

## JUDtestimony

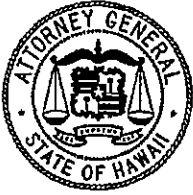
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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 14, 2011 10:22 PM  
**To:** JUDtestimony  
**Cc:** atg.legcoordinator@hawaii.gov  
**Subject:** Testimony for HB1435 on 2/15/2011 2:00:00 PM  
**Attachments:** HB1435 HD1\_ATG\_02-15-11\_JUD.pdf

Testimony for JUD 2/15/2011 2:00:00 PM HB1435

Conference room: 325  
Testifier position: comments only  
Testifier will be present: Yes  
Submitted by: Joshua Wisch  
Organization: Department of the Attorney General  
Address:  
Phone:  
E-mail: [atg.legcoordinator@hawaii.gov](mailto:atg.legcoordinator@hawaii.gov)  
Submitted on: 2/14/2011

Comments:  
Mark Miyahira, Deputy Attorney General, will be present at the hearing to testify.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2011**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1435, H.D. 1, RELATING TO HIGHWAY SAFETY.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 15, 2011 **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Mark K. Miyahira, Deputy Attorney General

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Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General supports the intent of this bill but opposes the amendment proposed in House Draft No. 1 that would allow habitual offenders who have lifetime license revocations to drive again.

The purpose of this bill is to (1) amend the State's ignition interlock law to permit repeat offenders to install an ignition interlock device into their vehicle; (2) to allow repeat operating under the influence of an intoxicant offenders arrested after December 31, 2010, and before the effective date of this measure, to install an ignition interlock device in their vehicle; (3) to make technical amendments for consistency; and (4) to permit individuals, who have previously received an administrative lifetime revocation of their license, to drive with an ignition interlock device and to be eligible for re-licensing.

Over the years, the Legislature has taken numerous steps to address the danger caused by intoxicated drivers to the general public. These included providing increased criminal penalties and enacting an administrative process to quickly revoke the intoxicated driver's license. However, by 2007, the consensus

among the law enforcement community and other interested parties was that the traditional method of prosecuting intoxicated drivers was not working. The number of arrests for intoxicated drivers was still high and people were still being killed by intoxicated drivers. The consensus, among the law enforcement community and other interested parties, was that the focus needed to move from increasing penalties towards ensuring that intoxicated drivers, after being convicted, would not continue to drive while intoxicated.

The intent of Act 171, Session Laws of Hawaii 2008, and subsequent amendments to the State's ignition interlock law, was to require individuals arrested for operating under the influence, including repeat offenders, to install an ignition interlock device into their car that would prevent them from starting and operating their vehicle when there is more than a minimal alcohol concentration in their body. The ignition interlock device will prevent the intoxicated driver from starting and operating their vehicle, thereby protecting the general public. However, an oversight in the drafting of the ignition interlock law, which went into effect on January 1, 2011, requires the Administrative Driver's License Revocation Office to revoke the registration of any motor vehicle registered to a repeat offender for a specified period.

Section 13 of this bill will amend section 291E-41, Hawaii Revised Statutes, by removing the requirement to revoke the vehicle registration of cars owned by repeat offenders. This amendment will permit repeat offenders to install an ignition interlock device into their car, which will prevent them from starting and operating their car when there is more than a minimal alcohol concentration in their body.

Section 2 will permit repeat offenders arrested after December 31, 2010 but before the effective date of this bill, to install an ignition interlock device into their motor vehicles.

The bill also amends other statutes in chapter 291E, Hawaii Revised Statutes, for consistency and to correct minor technical mistakes.

This measure will extend the existence of the Ignition Interlock Legislative Task Force until June 30, 2012 in order for it to oversee the first year of the implementation of the ignition interlock law and to submit recommendations to the 2012 Legislature if necessary.

The Department strongly opposes the amendments proposed in page 44, lines 8-9, and pages 47-48, lines 12-21 and 1-16 of House Draft No. 1 and respectfully requests that these amendments be deleted from the measure. These amendments were made to sections 15 and 16 of House Draft No. 1. The Department has significant concerns about permitting habitual intoxicated offenders, who have repeatedly endangered lives by driving while intoxicated, to drive again. Yet this provision would allow habitual intoxicated offenders whom the State previously determined to be so dangerous that a lifetime license revocation was warranted, back onto the streets with minimal assurances that they no longer pose a danger to the community.

