

SB 2897

**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:

Senate Committee on Transportation, International and Intergovernmental Affairs

SB 2897 RELATING TO HIGHWAY SAFETY

Testimony of Chiyome Leinaala Fukino, M.D.

Director of Health

February 8, 2010

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



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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HONOLULU, HAWAII 96813-5097

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

IN REPLY REFER TO:

February 8, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 2897

COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS

On behalf of the Hawaii Ignition Interlock Implementation Task Force, the Department of Transportation supports and strongly recommends the passage of Senate Bill 2897. This measure incorporates the recommendations from the Task Force, which was established by Act 171 of the 2008 Legislative Session.

SB 2897 is the third legislative bill to be introduced to the Legislature in anticipation of the January 1, 2011 implementation of Hawaii's ignition interlock program. The first and second measures resulted in Acts 171 (2008) and Act 88 (2009). This bill provides the missing details needed for implementation.

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.

SB 2897 includes the following:

- Establishes circumvention of the system or tampering with the interlock device by a person required to operate a vehicle equipped with a device as a petty misdemeanor offense with penalties of three to thirty days imprisonment; \$250 to \$1000 fine; and loss of the privilege to operate a vehicle during the revocation period by having an interlock device and an interlock permit. The person convicted of tampering or circumventing the system, which includes having another person start or attempt to start the vehicle, will be sentenced without possibility of probation or suspension of sentence. The penalties will increase for repeat circumvention or tampering offenders. (A second offense within a 5 year period.) The third offense becomes a full misdemeanor.

- Establishes that assisting or abetting the circumvention of or tampering with an interlock device is a petty misdemeanor with penalties of up to 30 days imprisonment and/or a fine of up to \$1,000 for a first offense. The third offense is a full misdemeanor. The bill does not indicate the penalties for a second offense. Therefore, the bill should be amended to make a second offense a petty misdemeanor with a fine of \$500 to \$1,000 and/or imprisonment of not more than one year.

Assisting or abetting circumvention includes blowing into the device or otherwise starting the vehicle for a person required to use an interlock; tampering with the system; or lending or renting a vehicle to a person required to have an interlock.

- In order to encourage OVUII offenders to submit to testing, the act of refusing to be tested will be a petty misdemeanor.
- Removes the definition of highly intoxicated driver (a person whose blood alcohol level at the time of testing was .15 or higher) and other sections of the chapter relating to the highly intoxicated driver to conform amendments instituted by Act 88 in 2009.
- Reinstates the section, removed by Act 171, relating to the administrative impoundment of license plates and the revocation of vehicle registration by repeat OVUII offenders. In addition, the bill also reinstates the opportunity for a family member to obtain special plates when essential for the person(s) to drive the offender's vehicle. These reinstatements were necessary for the cases in which a person required to use an interlock pledged that he or she would not drive. In these cases, the vehicle sanction remains the current plate impoundment and registration revocation rather than installation of an interlock device.
- Clarifies that a person must hold a valid license at the time of arrest for OVUII in order to qualify for an ignition interlock permit.
- Establishes that a person convicted of OVUII shall be sentenced without possibility of probation or suspension of sentence and amends Act 88's minimum and/or maximum imprisonment times for a person convicted of OVUII:
 - 30 days maximum for a first offender (from 5 days);
 - 5 days minimum and 30 days maximum (from 5 days) for a second offender;
 - 10 days minimum and 30 days maximum (from 5 days) for a third offender;
- Removes probation from the sentencing program for all offenders. (Temporary cost-saving amendment).
- States that any OVUII offender who is driving during the revocation period in a vehicle not equipped with an interlock, will be charged under 291E-62 (Driving while license suspended or revoked for OVUII) and will be sentenced without the possibility of probation or suspension of sentence. In addition, where applicable, the person will lose his or her privilege of operating a vehicle equipped with an ignition interlock device.

- Deletes the requirement for the state to establish a special fund to pay part of the interlock costs for indigent offenders with surcharges paid by other offenders installing interlock devices in their vehicles. Deletes the definition of an “indigent person.”

The Task Force did not change the prior decision to administratively revoke the driver’s license of a person with three or more prior alcohol or drug enforcement contacts for a five to 10 year period.

Furthermore, the Task Force opposes allowing a driver whose license has been administratively revoked for life to seek reinstatement of their license after 10 years have passed since the occurrence of the lifetime revocation. We believe a person who repeatedly places others on the road in grave danger, should have their license revoked for life, which is consistent with the recommendations that SB 2897 proposes.

It is known that these offenders, even with their license revoked, continue to drive without being detected by police. This is why the Ignition Interlock law was created, to prevent drivers who have been drinking from driving and putting others at risk. We believe that the ignition interlock will prevent the drinking driver from getting behind the wheel. These people can still continue to drive provided that they do not have any alcohol in their system.

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 to the implementation of the ignition interlock program and strongly recommends the passage of SB 2897.



