

STAND. COM. REP. NO.

1260

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 393
H.D. 2
S.D. 2

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 393, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRIME,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the driver's license revocation provision to require a maximum license revocation period of up to ten years upon conviction of a driver for manslaughter involving the operation of a vehicle;
- (2) Require the courts to revoke the license of any driver for up to five years upon a conviction of a driver of negligent homicide in the first degree or negligent homicide in the second degree;
- (3) Allow up to two years of imprisonment when a convicted defendant is sentenced to probation for manslaughter; and
- (4) Clarify that probation is an applicable sentence for manslaughter.

Your Committee finds that the measure is intended to provide clarification for the sentencing of those convicted of certain homicide offenses resulting from the operation of a motor vehicle



by providing for license revocation periods that are appropriate and justified for those who have been convicted of serious traffic-related fatalities. This measure also clarifies that a court may sentence a defendant convicted of manslaughter to two years of imprisonment as a condition of probation.

Your Committee believes that it is imperative to be clear when sentencing a defendant to particular crimes, especially those that involve the operation of a motor vehicle, particularly while under the influence of drugs or alcohol. The ignition interlock law, which amended chapter 291E, Hawaii Revised Statutes, relating to the use of intoxicants while operating a vehicle, is intended to make Hawaii's roads and communities safer. The device prohibits a person from driving a vehicle equipped with the device from starting the vehicle if the person has more than a miniscule amount of alcohol in the person's system. However, conflicts and confusion about the new law's implementation, including issues relating to a defendant whose license was suspended or revoked or who was sentenced under the old law, create a sentencing problem. Accordingly, your Committee believes that the provisions that create two classes of defendants, those under the old law and those under the new law, should be amended to allow certain defendants to enter the ignition interlock program. By doing so, your Committee believes that the benefits of the ignition interlock program, safer streets and defendants who are repeatedly reminded not to drink and drive because they must test themselves every time they try to operate their vehicles, should be extended to certain defendants who are subject to the old law.

Your Committee notes that these amendments apply only to certain categories of offenders whose driving privileges were suspended or revoked or who were convicted prior to the enactment of the new ignition interlock provisions. Your Committee finds that these amendments to the ignition interlock procedures will facilitate a smooth transition for certain offenders, including offenders who were convicted under the old law but sentenced under the new ignition interlock law, thereby providing clarification in sentencing and penalties for these offenders.

Your Committee also notes that the Ignition Interlock Task Force and Mothers Against Drunk Driving HAWAII have not taken a position on the amendments proposed by this measure because they have not had the opportunity to consult with legal counsel.

Accordingly, your Committee has amended this measure by:



- (1) Adding a new part II that will allow persons who have had their driving privileges suspended or revoked under certain circumstances to petition the court for an order of eligibility for an ignition interlock permit; and
- (2) Inserting an effective date of July 1, 2050, to allow Mothers Against Drunk Driving HAWAII and the Ignition Interlock Task Force to seek legal counsel.

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. 393, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 393, H.D. 2, S.D. 2.

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:		
HB3393, HD2, SD1	TIA, JDL	4/8/11		
<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		0	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