The opposed amendments in House Draft No. 1 propose to authorize the Director of the Administrative Driver's License Revocation Office (ADLRO) to issue an ignition interlock permit to individuals, who have previously received an administrative lifetime revocation of their license.

The amendment will require the Director to determine whether or not the individual, with a lifetime revocation, has completed "all requirements of any criminal conviction

associated with the lifetime administrative revocation" as well as having "complied with all requirements of the lifetime administrative requirement" (page 47, lines 15-18).

Furthermore, this amendment will require an individual, with a lifetime revocation, who has not had a license for ten or more years, to install and use an ignition interlock device for only one year. An individual, who has not had a license for 5 to 10 years, would have to install and use an ignition interlock device, for eighteen months; individuals without a license for 2 to less than 5 years would use an ignition interlock device for two years and individuals without a license for less than two years would use an ignition interlock device for 5 to 10 years.

There appears to be no logical reason why a habitual intoxicated driver, who has a lifetime license revocation, who has not possessed a valid license for over 10 years, should only be required to install and use an ignition interlock device for only one year. Under the current law, a habitual intoxicated driver, whose record shows three or more prior alcohol or drug enforcement contacts in the preceding five years, would be required to install and use an ignition interlock device for a minimum of five years up to a maximum of ten years.

The Department has significant concerns that the vagueness of the amendment will make it difficult for the ADLRO to determine whether or not an applicant has complied. Furthermore, the Department believes that this amendment will place an additional burden on the ADLRO that will increase its workload but makes no provision for additional funding.

Additionally, the amendment requires very little of habitual intoxicated offenders for them to be eligible to use and install an ignition interlock device in their vehicle. The requirements are inadequate to protect the public. The

applicants do not have to demonstrate that they no longer pose a danger to the community. They do not have to show that they have complied with the traffic code and that they have not continued to drive, after receiving their lifetime license revocation.

Moreover, this provision would allow a habitual offender whose license was revoked for life after four offenses to be potentially treated as a first-time offender for purposes of administrative revocation of license, if the habitual offender commits yet another offense after the reinstatement. Thus, a *five-time* (or more) offender would be subject to the *minimum* revocation period.

Furthermore, the amendment would give preferential treatment to individuals who received a lifetime license revocation prior to January 1, 2011. Under the current law, the Director is prohibited from issuing an ignition interlock permit to a person whose license is expired, suspended, or revoked as a result of an action other than the instant revocation. Therefore under the current law, if any offender, much less a four-time offender, does not have a valid license when they are arrested and charged for operating a vehicle under the influence of an intoxicant, the Director is prohibited from issuing that person an ignition interlock permit. However, the amendment would authorize the Director to issue a four-time intoxicated offender, with a lifetime license revocation, an ignition interlock permit, regardless of whether the person had a valid license when they were last arrested for operating a vehicle under the influence of an intoxicant, or similar criminal offense.

Additionally, the amendment appears to authorize the Director to issue a four-time intoxicated offender, with a

lifetime license revocation, an ignition interlock permit, regardless of the fact that the offender's license was also revoked as a result of conviction for other offenses, including no no-fault insurance and operating a vehicle after license and privilege has been suspended or revoked for operating a vehicle under the influence of an intoxicant. Even a person with a lifetime license revocation whose license was revoked pursuant to section 286-128, Hawaii Revised Statutes, after conviction for manslaughter resulting from operation of a motor vehicle, would be eligible to apply for an ignition interlock permit.

The Ignition Interlock Legislative Task Force discussed the issue of retroactively applying the ignition interlock law to individuals, who had their licenses revoked prior to January 1, 2011. The task force decided that the issue was very complex and that it would be prudent to take up this issue after the ignition interlock law went into effect and was working properly.

The Department recommends that the amendment proposed in House Draft No. 1 be deleted. The amendment is flawed and places the safety of the general public at risk. Furthermore, the Department recommends that it is more appropriate to create a multi-disciplinary task force to review the issue and submit its recommendations to the Legislature.

We respectfully request that this bill be passed without the opposed amendments.

