

IRON WORKERS STABILIZATION FUND

Fax: 586-8469 – Hon. Karen Awana, Vice-Chair

LATE TESTIMONY

January 29, 2010

Hon. Joseph M. Souki, Chair
House Committee on Transportation
State Capitol – Room 433

Iron Workers Stabilization Fund – T. George Paris, Managing Director

Hearing Date – February 1, 2010, 9:00 a.m.

Support of HB 2776, Relating to Administrative License Revocation

Under the present law, an individual who has had his or her driver's license revoked for life is forever banned from applying for a new driver's license. Although we are fully in accordance with the intent of the present law, we believe that such an individual should be given a chance to apply for a new driver's license, if such an individual has demonstrated that he or she has overcome the substance abuse that led to the lifetime revocation in the first instance. We believe that this measure sets up a reasonable process wherein such an individual is accorded the opportunity to apply for a new driver's license.

Under this measure, the following criteria must first be met before such an individual will be permitted to apply for a new driver's license:

1. The application shall be made no sooner than ten years after the lifetime revocation was imposed.
2. The application must be accompanied by written proof that said individual, within 90 days immediately preceding the application, has been assessed by a certified substance abuse counselor and determined not to be in need of substance abuse treatment due to dependency or abuse under the applicable Diagnostic and Statistical Manual and Addiction Severity Index or its successor.
3. Said individual must be free of any arrest or conviction for the offense of driving while the license was revoked, or under a substantially similar statute in another jurisdiction. If it is shown that such an arrest or conviction has occurred, the director has the authority to summarily deny the application. If it is not summarily denied, the application shall be set for hearing.



4. At the hearing, said individual must prove by clear and convincing evidence that his or her eligibility for relicensing may be restored without creating an undue risk of harm to the public. If the director grants the application, said individual may reapply.

5. If the director denies the application, the respondent may seek judicial review consistent with Chapter 291-40, HRS.

As we have set forth above, we believe that such an individual should be accorded a second chance to apply for a new driver's license if said individual has demonstrated that he or she has overcome the substance abuse that led to the lifetime revocation in the first instance.

Based on the above, we respectfully submit that H.B. 2776 be passed by this committee and sent to the committee on judiciary.



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

ON THE FOLLOWING MEASURE:

H.B. NO. 2776, 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.

The 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, this bill requires very little of habitual offenders to qualify for full unrestricted license reinstatement; the requirements are inadequate to protect the public. Under this bill, an offender must obtain an assessment by substance abuse counselor, indicating that the offender is not in need of substance abuse treatment - but that assessment will likely be based in large part on self-reporting by the offender. The offender must not have been convicted of driving while license revoked during the revocation period - but the

offender was forbidden to drive *at all* during this period. And the offender must show that license reinstatement may be granted without undue risk of harm to the public - but the offender's four (or more) prior convictions show that that granting reinstatement would indeed place the public at risk of harm. Any uncertainty regarding risk ought to be resolved in favor of protecting the habitual offender's potential victims.

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 be 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.