



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 981, RELATING TO HIGHWAY SAFETY.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 10, 2009 **TIME:** 2:00 PM

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Mark J. Bennett, Attorney General  
or Mark K. Miyahira, Deputy Attorney General

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Chair Karamatsu and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, but has concerns about certain provisions.

The purpose of this bill is to enact recommendations of the Legislative Ignition Interlock Implementation Task Force pursuant to Act 171, Session Laws of Hawaii 2008. It is our understanding that this is an ongoing process, and that the Task Force will present additional recommendations during the 2010 legislative session.

We note the following concerns:

In section 6, on page 12, lines 14-21, and on page 13, lines 1-5, this bill will require respondents who are going through the administrative driver's license revocation process, and who do not install an ignition interlock device in their vehicle during the revocation period, to have their licenses and privilege to operate a vehicle revoked for the same respective period of time as respondents who refused to submit to testing.

This provision does not reflect the majority position of the Task Force, which believed that it would be unfair to more severely punish individuals who do not have a vehicle in which an ignition interlock device may be installed, including individuals who cannot afford to own a vehicle.

In section 7, on page 20, lines 8-19, this bill will require the courts to sentence criminal defendants, who have demonstrated that they either did not own or did not have use of a vehicle in which an ignition interlock device could be installed, or who are otherwise unable to drive, to have their licenses and privilege to operate a vehicle revoked for the maximum period of probation in their respective cases.

This provision also does not reflect the majority position of the Task Force, which believed that it would be unfair to more severely punish individuals who do not have a vehicle in which an ignition interlock device may be installed, including individuals who cannot afford to own a vehicle.

In section 7, on page 14, lines 4-5, this bill will amend section 291E-61, Hawaii Revised Statutes, to authorize courts to place criminal defendants on probation. However, section 706-624.5(2)(a) states that as a further condition of a sentence of probation, a defendant may be sentenced to serve "five days in petty misdemeanors cases." Therefore, placing a defendant on probation would clearly conflict with the sentencing scheme in section 291E-61(b)(3)(C), where a defendant must be sentenced to serve no less than ten days but not more than thirty days of imprisonment. A sentence of probation may also conflict with the sentencing scheme in section 291E-61(b)(2)(B)(ii), where a defendant may be sentenced to serve no less than five days but not more than thirty days of imprisonment.



**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 Judiciary  
February 10, 2:00 p.m.**

H.B. No. 981: RELATING TO HIGHWAY SAFETY

Chair Karamatsu and Members of the Committee:

The Office of the Public Defender supports the intent of this measure, but has 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.

**CONCERNS:**

Indigency Criteria:

HB 981 defines an indigent person as an individual whose income is less than a fixed percentage of the official poverty line as set by the U.S. Department of Human Services, or an individual who is eligible for free services under the Older Americans Act or Developmentally Disabled Act. An inflexible income limit tied to the official poverty line does not take into account the higher cost of living in Hawaii and special circumstances (high debt and expenses) for each individual. The court and/or ADLRO administrator should be able to declare a defendant an indigent for the purposes of the ignition interlock on a case-by-case basis. Assuming we adopt one hundred and twenty-five percent of the poverty line as our fixed percentage, a defendant with a family of four earning more than \$26,500.00 will have to pay for the ignition interlock out of his or her own pocket. If this person has circumstances which either places him in negative income or high debt each month (medical expenses, etc.), a judge or hearings officer should be able to make an exception to the income limit and declare an individual an indigent for the purposes of this act. The failure to make such exceptions will create a class of people who will be unable to install ignition interlock devices on their automobiles.

### Probationary Periods:

The Office of the Public Defender opposes probationary terms and favors a proof of compliance model for OVUII offenses for the following reasons:

1. Currently, OVUII offenders are not placed on probation, but are monitored by the court at proof of compliance hearings. These hearings are attended by the offender, without the appearance of a Deputy Public Defender. Defendant's who are required to attend probation review hearings and motions to modify and/or revoke probation are entitled to written notice of any motion to modify or revoke probation, an evidentiary hearing and legal representation. The effect of placing OVUII offenders on probation will be to substantially increase the caseload of the courts, prosecutors and public defenders.

2. Cost. There will be a financial cost to implementing a probationary system to monitor OVUII cases. The Office of the Public Defender will have to add attorneys. The Judiciary will have to add a significant number of probation officers and support staff. Additional office space may be required to house the probation officers, as the district court currently does not supervise OVUII cases.