The Judiciary, State of Hawaii

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

The Honorable J. Kalani English, Chair
The Honorable Mike Gabbard, Vice Chair

Monday, February 8, 2010, 2:00 p.m.
State Capitol, Conference Room 224

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

Bill No. and Title: Senate Bill No. 2897, 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.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
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**THE HONORABLE J. KALANI ENGLISH, CHAIR
SENATE TRANSPORTATION, INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS COMMITTEE**

**Twenty-fifth State Legislature
Regular Session of 2010
State of Hawai'i**

February 8, 2010

RE: S.B. 2897; RELATING TO HIGHWAY SAFETY.

Chair English and members of the Senate Committee on Transportation, International and Intergovernmental Affairs Department of the Prosecuting Attorney submits the following testimony in support of S.B. 2897 with an amendment.

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. 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 also note that the penalty for a second offense for assisting or abetting the circumvention of an ignition interlock device is missing from subsection (c) on page 7 of the bill. We would suggest that (c)(1) on page 7, lines 6 and 7 of the bill be rewritten as follows:

(1) Fined not more than \$1,000 or imprisoned not more than thirty days, or both for [~~a first offense~~] any offense that does not occur within five years of two prior convictions for this offense;

Thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE TTN-LC

February 8, 2010

The Honorable J. Kalani English, Chair
and Members
Committee on Transportation, International and
Governmental Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair English and Members:

Subject: Senate Bill No. 2897, 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, Relating to Highway Safety, as it is the recommendations of the Interlock Implementation Task Force. The task force is composed of the many stakeholders our public streets and highways from the State Department of Transportation, the Office of the Prosecuting Attorney, Office of the Public Defender, the Judiciary, including the Administrative Revocation, parole, driver's licensing, Mother's Against Drunk Driving, and law enforcement.

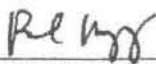
These recommendations were discussed, and while not everyone agreed, it was the consensus of the task force that these recommendations be submitted for legislative action.

Thank you for this opportunity to testify.

Sincerely,


THOMAS T. NITTA, Major
Traffic Division

APPROVED:


LOUIS M. KEALOHA
Chief of Police



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February 8, 2010

To: Senator Kalani English, Chair – Senate Committee on Transportation,
International and Intergovernmental Affairs; Senator Mike Gabbard, Vice Chair;
and members of the committee

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

Re: Senate Bill 2897 – Relating to Highway Safety

I am Arkie Koehl, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving in support of SB 2897. This bill updates, amends and provides full statutory detail on ignition interlock, as required of the Ignition Interlock Task Force in previous Acts 171 and 88.

The testimony of the Task Force outlines the major updates and changes in the interlock law. MADD fully endorses these Task Force recommendations. We share the disappointment of the Task Force that the state's budgetary crisis necessitates forgoing one of the key enforcement measures — probation for repeat offenders — and we share the expectation that future fiscal improvements will restore this important tool.

We respectfully urge passage of Senate Bill 2897.

Thank you for this opportunity to testify.

February 8, 2010, 9:00am

The Honorable Kalani English, Chair
The Honorable Mike Gabbard, Vice Chair
Senate Committee on Transportation, International and Intergovernmental Affairs

Dear Chairman English and Members of the Committee on Transportation, International and Intergovernmental Affairs,

Subject: **Support for SB 2897**

The Injury Prevention Advisory Committee strongly supports SB 2897. This Ignition Interlock bill incorporates essential recommendations made by the ignition interlock taskforce that will allow the ignition interlock law to be implemented by the effective date of January 2011.

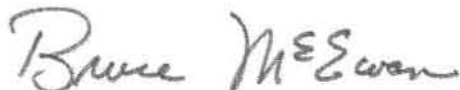
Established in 1990, the Injury Prevention Advisory Committee (IPAC) is an advocacy group committed to preventing and reducing injury in Hawai'i. IPAC members include public and private agencies, physicians, and professionals working together to address the eight leading areas of injury that include impaired driving.

Hawaii continues to have a high rate of alcohol related traffic fatalities. In 2008, 43% drivers involved in traffic fatalities in Hawaii tested positive for alcohol. According to FARS (Fatal Analysis Reporting System) drivers with previous DUI convictions are at least 3 times more likely than other drivers to be involved in a alcohol related fatal crash. It is evident that there is an issue with casualties related to drivers with previous DUI convictions.

SB 2897 includes key recommendations of requiring the Ignition Interlock for first time offenders, provisions to prevent circumvention in addition to including recent fiscal climate considerations to make recommendations of this bill feasible for all stakeholders responsible for implementing the ignition interlock program.

Thank you for allowing us to testify.

Sincerely,

A handwritten signature in black ink that reads "Bruce McEwan". The signature is written in a cursive, slightly slanted style.

Bruce McEwan
Chair
Injury Prevention Advisory Committee