## JUDtestimony

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**From:** marvinnakagawa@hawaii.rr.com  
**Sent:** Monday, February 14, 2011 3:39 PM  
**To:** JUDtestimony  
**Subject:** Testimony to House JUD for HB1435, HD1 on 2/15/11  
**Attachments:** HB1435(JUD).pdf

Attached please find testimony from the Hawaii State Judiciary:

**Testifier:** Marie C. Laderta, Chief Adjudicator, Administrative Driver's License Revocation Office  
**Committee:** House Committee on Judiciary Hearing Date: Tuesday, February 15, 2011, 2:00 p.m.  
**Measure:** HB1435, HD1, Relating to Highway Safety  
**Copies:** 3





*THE JUDICIARY, STATE OF HAWAII*

Testimony to the Twenty-Sixth Legislature, 2011 Regular Session

House Committee on Judiciary  
Representative Gilbert S.C. Keith-Agaran, Chair  
Representative Karl Rhoads, Vice Chair

Tuesday, February 15, 2011  
2:00 p.m.  
State Capitol, Conference Room 325

by  
Marie C. Laderta  
Chief Adjudicator  
Administrative Driver's License Revocation Office (ADLRO)

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**Bill No. and Title:** House Bill No. 1435, H.D. 1, Relating to Highway Safety.

**Purpose:** To allow repeat intoxicated drivers to install ignition interlock devices in their vehicles by eliminating the revocation of the motor vehicle registrations of such drivers. Also makes housekeeping amendments to Chapter 291E, HRS, and extends the life of the ignition interlock implementation task force to June 30, 2012. H.D. 1 allows persons with lifetime administrative revocations to qualify for relicensing.

**Judiciary's Position:**

The ADLRO has serious concerns with the lack of safeguards and specificity with the proposed amendments in Section 16 of the bill, which would permit individuals, who have previously received an administrative lifetime revocation of their licenses, to be able to drive with an ignition interlock device and to be eligible for relicensing.

For example, Section 16 of the bill authorizes the ADLRO to issue a temporary permit to those individuals who have received an administrative lifetime revocation of their license. However, there is not the usual motor vehicle licensing requirement (such as a vision test, etc.) to assure that these drivers who allegedly have not been driving for an extended period of time, are still physically or otherwise fit to drive.



House Bill No. 1435, H.D. 1, Relating to Highway Safety  
House Committee on Judiciary  
Tuesday, February 15, 2011  
Page 2

The ADLRO recognizes that the clarifications proposed by this measure as originally introduced seek to reconcile inconsistencies within the law. On January 1, 2011, Act 171, SLH, as amended by Act 88, SLH 2009, as further amended by Act 166, SLH 2010, became law. The Acts amend Chapter 291E, HRS, relating to use of intoxicants while operating a motor vehicle to require the use of ignition interlock devices by any person whose driver's license is revoked for operating a vehicle while under the influence of an intoxicant (OVUII).

Act 171 stated that the purpose of the law is to require use of ignition interlock devices so that persons arrested for OVUII (hereinafter referred to as "respondents") can drive, but are prevented from drinking and driving, during the pendency of the case and the revocation period thereafter. According to the statement of purpose, "the requirement of installation of an ignition interlock device would replace the provisions to take custody of the motor vehicle registration and number plates and to issue conditional license permits." Emphasis added.

Notwithstanding the foregoing, §291E-41(b) (2), (3) and (4), HRS, of the law which took effect on January 1, 2011, revokes the motor vehicle registration of any vehicle registered to a respondent who has more than one alcohol enforcement contact during certain specified periods of time while §291E-41(b), HRS, requires that except for certain limited classes of respondents, a respondent "shall keep an ignition interlock device installed and operating in any vehicle the respondent operates during the revocation period." The revocation of the motor vehicle registration of respondents with multiple OVUII revocations effectively forecloses such respondents from driving during the revocation period because they would be unable to operate an unregistered vehicle. The only recourse for such respondents would appear to have the owner of a vehicle agree to the installation of an ignition interlock device in his/her vehicle and allow the respondent to drive that vehicle.

The Administrative Driver's License Revocation Office, which administers the driver's license revocation law, has already encountered problems dealing with respondents who have multiple OVUII revocations and who desire to install an ignition interlock device in their motor vehicle.