3. Implementation. The task force proposed maximum jail terms of five, fourteen and thirty days for first, second and third offenses, and making OVUII a petty misdemeanor. However, the maximum jail allowed as a condition of probation for a petty misdemeanor is five days. The court would not be able to sentence a second-time offender to a fourteen day jail term and probation.

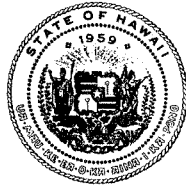
### Refusals:

The Office of the Public Defender opposes criminalizing refusals (refusing to be tested for breath or blood alcohol content) and allowing refusals as evidence in an OVUII trial. We believe that doubling the license revocation for refusals (as proposed by the task force) and an SR-22 violation are sufficient deterrents to discourage refusals. Furthermore, the addition of a criminal penalty will increase the amount of contested cases in court and result in an increased caseload for the courts and the Office of the Public Defender.

The ignition interlock legislation will drastically change the DUI climate in Hawaii. Penalties will be increased, and a probationary model introduced. Such change will not come cheap. An entirely new probationary division will have to be created, with additional probation officers and support staff. There will be an increase in court congestion, which may require adding judges, court staff and attorneys to handle the increased caseload.

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.

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 Judiciary

### HB 981, RELATING TO HIGHWAY SAFETY

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

February 10, 2009, 2:00 p.m.

1 **Department's Position:** The Department of Health supports HB 981. The Department of Health defers  
2 to the Department of Transportation regarding the establishment of an ignition interlock program and  
3 provided that this measure does not adversely impact the spending priorities as set forth in our Executive  
4 Supplemental Budget.

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

7 **Fiscal Implications:** This bill sets up an ignition interlock special fund administered by the director of  
8 transportation for indigents. The special fund is funded by a surcharge that is assessed when the ignition  
9 interlock is installed. All other violators pay for their own ignition interlock installation and  
10 maintenance.

11 **Purpose and Justification:** Alcohol related traffic fatalities remain tragically high in Hawaii; in 2007,  
12 50 percent (69 drivers) of all drivers involved in traffic fatalities tested positive for alcohol. Among  
13 drivers involved in fatal crashes, those who tested positive for alcohol were at least 3 times (6% vs. 2%)  
14 more likely than other drivers to have had a previous conviction for DUI (Fatal Analysis Reporting  
15 System, National Highway Traffic Safety Administration - NHTSA). In 2008 there were 6,975 DUI

1 arrests in Hawaii. Based on a study conducted in 2005 by the City and County of Honolulu, over one  
2 fourth (28%) of DUI arrestees have been previously arrested for a DUI. NHTSA and the Centers for  
3 Disease Control and Prevention (CDC) conclude, when installed and in use, ignition interlocks are  
4 effective for reducing alcohol related arrests and crashes.

5 HB 981 addresses the key recommendations that were made by the Ignition Interlock Task  
6 Force, which was established after the legislature passed Act 171 in 2008. Act 171 requested the  
7 Department of Transportation develop an Ignition Interlock Task Force to study issues identified in Act  
8 171 during the interim and make recommendations for additional legislation necessary to implement use  
9 of the ignition interlock devices. Recommendations from the Ignition Interlock Task Force include  
10 creating interlock laws with mandatory sentencing for all convicted impaired driving offenders,  
11 establishing penalties for tampering and circumvention of interlock devices, and stricter laws and  
12 increased enforcement to deter those who would try to avoid installation.

13 Thank you for the opportunity to testify.



## *THE JUDICIARY, STATE OF HAWAII*

### **Testimony to the Twenty-Fifth Legislature, Regular Session of 2009**

House Committee on Judiciary  
The Honorable Jon Riki Karamatsu, Chair  
The Honorable Ken Ito, Vice Chair

Tuesday, February 10, 2009, 2:00 p.m.  
State Capitol, Conference Room 325

by  
Walter M. Ozawa  
Deputy Administrative Director of the Courts

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**Bill No. and Title:** House Bill No. 981, Relating to Highway Safety

**Purpose:** To enact recommendations made by the ignition interlock implementation task force pursuant to Act 171, Session Laws of Hawaii 2008.

#### **Judiciary's Position:**

The Judiciary takes no position on this measure but will monitor ongoing ignition interlock implementation task force recommendations to determine fiscal and other impacts on program operations.

