

The Judiciary, State of Hawaii

Testimony to the House Committee on Transportation

The Honorable Joseph M. Souki, Chair

The Honorable Karen Leinani Awana, Vice Chair

Wednesday, March 10, 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: Senate Bill No. 2897, S.D. 2, Relating to Highway Safety

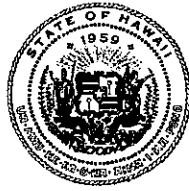
Purpose: Enacts the recommendations of the Ignition Interlock Implementation Task Force made pursuant to Act 171, Session Laws of Hawaii 2008.

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:

March 10, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 2897 SD 2

COMMITTEE ON TRANSPORTATION

On behalf of the Hawaii Ignition Interlock Implementation Task Force, the Department supports and strongly recommends the passage of Senate Bill 2897 SD2 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 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 SD 2:

- Amend Section 7 by deleting the language in §291E-5 and replacing it with the new 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.

The Department of Human Services (DHS) presently issues food stamps under the Supplemental Nutrition Assistance Program criteria. Accordingly, the qualifications under the Supplemental Nutrition Assistance Program are the same as what SB 2897 SD 2 is saying. The Director of Transportation has issued an RFP to contract with an ignition interlock vendor and as part of the RFP, the vendor must establish a program with the Department of Transportation to provide for a partial financial relief for the interlock. By having the DHS already qualifying a person to receive food assistance

under the Supplemental Nutrition Assistance Program, no further investigation of qualifying a person for partial assistance of installing an ignition interlock by any other agency is required. This will save additional resources and expenditures by other agencies to duplicate the process of certifying the applicant under the Supplemental Nutrition Assistance Program. This will also take the additional expenses and burden away from ADLRO and the court.

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 are necessary for the implementation of the ignition interlock program and strongly recommends the passage of SB 2897 SD 2 with the proposed amendments.

**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
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In reply, please refer to:
File:

House Committee on Transportation

SB 2897 SD-2 RELATING TO HIGHWAY SAFETY

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

March 10, 2010

1 **Department's Position:** The Department of Health supports SB 2897 SD-2. 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 SD-2 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

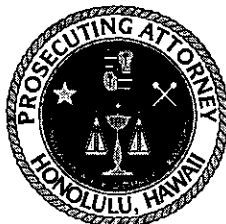
1 arrests in Hawaii. Based on a study conducted in 2005 by the City and County of Honolulu, over one
2 fourth (28%) of DUI arrestees have been previously arrested for a DUI. NHTSA and the Centers for
3 Disease Control and Prevention (CDC) conclude, when installed and in use, ignition interlocks are
4 effective for reducing alcohol related arrests and crashes.

5 Thank you for the opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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

March 10, 2010

RE: S.B. 2897, S.D. 2; RELATING TO HIGHWAY SAFETY.

Chair Souko and members of the House Transportation Committee, Department of the Prosecuting Attorney submits the following testimony in support of S.B. 2897, S.D. 2 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, SD. 2. 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 would also ask that the reference to HRS section 291E-41(f) be changed to 291E-41(g) on page 8 line 12 due to changes made to HRS section 291E-41 at page 32 line 18.

We would also ask that page 9 line 4 be amended by adding the words “revoked or” as follows:

...apply to a license revoked or suspended pursuant to section 291E-61(b)(1)...

We also note that the definition of “ignition interlock” on page 10 lines 3 and 4 should be amended to read as follows:

“Ignition interlock devices” means a breath alcohol testing device that is certified...

Finally, we would like to ask that the language in section 7 of the bill be deleted and replaced with the language below:

“§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

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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. 2897, S.D. 2, Relating to Highway Safety

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

The Honolulu Police Department supports Senate Bill No. 2897, S.D. 2, 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, Office of the Public Defender, the Hawaii State Judiciary, including administrative revocation, parole, and driver's licensing, and also Mother's Against Drunk Driving.


These recommendations were discussed; 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

Serving and Protecting With Aloha



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March 10, 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: Senate Bill 2897 SD2 – Relating to Highway Safety

I am Arkie Koehl, Chairman of the MADD Hawaii Council, testifying for MADD in strong support of SB 2897, SD2 – Relating to Highway Safety – with amendments. This bill updates, amends and provides full statutory detail on the design and implementation of an ignition interlock system for the state of Hawaii, as required of the Ignition Interlock Task Force in Act 171 of the 2008 Legislative session and Act 88 of the 2009 session.

MADD Hawaii proposes that the following important amendment be made to this bill:

- Page 15, line 4 – line 20: Amend SECTION 7, Section 291E-5 by deleting the language in sections (a), (b), and (c) of §291E-5 and inserting 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.

The language in SB 2897, SD2 places the responsibility of determining who is indigent in the hands of the director of the Administrative Revocation Office or the Court which will undoubtedly necessitate the need for more staff and therefore more cost to the state. With clear criteria for determination, the selected Interlock Company should be able to determine who qualifies as indigent.

In addition, MADD prefers that one of the criteria to determine indigency be the receipt of food stamps rather than the more difficult and time-consuming method of comparing a person's financial status to the official poverty line and calculating whether the person fits the criteria of having income "not greater than one hundred twenty-five per cent of the official poverty line established by the Secretary of health and Human Services under the Community Services Block grant Act, 42 United States Code Section 9902."

In the first line of the proposed amendment, it is important to add the words "of Transportation" to distinguish between the "director" which is often defined in this bill as the Director of the Administrative Drivers' License Revocation Office and the Director of the Dept. of Transportation who is tasked with some of the administrative oversight of the proposed interlock program.

- MADD agrees with the several technical amendments recommended by the Office of the Prosecuting Attorney, City and County of Honolulu. These are important amendments to assure the unflawed implementation of the Interlock system.

Finally, MADD would like to point out that the Senate JGO committee report inaccurately stated in its introduction that this measure would establish an ignition interlock system for all **convicted** impaired driving offenders. The system, which has been described in legislation over the past three years, has always applied to drivers whose license to operate a vehicle has been revoked administratively with the back-up of the Court to require interlock installation to offenders who have not already installed the device. Therefore the arrested driver does not have to be convicted before being able to install the interlock device and obtain a special ignition interlock permit to drive.

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

Thank you for the opportunity to submit testimony in support of SB2897,SD2.