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IN REPLY REFER TO:

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

February 1, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 2727

COMMITTEE ON TRANSPORTATION

The Department of Transportation opposes this bill, as we believe a person who places others on the road in grave danger, should have their license revoked for life, which is consistent with HB 2752 that proposes the final recommendations of the Ignition Interlock Law.

It was known that these offenders, even with their license revoked, would continue to drive without being detected by police. This was the reason why the Ignition Interlock Law was created, to prevent drivers who have been drinking from driving and putting others at risk. We believe that the ignition interlock will prevent the drinking driver from getting behind the wheel. These people can continue to drive provided they do not have any alcohol in their system.



THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Transportation

The Honorable Joseph M. Souki, Chair

The Honorable Karen Leilani Awana, Vice Chair

Monday, February 1, 2010, 9:00 a.m.

State Capitol, Conference Room 309

by

Ronald Sakata

Chief Adjudicator

Administrative Driver's License Revocation Office (ADLRO)

Bill No. and Title: House Bill No. 2727, Relating to Administrative License Revocation

Purpose: Permits driver whose license has been administratively revoked for life to seek reinstatement of the license after 10 years have passed since the occurrence of the lifetime revocation. Requires driver to have had no arrests or convictions for driving while license revoked and to be free from dependency or abuse of alcohol and drugs. Effective 7/1/11.

Judiciary's Position:

The Judiciary does not take a position on the intent of House Bill No. 2727. Our only concern is that there will be an, as yet not possible to determine, impact on the current ADLRO case and hearing load. Accordingly, since this measure is silent regarding the hearing procedures to be imposed, save for the general reference to §291E-45, we request that language be inserted in the measure which would allow ADLRO to set the hearing, if granted due to the preliminary assessment, within sixty (60) days from the date of receipt of the request.

In addition, we respectfully request that there be no exemption, for any reason, from the payment of the \$50 hearing request fee.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE JOSEPH SOUKI, CHAIR
HOUSE TRANSPORTATION COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2010
State of Hawai`i

February 1, 2010

RE: H.B. 2727; RELATING TO ADMINISTRATIVE LICENSE REVOCATION.

Chair Souki and members of the House Committee on Transportation, the Department of the Prosecuting Attorney submits the following comments in opposition of H.B. 2727.

The purpose of this bill is to permit persons who have had their driver's licenses administratively revoked for life for repeatedly driving while intoxicated to request a reinstatement of the license if: 1) 10 years or more have passed since revocation; 2) the person provides written proof that the person is not in need of substance abuse treatment; and 3) there is a sworn statement containing information that the respondent no longer poses a real and serious danger to the safety and welfare of the people of the state. In addition, the bill requires denial of the application if the respondent has been arrested, adjudicated or convicted for any traffic infraction in this or another jurisdiction.

Impaired driving is an extremely serious problem in our state. According to statistics provided by Mothers Against Drunk Driving, Hawaii had 140 traffic deaths in 2005 and 51% or 71 of these were alcohol related. Recognizing that impaired driving has resulted in needless death and injury to the public, the state has previously passed laws which require the lifetime revocation of driver's licenses for persons who have been found driving impaired four or more times in a ten year period. We believe this is sound policy given that drivers with prior

convictions are over represented in fatal crashes and have a greater risk of having a fatal crash. We also believe if the people are permitted to request a reinstatement from previously imposed lifetime revocation, it would impair the deterrent effect of lifetime revocation. The threat of an absolute lifetime revocation was intended to make it clear to people who chose to drink and had been previously found to be driving impaired, that they could and should not continue to drink and then drive.

We do realize that the Ignition Interlock Task Force has proposed legislation which has a minimum of five year to ten year license revocation period for those who previously received a lifetime revocation; the reduction in the license revocation period from lifetime revocation to a minimum of five years to ten years will go into effect on January 1, 2011 and will apply to those persons who commit their repeat offense on or after January 1, 2011. We do have reservations about the reduction in the lifetime revocation period proposed in the ignition interlock task force legislation and this bill due to concerns that if the revoked driver gets reinstated but then has another impaired driving offense, that offense may not result in another lifetime revocation. Under the current law, lifetime revocation only occurs when a driver four or more prior impaired driving offenses during a ten year period preceding the last notice of administrative revocation. If the person reoffends after reinstatement, it is possible that one or more of the prior impaired driving offenses will now be beyond the ten year period and thus the person who previously had a lifetime revocation will be considered a first, second or third offender all over again and could have multiple opportunities to obtain the privilege to drive.

We also note that this bill requires denial of the application if the respondent has been arrested, adjudicated or convicted for any traffic infraction in this or another jurisdiction. Traffic infractions, as defined in Hawaii Revised Statute (HRS) section 291D-2 means "all violations of statutes, ordinances, or rules relating to traffic movement and control, including parking, standing, equipment, and pedestrian offenses, for which the prescribed penalties do not include imprisonment and that are not otherwise specifically excluded from coverage of this chapter." Traffic infractions do not include more serious traffic and criminal offenses such as impaired driving, reckless driving, excessive speeding, fleeing the scene, negligent homicide in the first, second or third degree or negligent injury in the first or second degree. It seems nonsensical to require the denial of application for an infraction such as an illegal right turn but not for commission of a more serious traffic offense that carries a possible term of imprisonment.

For these reasons, we oppose the passage of H.B. 2727. Thank you for the opportunity to testify.



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February 1, 2010

To: Representative Joseph M. Souki, Chair – House Committee on Transportation;
Representative Karen Leinani Awana, Vice Chair; and members of the committee

From: Arkie Koehl — Chairman, Operations Council, MADD Hawaii

Re: House Bill 2727 – Relating to Administrative License Revocation

I am Arkie Koehl, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving on HB 2727, relating to administrative license revocation. This bill provides the guidelines for a program to allow OVUII offenders, who have been given the sanction of a lifetime drivers license revocation after having four or more alcohol or drug law enforcement contacts, to regain their driving privilege.

The Hawaii Ignition Interlock Implementation Task Force has addressed the issue of lifetime drivers license revocation once ignition interlocks become available in our state. The Task Force decided to recommend that from January 1, 2011 on, respondents with four or more OVUII law enforcement contacts will be given a five to ten year driver's license revocation rather than a lifetime revocation. During the revocation period, the person will be required to drive an ignition interlock equipped vehicle. The Task Force recommends not addressing the issue of retroactivity – along with several other issues - until the basic interlock system has been implemented and has shown to be working well. At some later time other issues such as this one will be reconsidered.

MADD, as a member of the Task Force agrees that the lifetime revocation penalty should remain in place for respondents who have been issued a lifetime revocation before January 1st, 2011. Therefore, MADD is not in support of HB 2727 at this time.

Thank you for this opportunity to testify.