

LINDA LINGLE
GOVERNOR



BRENNON T. MORIOKA
INTERIM DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

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

IN REPLY REFER TO:

March 10, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 2614

COMMITTEE ON TRANSPORTATION

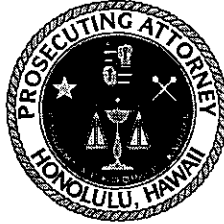
The Department of Transportation opposes this bill over concerns regarding resources for storage and maintenance of the vehicle involved in this law.

Forfeiture and impoundment has long been an issued when a vehicle is involved. This bill authorizes the courts to determine if the vehicle will be forfeited. This will result in not having storage space and the resources to maintain the vehicle while waiting for the final determination of the forfeiture.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 768-7400

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

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

March 10, 2010

RE: S.B. 2614; RELATING TO EXCESSIVE SPEEDING.

Chair Souki and members of the House Transportation Committee, the Department of the Prosecuting Attorney submits the following comments on S.B. 2614.

The purpose of this bill is to amend the offense of excessive speeding to provide for forfeiture of the defendant's vehicle if the vehicle was used by the defendant in at least two prior convictions of excessive speeding within a certain time frame.

We do not have any objection to this bill but would suggest a technical amendment to rewrite the forfeiture provision to clarify: 1) that the vehicles can be civilly forfeited under Hawaii Revised Statutes (HRS) chapter 712A independent of any criminal conviction; and 2) that the forfeiture may proceed administratively without a court order.

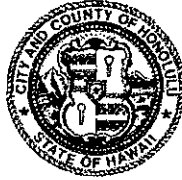
Forfeiture under chapter 712A permits civil forfeiture that does not depend on the filing or conviction of a criminal offense; as a civil proceeding it operates independently of any criminal proceeding. It can also be instituted administratively under HRS section 712A-10 which does not necessarily require a court order for forfeiture. In recognition of these issues, we suggest the forfeiture provision be rewritten as a new subsection (d), rather than included in the criminal sentencing provisions of HRS section 291C-105(c)(3) since the latter may imply that there must be a conviction for the third offense before forfeiture may be instituted. We suggest the following language for subsection (d):

(d) A vehicle owned by the defendant which is used to violate this section, and used by the defendant in at least two prior convictions for violations under this section, may be subject of forfeiture under chapter 712A.

Thank you for this 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

LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE TTN-LC

March 10, 2010

The Honorable Joseph M. Souki, Chair
and Members
Committee on Transportation
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Representative Souki and Members:

Subject: Senate Bill No. 2614, Relating to Excessive Speeding

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

The Honolulu Police Department opposes Senate Bill No. 2614, Relating to Excessive Speeding with regard to the forfeiture of vehicles utilized for this offense. The forfeiture of the vehicle owned by the defendant in excessive speeding cases will raise the following issues:

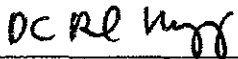
- Storage issues, storage and investigative costs for agencies assigned the forfeiture of vehicles.
- Criminal forfeiture investigations are normally for felony investigations for removing assets that facilitated or were gained from illegal activity.

Thank you for this opportunity to testify.

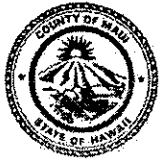
Sincerely,


THOMAS T. NITTA, Major
Traffic Division

APPROVED:


FOR: LOUIS M. KEALOHA
Chief of Police

Serving and Protecting With Aloha



CHARMAINE TAVARES
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT
COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

March 9, 2010

The Honorable Joseph M. Souki, Chair
And Members of the Committee on Transportation
House of Representatives
State Capitol
Honolulu, HI 96813

**SUBJECT: S.B. No. 2614, Relating to Excessive Speeding;
Punishment; Forfeiture of Vehicle**

Dear Chair Souki and Members of the Committee:

The Maui Police Department does not support S.B. No. 2614. This bill authorizes the court, in its discretion, to order forfeiture of a defendant's vehicle if it was used in the commission of the excessive speeding offense and in at least two prior excessive speeding convictions.

Storage of forfeited vehicles will be costly. It is very likely that the responsibility to store said vehicles will be given to the county police departments. Given the current economical status of the State of Hawaii and the respective counties, it is an expense that cannot be afforded.

The Maui Police Department asks for your support in opposing S.B. No 2614.

Thank you for the opportunity to testify.

Sincerely,


fn: GARY A. YABUTA
Chief of Police