Of particular note is the provision in this bill which authorizes the court to place a criminal defendant on probation. SECTION 7 (b)(2) and (b)(3) place an offender on probation for 18 months to two years. Currently, the Adult Client Services Branch (adult probation) supervises over 19,000 probationers in the State of Hawaii. We try to ensure public safety by focusing our resources on the highest risk offenders, which include sex offenders, domestic violence offenders, and serious drug offenders, so they do not re-offend. Due to the current economic situation, the probation office is already operating with numerous vacant positions and probation officers are being taxed to their limits. This provision will require that the probation office supervise approximately 3,000 more adult offenders, which will strain our already overburdened personnel and resources, necessitating an increase in staff and funding. It is estimated that 3,000 new offenders would require an additional 10 probation officers who would



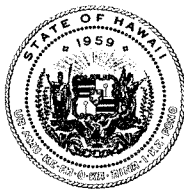
House Bill No. 981, Relating to Highway Safety.  
House Committee on Judiciary  
February 10, 2009  
Page 2

be carrying caseloads of 300 clients. If these offenders are supervised by the Adult Client Services Branch, adequate funding will be required.

The Judiciary is pleased to continue to work with the task force to address all concerns.

Thank you for the opportunity to comment on House Bill No. 981.





STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 10, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 981

COMMITTEE ON JUDICIARY

On behalf of the Hawaii Ignition Interlock Implementation Task Force, **the Department supports the passage of House Bill 981 with an amendment.**

The Task Force, which was established by Act 171 of the 2008 Legislative Session, recommends deleting the following from House Bill 981, on page 7, lines 15 and 16:

Permit an emergency override of the system only when necessary to promote highway safety;

Any reference to the "emergency bypass" is a technical matter that belongs only in the administrative rules under a heading of "Operational Procedures." It is available only under unusual circumstances when a vehicle stalls or there is some other emergency situation on the road when the vehicle has been running.

Furthermore, the task force met from July to December 2008 to address the issues designated by Act 171. The recommendations to amend Act 171 are listed below and have been incorporated into House Bill 981:

- Return to requiring interlock for ALL offenders, including first offenders, repeat offenders and those who refuse to take the breath or blood test. Interlock installation will be mandatory for these offenders. (The 2008 legislature amended the bill in the last days of the session to include only highly intoxicated first offenders with a BAC of .15 or above.)
- Offenders will be required to pay for installation and monthly servicing of the device. There will however be an indigent fund established for individuals who cannot afford the cost. The formula for determining indigency has not yet been established. The fund will be supported through a surcharge added to the interlock service fees charged the offenders who are able to pay.
- A hybrid system will be used to administer and oversee the interlock program. The system will consist of an administrative system operated through the current Administrative Drivers' License Revocation office and a judicial system through the State District Courts.
- First offenders will be monitored through "proof of compliance" hearings. Repeat offenders will be given probation with oversight, which will be conducted by a probation officer.

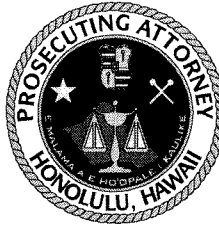
- The maximum jail terms for first, second and third OVUII petty misdemeanor offenses will all be set at 30 days. This differs from the current system of 5 days, 14 days, and 30 days respectively.
- Time periods for the administrative system: First offender will be required to have interlock for one year period; second offender - 18 month interlock period; third offender - 24 month interlock period. Judicial system will impose essentially the same time periods with the exception of the 2nd offender who could have as long as a 24 month interlock period depending on the circumstances.
- Failure to be able to start the vehicle because of an amount of alcohol in the breath above the preset level of .02 will not result in the person being charged with a crime. The consequence will be that the vehicle will not start until the person is below .02.
- Rolling retests (random testing after the vehicle is underway) will be required with a consequence of the driver being unable to restart the vehicle once it is stopped if he or she fails the test or neglects to take the test.
- Tampering with or circumventing the system will result in the offender being charged with a new crime. Circumvention will include driving another vehicle not equipped with an ignition interlock device.
- There will no longer be two categories of "first offender." The proposed bill will repeal the "highly intoxicated driver" category and all first offenders will be exempted from the requirement to post proof of financial responsibility.
- The consequence for a person with four or more law enforcement contacts will no longer be a lifetime revocation. Offenders with four or more OVUII law enforcement contacts will be given a 5 to 10 year license revocation. Ignition interlock will be used in the monitoring of this group of offenders.
- Drivers who refuse to take a chemical test will be required to install an interlock device on their vehicles for a time period twice the length of time required for those who take the chemical test and fail it, according to the periods imposed for a first, second, or third law enforcement contact. The Task Force is also recommending that refusing to submit to testing be made a criminal offense rather than a civil matter.
- Act 171 unintentionally changed the "look back" periods to five years rather than the recommended 10 years. The Task Force is recommending that the "look back" periods for determining whether an arrestee has one, two, three or more prior law enforcement contacts be all uniformly set at 10 years.
- There will be a single vendor because of the small size of our state and the improved opportunity to work together to create an efficient and cost effective system.

