

SB2897

SD1



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Transportation, International and Intergovernmental Affairs

The Honorable Brian T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice Chair

Tuesday, February 23, 2010, 10:00 a.m.
State Capitol, Conference Room 016

by
Ronald Sakata
Chief Adjudicator
Administrative Driver's License Revocation Office (ADLRO)

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2897, S. D. 1, Relating to Highway Safety

Purpose: Enacts the recommendations of the Ignition Interlock Implementation Task Force made pursuant to Act 171, Session Laws of Hawaii 2008.

Judiciary's Position:

The Judiciary has been actively involved with the proceedings and deliberations of the ignition interlock implementation task force on an advisory basis. Accordingly, although we take no position on the intent of this measure, we have made our advice and concerns well known throughout the numerous meetings of the task force at-large and in the various subcommittees.

Chief among those concerns is the impact on the Judiciary's already thinly-stretched budgetary and personnel resources. In particular, ADLRO may eventually be required to conduct hearings regarding ignition interlock issues arising after the initial revocation hearings which are held in the ordinary course of our responsibilities. That impact, as of yet, cannot be accurately determined, but any additional hearings at this point will be of consequence to our current case and hearing load.

Thank you for the opportunity to testify on this measure.



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

IN REPLY REFER TO:

February 23, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 2897 SD 1

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

On behalf of the Hawaii Ignition Interlock Implementation Task Force, the Department supports and strongly recommends the passage of Senate Bill 2897 SD1 with the proposed amendments. This measure incorporates the recommendations from the Task Force, which was established by Act 171 of the 2008 Legislative Session. Strong interlock bills are being adopted by more states across the country and it is important to know that Senator Frank Lautenberg has introduced the DDROP Act in Congress. This measure requires all states to adopt mandatory ignition interlock laws for all offenders or be sanctioned by loss of a percentage of their highway construction funds.

Due to the State's existing economic crisis, concessions have been made to the ignition interlock program to prevent any major expenditure of state funds at this time. We see these changes as temporary, and look forward to implementing an interlock program as originally envisioned by the Task Force in better economic times.

The Task Force recommends that the following amendments be included in SB2897 SD1:

- Amend Section 22 to replace the current language with the following to address the indigent population:
§291E-5 Ignition Interlock User Affordability. The Director of Transportation shall contract with the selected interlock vendor to provide partial financial relief on the installation and the periodic calibration charges to offenders who apply for such assistance and who are recipients, at the time of license revocation or suspension, of either food stamps under the Supplemental Nutrition Assistance Program, or free services under the Older Americans Act or Developmentally Disabled Act.
- Reinstate the January 1, 2011 effective date to ensure that all amendments are consistent and take effect as intended. Keeping the January 2, 2011 effective date will create inconsistencies since offenders who are arrested on January 1, 2011 will be sentenced with probation, and those arrested on January 2, 2011 would receive a different sentence without probation.

A strong ignition interlock system will prevent unnecessary alcohol-related crashes and reduce fatalities in the state. The Task Force believes that the provisions in this bill and the proposed recommendations are necessary for the implementation of the ignition interlock program and strongly recommends the passage of SB 2897 SD1.

**WRITTEN
ONLY**

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:

Senate Committee on Judiciary and Governmental Operations

SB 2897 SD1 RELATING TO HIGHWAY SAFETY

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

February 23, 2010

1 **Department's Position:** The Department of Health supports SB 2897 SD1. Ignition interlocks are an
2 effective way of increasing the safety of all road users by mechanically preventing convicted drunk
3 drivers from operating a vehicle with alcohol in their system.

4 **Fiscal Implications:** None

5 **Purpose and Justification:** SB 2897 SD1 addresses the key recommendations that were made by the
6 Ignition Interlock Task Force, which was established after the legislature passed Act 171 in 2008.
7 Recommendations from the Ignition Interlock Task Force include creating interlock laws with
8 mandatory sentencing for all convicted impaired driving offenders, establishing penalties for tampering
9 and circumvention of interlock devices, and stricter laws and increased enforcement to deter those who
10 would try to avoid installation.

11 Alcohol related traffic fatalities remain tragically high in Hawaii; in 2008, 43 percent (46 drivers
12 out of 107) of all drivers involved in traffic fatalities tested positive for alcohol. Among drivers
13 involved in fatal crashes, those who tested positive for alcohol were at least 3 times (6% vs. 2%) more
14 likely than other drivers to have had a previous conviction for DUI (Fatal Analysis Reporting System,
15 National Highway Traffic Safety Administration - NHTSA). There is an annual average of 5,500 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 Thank you for the opportunity to testify.



**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 Senate Committee on Judiciary and Government Operations
February 23, 2010 10:00 .m.**

S.B. No. 2897, SD1: RELATING TO HIGHWAY SAFETY

Chair Taniguchi and Members of the Committee:

The Office of the Public Defender supports the changes proposed by the Office of the Prosecuting Attorney in its testimony dated February 23, 2010. These changes have been discussed between the ignition interlock task force members, an inter-agency group consisting of members from law enforcement, DOT, MADD, Judiciary, Driver's Licensing and the defense bar, to name a few. The proposed changes are a result of exhaustive communications between interested members of the task force, and we believe represent a FAIR result of effective inter-agency efforts.