This measure also makes housekeeping amendments to Chapter 291E, HRS, for purposes of efficiency and consistency. Of the housekeeping amendments, two may appear to substantively change the law, and therefore, are addressed in this testimony.

Section 3 of the bill amends the definition of "repeat intoxicated driver" to include "drug enforcement contacts" as a factor in defining a person as a repeat intoxicated driver. Under the present definition, only alcohol enforcement contacts are used to determine if a person is a repeat intoxicated driver. However, §291E-41, HRS, which sets forth the periods of license revocation mandated for repeat offenders counts prior drug enforcement contacts, as well as alcohol enforcement contacts, to impose longer periods of revocation for repeat offenders. The proposed



House Bill No. 1435, H.D. 1, Relating to Highway Safety  
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Page 3

amendment makes the definition consistent with §291E-41, HRS. The amendment also clarifies that a repeat intoxicated driver is someone who has two contacts during the five years preceding the date of the latest arrest. The present definition states that two contacts during the preceding seven years makes a person a repeat intoxicated driver. Again, the proposed amendment makes the definition consistent with §291E-41, HRS, which uses two contacts within five years, rather than seven years.

The ADLRO will continue to work with the ignition interlock implementation task force to monitor the law and make suggested improvements, if needed.

Thank you for the opportunity to testify on House Bill No. 1435, H.D. 1.

## JUDtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 11, 2011 7:46 PM  
**To:** JUDtestimony  
**Cc:** jkaramatsu@honolulu.gov  
**Subject:** Testimony for HB1435 on 2/15/2011 2:00:00 PM  
**Attachments:** 2011 HB 1435 HD1 Ignition Interlock Testimony Keith-Agaran.doc

Testimony for JUD 2/15/2011 2:00:00 PM HB1435

Conference room: 325

Testifier position: support

Testifier will be present: Yes

Submitted by: Jon Riki Karamatsu

Organization: Department of the Prosecuting Attorney, City and County of Honolulu

Address:

Phone:

E-mail: [jkaramatsu@honolulu.gov](mailto:jkaramatsu@honolulu.gov)

Submitted on: 2/11/2011

Comments:

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-6552

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY



ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR  
HOUSE JUDICIARY COMMITTEE  
Twenty-sixth State Legislature  
Regular Session of 2011  
State of Hawai'i

February 7, 2011

RE: H.B. 1435, H.D. 1; RELATING TO HIGHWAY SAFETY.

Chair Keith-Agaran, Vice Chair Rhoads, and members of the House Committee on Transportation, the Department of the Prosecuting Attorney submits the following testimony in support of H.B. 1435, H.D. 1.

Last year, the Ignition Interlock Implementation Task Force lobbied to pass 2010 Hawaii Session Laws 166 or Act 166 that amended Chapter 291E, Hawaii Revised Statutes, which required repeat intoxicated drivers to surrender their motor vehicle registrations and license plates. However, this new requirement conflicted with another mandate that was created in Act 166, which required an individual whose license and privilege to operate a vehicle, and motor vehicle registration if applicable, were administratively revoked, to obtain an ignition interlock permit in order to operate a vehicle during the revocation period if the individual had a valid license at the time of the arrest. Under current law, if a repeat intoxicated driver had his motor vehicle registration and license plate revoked, and he or she had a valid driver license at the time of arrest, he or she cannot participate in the ignition interlock program without violating the vehicle license and registration law that requires one to have a valid vehicle license and registration in order to drive.

Therefore, the purpose of H.B. 1435, H.D. 1 is to correct this mistake of conflicting laws to allow repeat intoxicated drivers to install ignition interlock devices in any vehicle they operate by eliminating the requirement to surrender motor vehicle registrations and license plates. This bill also extends the expiration date of the Ignition Interlock Implementation Task Force to June 30, 2012 to allow further discussion on this newly created program. Finally, there are housekeeping or technical amendments to Chapter 291E, Hawaii Revised Statutes. For these reasons, we strongly support the passage of H.B. 1435, H.D. 1. Thank you for this opportunity to testify.

