers are caught in speed traps rather than observed driving errantly or racing. Our attorneys have reported that one hundred percent of their cases are the result of speed traps, and none from racing type offenses. Two years later, this law has single-handedly led to congested court calendars, and resulted in burned out prosecutors and public defenders. Private defense attorneys have been known to charge as much for excessive speeding cases as they do for OVUII cases, because OVUII cases are easier to defend. The reason for the court congestion is simple. The requirements of SR-22 and inability to enter a deferred acceptance of a guilty plea forces defendants to fight the charge rather than plead guilty to a crime, and suffer the consequences of SR-22. The potential jail term entitles all individuals charged with excessive speeding to an attorney. If the excessive speeding law were amended by decriminalizing first offenses, allowing deferred acceptance of guilty pleas and/or exempted from the requirements of SR-22, the court congestion will disappear, and most defendants will plead guilty at their first appearance. The message sent to those drivers will be just as effective as it is under the current law.

The Office of the Public Defender suggests the following changes to H.B. 1754:

1. **Deletion of subsection (c)(1)(B) on page 3, lines 11 to 20.** A thirty day license suspension is too severe for first-time offenders. Individuals who drive for a living, or who are the sole means of transportation for their family should be given one chance to change their driving behavior before being subjected to such a harsh penalty.
2. **Changing subsection (c) on page 3, lines 3 to 4 to read, "Any person who violates subsections (2) and (3) of this section shall be guilty of a petty misdemeanor and**

shall be sentenced as follows without the possibility of probation or suspension of sentence”, and deleting **subsection (c)(1)(G) on page 4, lines 8 to 9**. A vast majority of our cases, approximately ninety-nine percent, involve first-time offenders. If excessive speeding were decriminalized for first-time offenders, ninety-nine percent of our excessive speeding cases would disappear, and a majority first-time offenders would plead guilty at their arraignment and plea hearing, virtually eliminating the court congestion that exists today. Please bear in mind that the congestion affects all courts, not just the traffic courts, and especially the Ewa, Kaneohe, Waianae and Wahiawa Districts, where judges have mixed calendars and hear all of the cases assigned to their district.

3. **Amending subsection (c)(1) to read**, “For a first offense not preceded by a prior conviction for a offense under this section in the preceding five years, and when the court has not deferred further proceedings pursuant to chapter 853.” We would prefer the decriminalization of first offenses, as we believe that the decriminalization of first offenses and elimination of the SR-22 requirement are the two key changes that need to be made to this law in order to eliminate court congestion. However, if this committee chooses not to decriminalize first-time offenses, we ask that first-time offenders be allowed to enter no contest or guilty pleas and seek permission from the court to defer the acceptance of their pleas.

We support the passage of H.B. No. 1754 with our suggested amendments. Thank you for the opportunity to be heard on this matter.



- 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
Conference Room 309 State Capitol
Friday, February 14, 2009, 9:00 a.m.
HB 1754 – Relating to Traffic Violations

Chairman Souki, Vice Chairman Awana, and Members of the Transportation Committee:

My name is Timothy Dayton, General Manager of GEICO in Hawaii.

GEICO provides jobs for 170 associates at its Hawaii Branch office and is Hawaii's largest motor vehicle insurer. **GEICO opposes House Bill Number 1754.**

House Bill 1754 would exempt excessive speeding from the requirement to provide proof of financial responsibility from a license suspension or revocation.

Section 287-20 of the Hawaii Revised Statutes requires that when a person's driver's license is suspended or revoked, he or she must show the requisite compliance with financial responsibility requirements in order to have his or her license reinstated. This requirement is good public policy meant to ensure that persons who have been deemed to be dangerous enough drivers as to warrant the suspension or revocation of their driver's license at least meet the **minimum**

financial responsibility requirements before they are permitted to again drive on the streets of Hawaii.

Exemption of persons who have been convicted of excessive speed would be an abrogation of the duty to protect the public from drivers who have repeatedly demonstrated their disregard of the safety of others without confirming that the person has a minimum of liability insurance coverage to protect the public from any damage caused by their acts.

In addition, allowing a person to have his or her driver's license reinstated would be a tacit encouragement that it is acceptable to drive without the requisite insurance required by Hawaii law. This behavior should not be encouraged.

House Bill 1754 is bad public policy and would result in more drivers driving uninsured in Hawaii to the detriment of the public good. We ask that you vote against this measure.

I very much appreciate the opportunity to submit this testimony.

A handwritten signature in black ink, appearing to read "Timothy M. Dayton", with a long horizontal flourish extending to the right.

Timothy M. Dayton



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON TRANSPORTATION
Representative Joseph M. Souki, Chair
Representative Karen Leinani Awana, Vice Chair

Saturday, February 14, 2009
9:00 a.m.

HB 1754

Chair Souki, Vice Chair Awana 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.

Hawaii Insurers Council **opposes H.B. 1754** which would exempt drivers whose license has been suspended or revoked for excessive speeding from filing proof of financial responsibility (SR 22).

HIC members believe that SR 22s for excessive speeders should be retained as it serves as a tool for the insurance industry to properly price the risk of future bad driving behavior. The additional premiums charged serve as a deterrent to drivers to not drive recklessly on our roadways while serving their main purpose of assessing driver risk. If bad drivers do not pay their fair share, good drivers will pay more.

In addition, without the SR 22 requirement, insurers may request more traffic abstracts, which will increase insurers' administrative costs and these costs will eventually be passed on to the consumer. The cost of a single traffic abstract is a statutory minimum of \$7 and as high as \$10 for those insurers that use a vendor to access driving record information.

We respectfully request that H.B. 1754 be held.

Thank you for this opportunity to testify.

**HOUSE COMMITTEE ON
TRANSPORTATION**

February 14, 2009

House Bill 1754 Relating to Traffic Violations

Chair Souki and members of the House Committee on Transportation, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders. State Farm opposes House Bill 1754 Relating to Traffic Violations.

House Bill 1754 exempts a conviction or license revocation for excessive speeding from the proof of financial responsibility requirement. The excessive speeding requirement is stated in section 291C-105, and states:

“§291C-105 Excessive speeding. (a) No person shall drive a motor vehicle at a speed exceeding:

- (1) The applicable state or county speed limit by thirty miles per hour or more; or
- (2) Eighty miles per hour or more irrespective of the applicable state or county speed limit.”

State Farm believes that good public policy does not exempt those convicted of excessive speeding from proving that they have financial responsibility. Usually displayed by insurance the proof of financial responsibility is a tool for the safety of the driving public. Exempting someone convicted of speeding 80-85 miles an hour on a public freeway or surface street is bad public policy, and we see no good reason for allowing such an exemption.

For these reasons we ask the committee to hold the bill.

Thank you for the opportunity to present this testimony.