

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 1791
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1791 entitled:

"A BILL FOR AN ACT RELATING TO HOMICIDE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a court to revoke the license of any driver for a period of up to ten years upon a conviction of the driver of manslaughter resulting from the operation of a motor vehicle;
- (2) Require a court to revoke the license of any driver for a period of up to five years upon a conviction of the driver of negligent homicide in the first degree or negligent homicide in the second degree;
- (3) Allow a court to sentence a defendant, as a condition of a sentence of probation, to serve a term of imprisonment not exceeding two years for a conviction of manslaughter; and
- (4) Exempt a person convicted of manslaughter from mandatory sentencing to an indeterminate term of imprisonment of twenty years, but allow that person to be sentenced to an indeterminate term of imprisonment.



Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of the Prosecuting Attorney of the County of Maui, Department of the Prosecuting Attorney of the City and County of Honolulu, Police Department of the City and County of Honolulu, and one private individual.

Your Committee finds that this measure provides clarity regarding the imposition of a term of imprisonment, as a condition for probation, for a person convicted of manslaughter and makes section 706-659, Hawaii Revised Statutes, consistent with section 706-620(2), Hawaii Revised Statutes, which allows for a sentence of probation for an offense of manslaughter.

Your Committee further finds that this measure also provides for license revocation periods for those who have been convicted of serious traffic-related fatalities. However, your Committee believes that a judge should continue to hold the discretionary authority regarding license revocation periods as well as the term of imprisonment as a condition of probation for a person convicted of manslaughter.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that sets maximum periods of license revocations for convictions of manslaughter and negligent homicide in the first or second degree;
- (2) Deleting language that requires drivers' license revocations upon convictions for negligent homicide in either the first or second degree;
- (3) Deleting language that allows a court to sentence a defendant, as a condition of a sentence of probation, to serve a term of imprisonment not exceeding two years for a conviction of manslaughter;
- (4) Changing the effective date to July 1, 2050, to allow for further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report,



your Committee is in accord with the intent and purpose of H.B. No. 1791, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1791, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB1791	TJA, JDL	3/29/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
SLOM, Sam				✓
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes