

Testimony in Strong Support of SB 520 SD1

Relating to THE MOTOR VEHICLE INDUSTRY LICENSING ACT

Submitted by the Hawaii Automobile Dealers Association  
*Hawaii's franchised new car dealers*  
to the House Committee on Judiciary  
for the hearing 2 p.m. Friday, January 22, 2010  
Conference Room 325, Hawaii State

Chair Jon Riki Karamatsu, Vice Chair Ito, and members of the committee:

Now that stakeholders are comfortable with the language of Senate Bill SB520, Hawaii's franchised new car dealers appreciate the early hearing this session and the opportunity to offer our strong support for adding clarifying language to HRS 437-12 regarding possession or proof of possession of the legal ownership certificate --required for a dealer to sell or advertise a new or used car.

After these discussions with stakeholders, including members of the Motor Vehicle Industry Licensing Board (MVILB) and Hawaii Independent Automobile Dealers Association (HIADA), and Manheim Hawaii Auto Auction, State Farm Insurance, and the Insurer's Council, several individuals submitting testimony, the following amended language was agreed upon and subsequently passed through the Senate Commerce and Consumer Protection committee with the inclusion of the following amended language:

SECTION 1. Section 437-12, Hawaii Revised Statutes, is amended to read as follows:

**“§437-12 Legal ownership certificates. (a) Possession of or right to possess legal ownership certificate. No dealer shall sell or advertise for sale a new motor vehicle unless the dealer has in the dealer's possession the actual legal ownership certificate or a certificate of origin or its equivalent issued to the dealer by the manufacturer or distributor for the subject motor vehicle. No dealer shall sell or advertise for sale a used motor vehicle unless the dealer has in the dealer's possession evidence that all liens on the subject motor vehicle have been satisfied and the actual legal ownership certificate or proof of the right to possess the legal ownership certificate for the subject motor vehicle.**

**HADA testimony on SB 520 SD1, submitted for the 2 pm. Fri. Jan. 22, 2010 House Judiciary Committee hearing in room 325 page 2**

(b) Delivery of legal ownership certificate. The legal ownership certificate shall be delivered within the time period specified in section 286-52(b)."

Without this needed clarity in the law, some dealers may feel it necessary to hold a vehicle until the actual certificate of ownership of the vehicle (title) arrives—even though, after payoff of any outstanding liens, along with documents showing transfer of ownership of the vehicle to the dealer by the former owner, the dealer has the right to possess the vehicle. Other states have addressed this with similar methods to facilitate dealers selling or advertising a vehicle.

We appreciate the opportunity to work with stakeholders and the legislature in crafting language that meets the needs of all parties.

An issue relating to parking tickets possibly holding up sale by virtue of consideration as liens has already been previously addressed in the statutes by the following language (in bold)

**§291D-10 Restriction on driver's license and motor vehicle registration.** (a) When the person issued a notice of traffic infraction not involving parking fails to pay the total amount of fines, fees, surcharges, costs, or monetary assessments that has been ordered, the court shall cause an entry to be made in the driver's license record so as to prevent the person from acquiring or renewing the person's driver's license until the outstanding amount is paid or the notice of traffic infraction is otherwise disposed of pursuant to this chapter.

(b) In all cases where the registered owner of a motor vehicle to which a notice of traffic infraction has been issued fails to pay the total amount of fines, fees, surcharges, costs, or monetary assessments that have been ordered, the court shall cause an entry to be made in the motor vehicle's record so as to prevent issuance or renewal of the motor vehicle's certificate of registration and transfer of title to the motor vehicle until the outstanding amount is paid or the notice of traffic infraction is otherwise disposed of pursuant to this chapter; provided that if the traffic infraction involves an unpaid parking violation, **this subsection shall not prevent the issuance or renewal of the motor vehicle's certificate of registration and transfer of title to the motor vehicle to another person, in which case the clerk of the court shall issue a clearance to effectuate the registration and transfer of title; and provided further that in no event shall a clearance:**

**HADA testimony on SB 520 SD1, submitted for the 2 pm. Fri. Jan. 22, 2010 House  
Judiciary Committee hearing in room 325 page 3**

- (1) Absolve the registered owner of the motor vehicle at the time the parking violation was incurred from paying the fine;
- (2) **Prevent any subsequent issuance or renewal of the motor vehicle's certificate of registration and transfer of title to the motor vehicle; or**
- (3) **Otherwise encumber the title of that motor vehicle.** [L 1993, c 214, pt of §2; am L 2005, c 48, §5; am L 2006, c 103, §1]

Again, we respectfully request passage of the bill.

Respectfully submitted,  
The Hawaii Automobile Dealers Association

David H. Rolf  
Tel: 808 593-0031 Cel: 223-6015 Fax: 808 593-0569  
The Hawaii Automobile Dealers Association

**PRESENTATION OF THE  
MOTOR VEHICLE INDUSTRY LICENSING BOARD**

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2010

Friday, January 22, 2010  
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 520, S.D.1 – RELATING TO THE MOTOR  
VEHICLE INDUSTRY LICENSING ACT.**

TO THE HONORABLE JON RIKI KARAMATSU, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Werner Umbhau and I am the Chairperson and a public member of the Motor Vehicle Industry Licensing Board (“Board”). Thank you for the opportunity to submit testimony in support of S.B. No. 520, S.D.1, relating to the Motor Vehicle Industry Licensing Act. The Board previously met on this bill and authorized me to speak on its behalf.

For the Committee’s information, this bill is a carryover bill from the 2009 Regular Session and was pending to be heard by your Committee. The first referral, Committee on Consumer Protection and Commerce (“CPC”), passed this bill out unamended.

While the Board initially had grave concerns with the bill in its original form, it worked closely with the proponents of the bill and other stakeholders and, as a result, the parties successfully forged a compromise in the form of the S.D.1. The Board fully supports S.B. 520, S.D.1. It provides needed protection for consumers in that it ensures consumers will receive clear title to the vehicle from the dealer.

The Board thanks you for the opportunity to testify on S.B. No. 520, S.D.1.