## JUDtestimony ~

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**From:** Debbie Sanders [debra.sanders@doh.hawaii.gov]  
**Sent:** Monday, February 14, 2011 1:41 PM  
**To:** JUDtestimony  
**Subject:** Testimony\_HB1435\_HD1\_HTH\_02-15-11\_JUD.pdf  
**Attachments:** HB1435\_HD1\_HTH\_02-15-11\_JUD.pdf

Final approved testimony attached

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**WRITTEN  
ONLY**

LORETTA FUDDY, ACSW, MPH  
ACTING DIRECTOR OF HEALTH

**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**House Committee on Judiciary**

**HB 1435 HD-1, RELATING TO HIGHWAY SAFETY**

**Testimony of Loretta Fuddy, ACSW, MPH**  
**Acting Director of Health**

**February 15, 2011**

**Department's Position:** The Department of Health opposes HB1435 HD-1.

**Fiscal Implications:** None.

**Purpose and Justification:** HB1435 HD-1 does not reflect the original intentions of this bill, and the Ignition Interlock Task Force opposes it. In addition, the language adopted in this bill, if enacted, weakens the current Ignition Interlock Law (Act 166). The Department of Health supports the Department of Transportation's position relating to SB 825 SD1.

Thank you for the opportunity to testify.

## JUD Tue Feb 15 LATE

David.J.Rodriguez@hawaii.gov [David.J.Rodriguez@hawaii.gov]

**Sent:** Tuesday, February 15, 2011 8:01 AM  
**To:** JUDtestimony  
**Cc:** Michael.Ng@hawaii.gov  
**Attachments:** HB1435HD1 Testimony ( Igni~1.doc (140 KB)

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DOT submits (1) late testimony for today.

Thank you for the opportunity to submit late testimony.

David J. Rodriguez  
Department of Transportation  
869 Punchbowl Street, Suite 504  
Honolulu, Hawaii 96813  
(808) 587-2165





STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 15, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION  
HOUSE BILL NO. 1435, H.D. 1  
COMMITTEE ON JUDICIARY

On behalf of the Ignition Interlock Task Force ("Task Force"), we fully support House Bill No. 1435, relating to highway safety. In particular, this bill will enable repeat offenders arrested under Sections 291E-61 and 291E-61.5 of the Hawaii Revised Statutes to receive their vehicle registration back and drive under the requirements of the ignition interlock. The bill also makes some housekeeping changes that were identified by the Task Force as necessary to be consistent with other provisions in Chapter 291E, Hawaii Revised Statutes.

As the interim director of the Department of Transportation, I serve as the chair of the Task Force. The Task Force was established in 2009 and examined ways for implementing the ignition interlock program statewide. Under the program, all drivers adjudicated or convicted of operating a vehicle under the influence of an intoxicant must have an ignition interlock device installed in any vehicle that they drive. Currently, however, for repeat offenders, the law requires the revocation of all vehicle registration(s) and license plate(s) in their name – it does not take into consideration any participation in the ignition interlock program. This bill incorporates the ignition interlock program by deleting all references to the revocation of motor vehicle registrations and providing for repeat offenders who were arrested and had their vehicle registration(s) and license plate(s) revoked after January 1, 2011. The Task Force believes this bill will enable repeat offenders to install an ignition interlock to enable them to drive.

Additionally, there are minor housekeeping changes proposed in the bill to be consistent with other provisions of Chapter 291E, Hawaii Revised Statutes.

The Ignition Interlock Task Force and the Department of Transportation ask your support in passing House Bill No. 1435.

## JUDtestimony

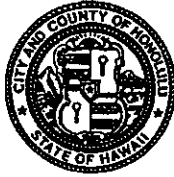
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**From:** Kamimura, Dennis [DKamimura@honolulu.gov]  
**Sent:** Monday, February 14, 2011 3:50 PM  
**To:** JUDtestimony  
**Subject:** Testimony HB1435HD1, Feb 15, 2:00pm  
**Attachments:** HB1435HD IIP JUD 0215.pdf

Attached is my replacement testimony in opposition to HB1435 HD1.