The major recommendations above reflect a majority of the Task Force. The remaining unresolved issues have been deferred until later this year, after the close of the 2009 legislative session, to be presented to the 2010 legislature.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE  
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DOUGLAS S. CHIN  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE JON RIKI KARAMATSU, CHAIR**  
**HOUSE JUDICIARY COMMITTEE**  
**Twenty-fifth State Legislature**  
**Regular Session of 2009**  
**State of Hawai'i**

February 10, 2009

**RE: H.B. 981; RELATING TO HIGHWAY SAFETY.**

Chair Karamatsu and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney submits the following testimony in general support of H.B. 145 but with several suggested amendments.

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. To this end, the legislature established a task force which was mandated to review this issue and to make recommendations for the implementation of an ignition interlock program. A wide range of stakeholders were included in the task force including our department, which was given the opportunity to participate in and give input to the task force.

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 a concern with one aspect of this bill, primarily with recommendation of the Ignition Interlock Implementation Task Force to eliminate the lifetime revocation of driver's license for drivers that have had four or more arrests for Operating a Vehicle Under the Influence of an Intoxicant during a ten year period; a five to ten year revocation period with an ignition interlock is proposed in place of the lifetime revocation.

Our concerns are that these drivers have repeatedly chosen to drive while impaired despite escalating sanctions for their behavior and multiple opportunities for assessment and

treatment for their substance abuse issues. Due to their repeated inability or unwillingness to modify their behavior and refrain from drinking and driving, these drivers are extremely dangerous and pose a significant risk of injury or death to others. We are concerned that the ten year revocation period as proposed by the task force does not provide sufficiently stringent safeguards for preventing the relicensing, after the ten year revocation is completed, of those drivers who have: 1) not had a consistent and extended record of sobriety; or 2) who not reliably refrained from driving after use of an intoxicant. For these reasons, we have chosen to respectfully dissent from the majority's recommendation that the lifetime revocation of driver's license for repeat impaired drivers be eliminated and replaced with a five to ten year revocation period with ignition interlock.

In addition, we have several suggested amendments. First of all, we suggest deletion of the phrase "and for those who assert that they have no vehicle or will not drive at all" from lines 14 and 15 of page 3 as it does not comport with our understanding of the majority's recommendation on how to sanction drivers who claim not to have a car or who claim to have a car but will not drive. For the same reason, we suggest the word "maximum" be deleted on page 12 line 17 and on page 20 line 14.

We also recommend that line 5 on page 14 be amended to read: "a petty misdemeanor and shall be sentenced as follows without possibility of suspension of sentence." This is to prevent a court from imposing the mandated conditions of Hawaii Revised Statute (HRS) section 291E-61 and then suspended them pursuant to State v. Batson, 99 Haw. 118 (2002).

We also believe that a conforming amendment to HRS section 706-623 be included to permit a two year probation for convictions under HRS 291E-61. Currently HRS 706-623 provides for a six month term of probation for petty misdemeanors, although the six months may be enlarged to one year upon the finding of good cause. As the OUVUII offense is a petty misdemeanor under HRS 291E-61, a two year probation is not currently possible and as H.B. 981 contemplates an 18 month and two year probation periods for second and third offenses under HRS 291E-61, we believe that HRS 706-623 should be amended to specifically permit the two year probation periods for HRS 291E-61 proposed in this bill to avoid any conflict or confusion.

We also note that HRS section 706-624 only permits a maximum of five day term of imprisonment as a condition of probation. For that reason we recommend amending lines 3-6 on page 18 and lines 7-9 at page 19 to read: "Up to five days of imprisonment of which at least forty-eight hours shall be served consecutively."