Most particularly, the Office of the Public Defender supports the insertion of the following language:

“§291E-5 Ignition Interlock User Affordability. The Director of Transportation shall contract with the selected interlock vendor to provide partial financial relief on the installation and the periodic calibration charges to offenders who apply for such assistance and who are recipients, at the time of license revocation or suspension, of either food stamps under the Supplemental Nutrition Assistance Program, or free services under the Older Americans Act or Developmentally Disabled Act.”

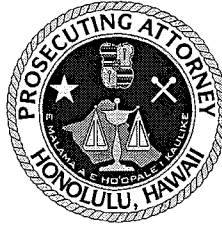
Statutory language requiring an indigent surcharge which would be deposited into an indigent special fund to be administered by the Director of the Department of Transportation was eliminated by this measure. We firmly believe that in order for this legislation to be effective, it must be installed in as many vehicles as possible. We applaud the key stakeholders (DOT, Prosecuting Attorney and MADD) for their commitment to indigents who will be affected by this measure.

We continue to oppose the criminalizing of 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.

Thank you for the opportunity to provide input on this measure.

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 BRIAN TANIGUCHI, CHAIR
SENATE JUDICIARY AND GOVERNMENT OPERATIONS COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2010
State of Hawai'i

February 23, 2010

RE: S.B. 2897, S.D. 1; RELATING TO HIGHWAY SAFETY.

Chair Taniguchi and members of the Senate Committee on Judiciary and Governmental Affairs, Department of the Prosecuting Attorney submits the following testimony in support of S.B. 2897, S.D. 1 with some suggested amendments.

The purpose of this bill is to fine tune the 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 over the last two years. This bill is the product of the work of the task force's effort to flesh out the framework of the ignition interlock program. In particular, this bill eliminates the use of probation for repeated intoxicated drivers and substitutes less intensive supervision by proofs of compliances due to concerns about the cost and availability of probation resources.

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.

Although we did not agree with all the task force recommendations, we do understand that this bill and effort were intended to be the product of consensus whenever possible. Because all the task force stakeholders have different perspectives and because there are resource limitations that affect what is currently possible, we are fully cognizant that compromises were necessary in order to forge an ignition interlock program which was acceptable and workable for all the task force stakeholders. Thus, we do support the passage of S.B. 2897, S.D. 1. However, we hope that certain changes, such as probation for second and third drunk drivers can be implemented when more state resources are available.

We do suggest that several amendments be made. First, we ask that the word "the" be inserted at page 5 line 1 and at page 6 line 16 as follows:

- (2) Tamper with an ignition interlock device with the intent....
- (2) Tamper with an ignition interlock device with the intent...

In addition, we ask that Section 3 of the bill, which relates to HRS section 286-133 be amended as follows:

"§286-133 Unlawful to permit unauthorized person to drive. ~~[(a)]~~ ~~[No]~~ Except as provided in section 291E-B, no person shall authorize or knowingly permit a motor vehicle or moped owned by that person or under that person's control to be driven upon any highway by any person who is not authorized under law to drive the motor vehicle or moped.

~~[(b) This section shall not apply to any person who knowingly provides, lends, leases, or rents an operable vehicle, which is equipped with an ignition interlock device, to a driver whose driving privileges are restricted to operating vehicles equipped with an ignition interlock device.]"~~

This amendment is necessary to ensure that any person who knowingly aids or abets the circumvention of an interlock requirement by lending, leasing, or renting an operable vehicle

without an interlock device to a driver who is required to have an interlock device, will be charged under HRS section 291E-B rather than HRS section 286-133.

We also note that the effective date on S.B. 2897 S.D. 1 should be changed from January 2, 2011 to January 1, 2011. Act 88 of 2009, has sentencing amendments which includes probation for persons convicted of impaired driving that become effective on January 1, 2011. S.B. 2897, S.D. 1 amends those same sentencing provisions to delete the probation requirement and under S.B. 2897, S.D. 1, the sentencing provisions without probation go into effect on January 2, 2011; so if a person is arrested for impaired driving on January 1, 2011, they would be sentenced to a term of probation, while a person arrested for impaired driving a day later on January 2, 2011 would have a different sentence which could not include probation. We believe that the January 2, 2010 effective date of S.B. 2897 S.D. 1 will lead to inconsistent and illogical sentencing results and therefore, we request that effective date of the bill be changed to January 1, 2011.

Finally, we would like to ask that Section 22 of S.B. 2897, S.D. 1 be amended. In the S.D. 1, the current language of HRS section 291E-5 is deleted with no new language to replace it. We would like to ask that section 291E-5 be amended by replacing the current language with the following:

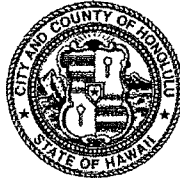
“§291E-5 Ignition Interlock User Affordability. The Director of Transportation shall contract with the selected interlock vendor to provide partial financial relief on the installation and the periodic calibration charges to offenders who apply for such assistance and who are recipients, at the time of license revocation or suspension, of either food stamps under the

Supplemental Nutrition Assistance Program, or free services under the Older Americans Act or Developmentally Disabled Act.”