DEPARTMENT OF CUSTOMER SERVICES  
**CITY & COUNTY OF HONOLULU**  
DIVISION OF MOTOR VEHICLE, LICENSING AND PERMITS  
ADMINISTRATION  
P.O. BOX 30300  
HONOLULU, HAWAII 96820-0300

PETER B. CARLISLE  
MAYOR



GAIL Y. HARAGUCHI  
DIRECTOR

DENNIS A. KAMIMURA  
LICENSING ADMINISTRATOR

February 14, 2011

The Honorable Gilbert S. C. Keith-Agaran, Chair  
and Committee Members  
Committee on Judiciary  
House of Representatives  
State of Hawaii  
State Capitol, Room 302  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Committee Members:

Subject: H.B. No. 1435 H.D.1, Relating to Highway Safety

The City and County of Honolulu is opposed to H.B. No. 1435 H.D.1 which will, in addition to providing clarifying amendments to the ignition interlock law as approved by the interlock implementation task force, include amendments that have not been discussed by the task force.

We concur with the testimony presented by the State Department of Transportation in opposition to H.B. No 1425 H.D.1, in its present form.

Sincerely,

  
Gail Y. Haraguchi  
Director

## **JUDtestimony**

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**From:** MADDCarol@aol.com  
**Sent:** Monday, February 14, 2011 1:38 PM  
**To:** JUDtestimony  
**Cc:** Lianne.Yamamoto@hawaii.gov; Robert.KYF\_Lung@hawaii.gov; arkie@arkoehl.com; susan.a.weber@courts.state.hi.us  
**Subject:** Testimony - HB1435,HD1  
**Attachments:** HB1435,HD1 -Jud,02-15-11(2).doc

**Testimony - MADD Hawaii**

**Testifier - Carol H. McNamee, Vice Chair, Public Policy**

**Hearing: House Judiciary Committee**

**Tuesday, Feb. 15, 2011 - 2:00 P.M.**

**House Bill 1435,HD1**



Mothers Against Drunk Driving HAWAII  
745 Fort Street, Suite 303  
Honolulu, HI 96813  
Phone (808) 532-6232  
Fax (808) 532-6004  
[www.maddhawaii.com](http://www.maddhawaii.com)

February 15, 2011

To: Representative Gilbert S.C. Keith-Agaran, Chair –House Committee on Judiciary;  
Representative Karl Rhoads, Vice Chair and members of the Committee

From: Carol McNamee—Chairman, Public Policy Committee - MADD Hawaii

Re: House Bill 1435, HD 1 – Relating to Highway Safety

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I am Carol McNamee, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving in support of the original HB 1435 but in opposition to recent amendments found in HB 1435, HD1. I am also speaking as Vice Chairman of the Hawaii Ignition Interlock Implementation Task Force. This bill amends Act 166 which, along with previous Acts 171 and 88, established the Ignition Interlock system for the state of Hawaii. This program was recently implemented on January 1<sup>st</sup> of this year. MADD opposes the House Draft 1 amendments which broaden the scope of the system to retroactively include respondents who have been given lifetime revocations since the Administrative Drivers License Revocation law began. This bill which is extremely important to the basics of the interlock system is not the vehicle for inserting a concept that is not at the core of the program.

House Bill 1435 clarifies and resolves several language and numbering issues to conform the statutes relating to the interlock program. In addition, a vitally important purpose of House Bill 1435 is to correct a problem which was not realized at the time of passage of the final draft of the Task Force's Interlock bill - SB2897 - in the last legislative session. In trying to keep sanctions in place for repeat offenders who do not install an interlock device, the provisions for the administrative revocation of vehicle registrations and the impoundment of license plates were reinserted in SB2897 last year. When the Task Force reanalyzed that action a few months ago, it determined that there was a legal conflict between the revocation of vehicle registration and the interlock program that was best resolved by deleting the requirement that "respondents" with prior OVUII enforcement contacts have their vehicles' registrations revoked and the vehicles' license plates impounded.

Because of this statutory conflict, at the present time repeat intoxicated drivers are not eligible to install an interlock device and obtain an interlock permit because their vehicle registration has been revoked. The Task Force is eager to correct this situation so that all OVUII drivers with a valid license at the time of arrest can receive an interlock to protect themselves and members of the public who share the road with these individuals. HB 1435 and the HD 1 remove all references to vehicle registration revocation and license plate impoundment for respondents with prior alcohol or drug enforcement contacts. The measure will go into effect on July 1, 2011 and after its effective date, repeat intoxicated drivers arrested on or after January 1, 2011 will be able to apply for an ignition interlock device to use for the remainder of their revocation periods.

