

LATE TESTIMONY

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February 1, 2010

To: Representative James Souki, Chair Transportation Committee
Representative Karen Awana, Vice Chair and Members of the Committee

Re: HB-2727 Relating to Administrative Lifetime License Revocation

I am testifying as an interested individual to encourage modifications to, and passage of HB-2727 which was introduced to permit drivers, like myself, who have received a single administrative lifetime license revocation (ALLR) to seek reinstatement of the license after ten years have passed and also who can demonstrate that they are no longer prone to alcohol or substance abuse.

On January 19, 1997 I had my fourth alcohol contact in a ten year period and received an administrative lifetime license revocation (ALLR). Not driving these past thirteen years has affected every aspect of my life from the most important to the mundane. My license status dictates where I live, where I work, who I work for, how often I see my grown children and my grandson. I have lost jobs, been turned down for new employment opportunities, have been passed over for promotion and even turned down for life insurance solely because of my lifetime revocation. There has not been a day that has gone by over the last thirteen years where I have not wished I had a driver license. A lifetime revocation has been a burden on me and my family and I can only imagine how much harder it would be for someone who lived on the neighbor islands where public transportation is not as readily available.

I fully realize what a privilege it is to be able to drive legally. I also recognize how irresponsible I was in the past and how lucky I was that I never was involved in a crash or caused injury driving while intoxicated. The ALLR I received was the wake up call I needed and since then I have turned my life around and have been sober over five years. In 2007 I sent a letter to Ronald Sakata who is the Chief Adjudicator for the Administrative Drivers License Office asking what I could do to get my license reinstated. Mr. Sakata responded, saying, in part "Currently therefore regrettably, I do not, nor does any other person, office, or agency have the authority or discretion to amend your revocation period." I have come to understand that even if the Governor was inclined to pardon me for one or all of my DUI convictions, that I could not by the letter of the law, become eligible for license reinstatement.

According to MADD's publication *2009 State Progress Report*, in relation to the percentage of alcohol related traffic fatalities; Hawaii ranked 47th out of the 51 (50 states and the District of Columbia). This poor record - in spite one of the toughest set of laws regarding suspensions and revocations in the country. It is apparent that more needs to be done in Hawaii to reduce the number of alcohol related traffic fatalities.

Hawaii is one of only sixteen states that has a maximum mandatory license suspension for DUI offenses greater than six years. Hawaii is only one of five states remaining in which, following a permanent license revocation; there is no a provision in place for petitioning for possible license reinstatement. In the American Association of State Highway and Transportation Officials publication titled *Addressing Collisions Involving Unlicensed Drivers and Drivers with Suspended or Revoked Licenses*;

Measures traditionally employed to make it more difficult for unlicensed suspended or revoked drivers to obtain or retain a license are ineffective and may even be counterproductive. Because of the costs of reinstating licensure, including the cost of vehicle insurance after a conviction for DUI, many drivers choose to remain unlicensed but continue to drive. In California, there are about 1 million suspended or revoked drivers in the state at any given time and an additional estimated 1 million who are unlicensed (DeYoung, 1999, p. 46). When drivers are suspended or revoked, they are on the record system, and at least some level of control may be exerted over them. However, unlicensed drivers are more difficult to monitor, so that simply threatening to remove licensure for longer and longer periods of time does not solve the problem of hardcore offenders. Neither does education, jail sentences, or treatment programs. Something more is required.

ACT 171 which goes into effect on January 1, 2011, in part, recognizes that lifetime revocations are not effective. The "something more" envisioned by the new laws is the combination of tougher jail sentences, vehicle impoundment and the utilization of interlock devices in the vehicles of repeat offenders. However, in this new set of laws there are no provisions for those will hold a lifetime revocation on January 1, 2011. In fact, a person arrested or convicted on December 31, 2010 with three prior alcohol enforcement contacts would receive a lifetime revocation while, that same person, if arrested or convicted one day later, on January 1, 2011 could be fully eligible to get an unrestricted license in as little as five years.

Those who previously received an ALLR never had the benefit of the technology of an interlock device and one could surmise that, given that opportunity, many of them would never have had four alcohol enforcement contacts over a ten year period.

I am asking the legislature to address this obvious inequity by giving those who have received an administrative lifetime license revocation, and who can demonstrate that they are no longer prone to alcohol or substance abuse, the same rights and remedies as those who receive the maximum mandatory revocation period after January 1, 2011 and be fully eligible for license reinstatement.

Over the last century the ability to drive from place to place has woven itself into the fabric of American life to such a degree that it is a large part of the definition of who and what we are as a nation. The ability to drive is essential transportation to such a large majority of the population that it should not come as a surprise that studies have

estimated that over 75% of drivers with suspended or revoked licenses continue to drive, (van Oldenbeek and Coppin, 1965; Hagen et al., 1980; Ross and Gonzales, 1988; DeYoung, 1990, Cheng et al., 2006).