Thank you for the opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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MUFI HANNEMANN
MAYOR

LOUIS M. KEALOHA
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RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE TTN-LC

February 23, 2010

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary and Government Operations
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members:

Subject: Senate Bill No. 2897, S.D. 1, Relating to Highway Safety

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

The HPD supports Senate Bill No. 2897, S.D. 1, Relating to Highway Safety as it is the recommendations of the Interlock Implementation Task Force. The task force is composed of numerous stakeholders from our public streets and highways, from the state Department of Transportation, the Department of the Prosecuting Attorney, the Office of the Public Defender, the Hawaii State Judiciary, including administrative revocation, parole, and driver's licensing, and also Mother's Against Drunk Driving, and law enforcement.

The HPD would further respectfully request that the following section be added to address the issue of financial assistance to the individuals covered under this section:

Section 291E-5 Ignition Interlock User Affordability. The Director shall contract with the selected interlock vendor to provide partial financial relief on the installation and the periodic calibration charges to offenders who apply for such assistance and who are recipients, at the time of license revocation or suspension, of either food stamps under the Supplemental Nutrition Assistance Program, or free services under the Older Americans Act or Developmentally Disabled Act.

The Honorable Brian T. Taniguchi, Chair
and Members
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February 23, 2010


These recommendations were discussed and it was the consensus of the task force that these recommendations be submitted for legislative action.

Thank you for this opportunity to testify.

Sincerely,


THOMAS T. NITTA, Major
Traffic Division

APPROVED:

FOR 
LOUIS M. KEALOHA
Chief of Police



MADD
Activism | Victim Services | Education™

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February 23, 2010

To: Senator Brian Taniguchi, Chair – Senate Judiciary and Government Operations Committee; Senator Dwight Takamine, Vice Chair; and members of the committee

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

Re: Senate Bill 2897 SD1 – Relating to Highway Safety

TESTIMONY REVISED/UPDATED 2/22/10

MADD strongly supports the ignition interlock bill, SB 2897, SD1 and urges these amendments:

- Insert the word “the” on page 5 line 1 and on page 6 line 16 as follows:
 - (2) Tamper with an ignition interlock device with the intent....
 - (2) Tamper with an ignition interlock device with the intent...
- Amend Section 3 of the bill, which relates to HRS section 286-133 as follows:

"§286-133 Unlawful to permit unauthorized person to drive. ~~[(a)] [No]~~ Except as provided in section 291E-B, no person shall authorize or knowingly permit a motor vehicle or moped owned by that person or under that person's control to be driven upon any highway by any person who is not authorized under law to drive the motor vehicle or moped.

~~[(b) This section shall not apply to any person who knowingly provides, lends, leases, or rents an operable vehicle, which is equipped with an ignition interlock device, to a driver whose driving privileges are restricted to operating vehicles equipped with an ignition interlock device.]"~~

This amendment is necessary to ensure that any person who knowingly aids or abets the circumvention of an interlock requirement by lending, leasing, or renting an operable vehicle without an interlock device to a driver who is required to have an interlock device, will be charged under HRS section 291E-B rather than HRS section 286-133.

- Page 54, line 15: Amend Section 22 to insert the following paragraph to address the indigent population:

§291E-5 Ignition Interlock User Affordability. The Director of Transportation shall contract with the selected interlock vendor to provide partial financial relief on the installation and the periodic calibration charges to offenders who apply for such assistance and who are recipients, at the time of license revocation or suspension, of

either food stamps under the Supplemental Nutrition Assistance Program, or free services under the Older Americans Act or Developmentally Disabled Act.

- Page 56, line 20: Section 26. This Act shall take effect on January [2] 1, 2011.

Reinstate the January 1, 2011 effective date to ensure that all amendments are consistent and take effect as intended. Keeping the January 2, 2011 effective date will create inconsistencies since offenders who are arrested on January 1, 2011 will be sentenced with probation, and those arrested on January 2, 2011 would receive a different sentence without probation.

MADD encourages the passage of this measure to ensure the scheduled implementation of Hawaii's Ignition Interlock system on January 1, 2011.

Thank you for the opportunity to submit written testimony in support of SB2897,SD1.

From: Susan [kipc@hawaiiantel.net]
Sent: Monday, February 22, 2010 12:17 PM
To: JGO Testimony
Subject: SB2897/2.23

TESTIMONY FOR SB2897 SD 1

Hearing: Tuesday, February 23, 10 a.m.

The Keiki Injury Prevention Coalition supports the recommendations of the Ignition Interlock Implementation Task Force of Act 171. After carefully examining the issues, the Task Force arrived at the best practices to reduce highway deaths and disability due to repeat drunk drivers. It is imperative that repeat drunk drivers be taken off our roadways and made accountable to society through the forfeit of certain privileges accorded to drivers. Every effort must be made to reduce drunk driving, a leading cause of death and misery in the State of Hawaii.