MADD Hawaii, as a member of the Ignition Interlock Implementation Task Force, opposes the recent amendments to HB 1435 which allow lifetime revocation recipients to receive a “temporary permit,” which may be different from the “interlock permit” statutorily defined, and which would allow this group of individuals with multiple prior offenses to receive interlock devices. The Task Force has been cognizant of the need to thoroughly discuss and evaluate the possibility of including this group of “respondents” in the interlock program. However, the Task Force made a conscious decision to use its time to establish the basic interlock system for Hawaii and make sure it was successfully implemented and functioning well before examining various issues such as the possibility of retroactivity for recipients of lifetime revocations. The statutes are complex and have taken the members of the Task Force many hours of time to create. This group, consisting of a broad representation of stake holders including the defense bar and the Office of the Public Defender, should be the body that makes future evaluations and decisions about expansion of the program. Public input will always be welcome and considered.

HB 1435 and the HD 1 include a provision for the Task Force to be officially extended until June 30, 2012 to provide an official group to oversee the all-important first year of interlock operation in Hawaii and to consider questions such as lifetime revocation recipient eligibility retroactively. The June date will allow the Task Force to submit and monitor additional interlock legislation in 2012 if it is found to be necessary. There will be no cost to the State for this extension of the Task Force.

MADD Hawaii respectfully asks the Judiciary committee to delete the recent amendments and pass out the original House Bill 1435. Because of HB 1435’s importance in correcting a serious problem in the core interlock program, it is an inappropriate vehicle in which to put forth a new issue.

Thank you for this opportunity to testify.

## JUDtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 14, 2011 10:25 AM  
**To:** JUDtestimony  
**Cc:** sbarta@BartaLaw.com  
**Subject:** Testimony for HB1435 on 2/15/2011 2:00:00 PM  
**Attachments:** STB\_testimony\_HB\_1345\_Judiciary\_Committee\_hrg\_2\_14\_11.odt - NeoOffice Writer.pdf

Testimony for JUD 2/15/2011 2:00:00 PM HB1435

Conference room: 325  
Testifier position: support  
Testifier will be present: Yes  
Submitted by: Steven tom barta  
Organization: Individual  
Address:  
Phone:  
E-mail: [sbarta@BartaLaw.com](mailto:sbarta@BartaLaw.com)  
Submitted on: 2/14/2011

Comments:

TO: The House of Representatives  
Committee on Judiciary

FROM: Steven T. Barta, as an individual  
and Lobbyist for Lynn Ramer  
1188 Bishop Street, Suite 3405  
Honolulu, Hawaii 96813-3314  
533-7330; sbarta@BartaLaw.com

SUBJECT: HB 1435 HD1 - Testimony in Favor

Hearing Date: Tuesday, February 15, 2011  
Time: 2:00 p.m.  
Place: Conference Room 325

Chair Keith-Agaran, Vice Chair Rhoads, and members of the Committee on Transportation, thank you for allowing me to present testimony on House Bill 1435.

My name is Steve Barta. I am an attorney with over twenty-five years of experience in the area of prosecuting and defending citizens who have lost their driver's license because of drunk driving. I started my career over twenty-five years ago as a Honolulu deputy prosecutor with a lead role in prosecuting drunk drivers; I spoke on behalf of MADD and trained police personnel and other deputy prosecutors on how to handle drunk driving cases. I presently represent those who have run afoul of the law.

Both as a prosecutor and as a defense attorney I have seen how alcohol has destroyed the lives of those who drive and those who have been victimized as a result of drunk drivers.

I have also seen how well intending laws have destroyed peoples lives and made them dependent upon the State for support. For many years I have introduced and lobbied for a law that would permit those who have lost their driver's license for life an opportunity to drive again and become productive members of our community. I have been rebuffed by some who have confused the purpose of an administrative license revocation which is to keep the community safe with the purpose of a criminal prosecution which is to punish; others have in the past opposed restoration arguing that it should wait until the ignition interlock legislation became law.



We now have an ignition interlock law and there is no longer any reason not to welcome our neighbors without driver's licenses back into our community.