There are many who drive while under suspension or revocations do so out of necessity. To keep a job, to provide for their families. ACT 171 recognizes the importance of transportation by allowing those under suspension or revocation the ability to drive for work purposes with an interlock device installed on their vehicle.

For this reason I ask the legislature to modify HB2727 language in regards to §291E-C which would deny a person who had an ALLR a license solely because he was convicted of any traffic violation during his revocation period. This provision for license eligibility is not required for those who would get the maximum revocation period under the new laws. Certainly language should preclude anyone from regaining eligibility within ten years of their ALLR for a operating a vehicle under the influence or for drug or alcohol enforcement contact during their suspension or revocation period. But to deny only past offenders eligibility because they were convicted of any traffic offense seems unfair. Again, I ask the legislature to be even handed in the punishment of past and future offenders.

SB 716 which was enacted into law states "Rather than taking a punitive approach that prohibits driving, Act 171 takes a pragmatic approach that requires installation of an ignition interlock device shortly after arrest so that the person can drive, but is prevented from drinking and driving, during the pendency of the case and the revocation period thereafter." By not enacting the addressing those currently holding an ALLR isn't the state maintaining a punitive approach that singles out those who have previously received an ALLR?

In conclusion I suggest that the law be changed to

1. Give those who received the maximum revocation period prior to midnight December 31, 2010 the same rights and remedies as those given the maximum revocation period on or after January 1, 2011
2. Recognize that there are those who have received an ALLR have rehabilitated themselves and for those who have not altered their destructive behavior - an incentive to change.
3. Give hope to the more than 1,800 people in the state who have received an ALLR that they may be able to legally drive again.

Respectfully submitted,



Brandon Espedal

Citations:

American Association of State Highway and Transportation Officials publication titled *Addressing Collisions Involving Unlicensed Drivers and Drivers with Suspended or Revoked Licenses*; Found online at http://safety.transportation.org/htmlguides/USR/types_of_probs.htm

Chang, H, Woo, and Tseng, C.M. *Is rigorous punishment effective? A case study of lifetime license revocation in Taiwan* *Accident Analysis & Prevention*, 2006, 38 (2) : 269-276

DeYoung, D. J. *Development, Implementation and Evaluation of a Pilot Project to Better Control Disqualified Drivers*. Report No. 129. Sacramento, California: California Department of Motor Vehicles. 1990.

Hagen, R. E., E. J. McConnell, and R. E. Williams. *Suspension and Revocation Effects on the DUI Offender*. California Department of Motor Vehicles, Sacramento. 1980.

Ross, H. L., and P. Gonzales. Effects of license revocation on drunk driving offenders. *Accident Analysis & Prevention*. 20(5): 379-91. 1988.

van Oldenbeek, G., and R. S. Coppin. *Driving Under Suspension and Revocation; A Study of Suspended and Revoked Drivers Classified as Negligent Operators*. California Department of Motor Vehicles, Sacramento. 1965.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

H.B. NO. 2727, RELATING TO ADMINISTRATIVE LICENSE REVOCATION.

BEFORE THE:

HOUSE COMMITTEE ON TRANSPORTATION

LATE TESTIMONY

DATE: Monday, February 1, 2010 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 309

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

Chair Souki and Members of the Committee:

The Department of the Attorney General opposes this bill.

This bill would permit habitual offenders whose driver's license has been administratively revoked for life to seek reinstatement of the license after only ten years.

Habitual offenders who have repeatedly endangered lives by driving while impaired should never be allowed to drive again. Yet this bill would allow habitual offenders who have been convicted of driving impaired at least four times in a ten-year period, and whom the State previously determined to be so dangerous that *lifetime* license revocation was warranted, back onto the streets.

Additionally, the bill fails to specify the grounds upon which a habitual offender's application for reinstatement should be granted. Although the bill sets forth what must be included in an application for consent to apply for a new license, it does not provide for a hearing on the matter, nor any standards for review and decision-making on the application.

Moreover, this bill would allow a habitual offender whose license was revoked for life after four offenses to be treated as a first-time offender for purposes of administrative

revocation of license, if the habitual offender commits yet another offense after the reinstatement. Thus, a *five-time* (or more) offender would be subject to the *minimum* revocation period.

It should be noted that this bill is intended to address offenders who already have been sanctioned with lifetime revocation or will be sanctioned by January 1, 2011. On January 1, 2011, the amendments to section 291E-41, Hawaii Revised Statutes, made by Act 171, Session Laws of Hawaii 2008, and Act 88, Session Laws of Hawaii 2009, will become effective. As of that date, repeat offenders will no longer face lifetime revocation. Instead, the ignition interlock device will be implemented to address public safety concerns.

We respectfully request that this bill be held.