For the same reason, we recommend that lines 3 to 4 on page 20 be amended to read: "maximum term of imprisonment provided in paragraph (1), (2) or (3). Notwithstanding..." As currently drafted this portion of SB 981 would appear to contemplate that the additional mandatory 48 hours of imprisonment imposed for impaired operation of vehicle with a minor passenger could result in a term of imprisonment of five to thirty days. As H.B. 981 is requiring probation for second and third offenses of drunk driving, any prison imposed for these offenses will have to be imposed as a condition of probation and cannot exceed five days pursuant to HRS 706-624. Our proposed amendment will provide that the maximum term of imprisonment cannot exceed the five days permitted as a condition of probation.

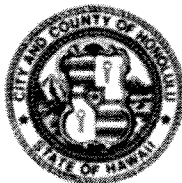
Finally, we note that paragraph (6) on page 20 should be correctly renumbered to (5) and that the references to the paragraphs imposing probation on page 20 line 15 should be paragraphs (2) to (4) instead of (1) to (5).

We strongly support the concept of ignition interlocks and respectfully request your favorable consideration of this bill and our proposed amendments. Thank you for the opportunity to testify.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org

MUFI HANNEMANN  
MAYOR



BOISSE P. CORREA  
CHIEF

PAUL D. PUTZULU  
KARL A. GODSEY  
DEPUTY CHIEFS

OUR REFERENCE TTN-LC

February 10, 2009

The Honorable Jon Riki Karamatsu, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Karamatsu and Members:

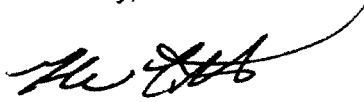
Subject: House Bill No. 981, Relating to Highway Safety

I am Major Thomas Nitta of the Traffic Division of the Honolulu Police Department, City and County of Honolulu.


The Honolulu Police Department supports House Bill No. 981, relating to highway safety for the implementation of an ignition interlock device to prevent drivers arrested for operating under the influence of alcohol, to operate a vehicle under the influence. The recommendations under House Bill 981 resolve many issues under Act 171, considering all persons in a realistic approach to these issues.

Thank you for this opportunity to testify.

Sincerely,

  
THOMAS T. NITTA, Major  
Traffic Division

APPROVED:

for:   
BOISSE P. CORREA  
Chief of Police

*Serving and Protecting With Aloha*

***Hawaii Ignition Interlock Implementation Task Force***  
***Established by Act 171 – Twenty-fourth Legislature – Regular session of 2008***

February 10, 2009

To: Representative Jon Riki Karamatsu, Chair – House Committee on Judiciary;  
Representative Ken Ito, Vice Chair; and members of the committee

From: Carol McNamee, Vice Chairman – Hawaii Ignition Interlock Implementation  
Task Force

Re: House Bill 981 – Relating to Highway Safety

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I am Carol McNamee, Vice Chairman of the Ignition Interlock Implementation Task Force, speaking in support of House Bill 981, Relating to Highway Safety.

The Hawaii Ignition Interlock Implementation Task Force was established by Act 171 of the 2008 Legislative Session. The issues for the Task Force to consider were listed in Act 171 although the Task Force was not limited to only those issues. Act 171 provided the first step in establishing a system for increasing highway safety by requiring drivers arrested for operating a vehicle under the influence of an intoxicant (OVUII) to install an ignition interlock device in their vehicle for a specific period of time. The interlock device, wired into the vehicle's ignition system, prevents the vehicle from starting when it detects alcohol in the breath of the driver after the person blows into its mouthpiece.

Not only does an ignition interlock system prevent an alcohol impaired person from getting on the road, it records the history of each attempted start – successful or unsuccessful – and each retest the driver is required to take after the vehicle is underway. This information is downloaded on a regular schedule at one of a number of service centers which will be set up throughout the state. Interlock technology prevents impaired drivers from getting on the road while also giving OVUII offenders the privilege of legally driving as long as they are operating an interlock equipped vehicle. This system enhances public safety while allowing the compliant offender to drive anywhere, anytime.

The Interlock Ignition Implementation Task Force was given the job of amending Act 171 to provide additional information necessary for the establishment of a workable interlock system in Hawaii with the goal of having the interlock system go into effect by July 1, 2010. The Task Force worked from July to December 2008 to create a number of recommendations incorporated into HB 981. Certain issues were deferred until later this year, after the close of the 2009 legislative session, to be presented to the 2010 legislature.

The major recommendations of the Ignition Interlock Task Force have been incorporated into HB 981 and include the following:

- The Task Force unanimously recommended requiring interlock for ALL offenders - first offenders as well as repeat offenders - and those who refuse to take the breath or blood test. Interlock installation will be mandatory for these offenders.
- Offenders will be required to pay for installation and monthly servicing of the device although there will be an indigent fund established for those who cannot afford the cost. Formula for determining indigency has not yet been established. The fund will be supported through a surcharge added to the interlock service fees charged the offenders who are able to pay.
- The system to administer and oversee the interlock program should be a hybrid: partly an administrative system operated through the current Administrative Drivers' License Revocation office; and partly a judicial system through the State District Courts.
- First offenders should be monitored through "proof of compliance" hearings; repeat offenders will be given probation with oversight by a probation officer.
- The maximum jail terms for first, second and third OVUII petty misdemeanor offenses should all be set at 30 days instead of the current system of 5 days, 14 days, and 30 days respectively.
- The Task Force recommends revocation time periods during which interlock devices would be required to be installed on the vehicle. First offenders in the administrative system would be given a one year revocation and interlock period; second offender - 18 month interlock period; third offender - 24 month interlock period. The Judicial system will impose essentially the same time periods with the exception of the 2nd offender who could have as long as a 24 month interlock period depending on the circumstances.
- Failure to successfully start the vehicle because of alcohol in the breath above the preset level of .02 should not result in the person being charged with a crime. The consequence will be that the vehicle will not start until the person is below .02.
- Rolling retests (random testing after the vehicle is underway) will be required with a consequence of the driver being unable to restart the vehicle once it is stopped if he or she fails the test or neglects to take the test.
- Tampering with or circumventing the system will result in the offender being charged with a new crime. Circumvention will include driving another vehicle not equipped with an ignition interlock device.
- There need no longer be two categories of "first offender." The proposed bill repeals the "highly intoxicated driver" category and all first offenders will be exempted from the requirement to post proof of financial responsibility.



- The consequence for a person with four or more law enforcement contacts should no longer be a lifetime revocation. Offenders with four or more OVUII law enforcement contacts will be given a 5 to 10 year license revocation. Ignition interlock should be used in the monitoring of this group of offenders.
- Drivers who refuse to take a chemical test should be required to install an interlock device on their vehicles for a time period twice the length of time required for those who take the chemical test and fail it, according to the periods imposed for a first, second, or third law enforcement contact. The Task Force is also recommending that refusing to submit to testing be made a criminal offense rather than a civil matter.
- Act 171 unintentionally changed the “look back” periods to five years rather than the recommended 10 years. The Task Force is recommending that the “look back” periods for determining whether an arrestee has one, two, three or more prior law enforcement contacts be all uniformly set at 10 years.
- There should be a single vendor because of the small size of our state and the improved opportunity to work together to create an efficient and cost effective system.
- The effective date should be delayed by six months (to January 1, 2011) to allow for the implementation of any amendments made by the 2010 legislature.

**The reference to an emergency override on page 7, lines 15 – 16, should be deleted and later inserted as an “emergency bypass” provision in the administrative rules.**

These points reflect the recommendations of a majority of Ignition Interlock Task Force members. On behalf of the Task Force, I thank you for the opportunity to testify and urge the passage of HB 981.



**MADD**  
Activism | Victim Services | Education™

Mothers Against Drunk Driving HAWAII  
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Honolulu, HI 96813  
Phone (808) 532-6232  
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February 10, 2009

To: Representative John Riki Karamatsu, Chair – House Committee on Judiciary;  
Representative Ken Ito, Vice Chair; and members of the committee

From: Arkie Koehl — Chair, Public Policy, MADD - Hawaii

Re: House Bill 981 – Relating to Highway Safety

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I am Arkie Koehl, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving in strong support of HB 981 which reflects the recommendations of the Interlock Implementation Task Force created in last year's Act 171, the ignition interlock law.

We applaud the Task Force for its diligence in addressing the issues outlined in Act 171 and believe the amendments in HB 981 represent a significant step forward in safety for the citizens of Hawaii and visitors to our state.

MADD's views parallel those expressed in the Task Force testimony submitted for this hearing.

We respectfully urge passage of House Bill 981, and look forward to the ongoing task of addressing any outstanding issues prior to the 2010 legislative session.

Thank you for this opportunity to testify.