Under our present law a drunk driver can no longer lose their license for life. The ignition interlock requirement protects the community from a violator driving a vehicle again while intoxicated.

House Bill 1435, House Draft 1 ("HB1435, HD1") puts those who offended prior to this year on an equal footing with those that have offended this year or will do so in the future.

Under the new ignition interlock law, a motorist who under the prior drunk driving law would have received a lifetime revocation (three or more prior alcohol enforcement contacts within 10 years) may drive, but shall be required to install and maintain an ignition interlock system for for a period of five to ten years.

HB1435, HD1 allows motorist with a lifetime revocation that have been without driving privileges for more than ten years to drive with an ignition interlock system and be eligible for re-licensing after one year (same as those who are first time offenders); those who have been without driving privileges between five to ten years to drive with an ignition interlock system and be eligible for re-licensing after eighteen months (same as those who are second time offenders); those who have been without driving privileges between two to five years to drive with an ignition interlock system and be eligible for re-licensing after two years (same as those who are third time offenders); and for those who have been without driving privileges less than two years to drive with an ignition interlock system and be eligible for re-licensing after five to ten years (same as those who are fourth time offenders);

Life time revocations became effective in Hawaii in 1991. That means there members of our community that have been without a drivers' license for twenty (20) years. The present law has done away with lifetime revocations, but it does not address the burden placed on individuals and society by those still having to live with a lifetime revocation.

The intent of HB1435, HD1 is not to excuse the conduct of drunk drivers or to allow unsafe drivers back on the road. No one wants that. Rather it is to welcome back into the community those who have paid a steep price for their past indiscretions and are no longer a threat to society.

Presently, in Hawaii life time sentences without the possibility of parole/probation exist for only two offenses; First Degree Murder, and those who have had their licenses revoked administratively for Drunk Driving.

HB1435, HD1, corrected this injustice. It places those who previously offended in the same position as those who now or in the future may offend. It recognizes that those who have had their driver's license revoked for life prior to the ignition interlock law should also be given a chance to return to society as productive members. The bill(s) recognizes what most of us take for granted; one can NOT live a normal life without driving. The ability to drive effects every aspect of our lives; it effects our ability to work, it effects our ability to care for ourselves and our families; its absence makes us dependent upon others and ultimately the State.

HB1435, HD1, serve the public good by correcting an unintended result of the State's drunk driving laws. Our drunk driving laws were created to benefit public safety by removing dangerous drivers from our roads and penalizing them for their indiscretions. However, it was never intended to take away the ability to work or the collateral effects of unemployment - broken families, homelessness and a cycle of poverty and hopelessness.

A lifetime revocation of one's driver's license is a lifetime sentence of destituteness. Especially if one lives on the outer islands where public transportation is not available or is engaged in a trade that requires transporting tools or materials or otherwise requires driving.

Many of our citizens/neighbors that have had their license revoked for life fell upon hard times and turned to alcohol to cope. Some have been able to dig themselves out of that hole and become sober law abiding members of our community. But their inability to drive stretches them to the limit and holds them back from more fulfilling lives.

HB1435, HD1 has an **implementation date of July 2011**. This date gives those that have paid the price for their indiscretions and have rehabilitated themselves the hope and opportunity to better their lives. Some, including one of my clients have been without a license for seventeen (17) years. The

implementation date of July 2011, allows those that have paid a high price for their fall from grace and are able to show that they are no longer a threat an opportunity to better their lives by regaining the privilege to drive.

HB1435, HD1 passed thru the Transportation committee unanimously unopposed. I ask that you also vote to pass this key legislation.

Thank you for your consideration of these points and the opportunity to testify before your committee.

RESPECTFULLY SUBMITTED

// Steven T. Barta //

STEVEN T. BARTA

## JUDtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 14, 2011 9:36 PM  
**To:** JUDtestimony  
**Cc:** stm8rhi@hawaii.rr.com  
**Subject:** Testimony for HB1435 on 2/15/2011 2:00:00 PM  
**Attachments:** HB1435 Testimony 02.15.11.pdf

Testimony for JUD 2/15/2011 2:00:00 PM HB1435

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: Brandon Espedal  
Organization: Individual  
Address:  
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E-mail: [stm8rhi@hawaii.rr.com](mailto:stm8rhi@hawaii.rr.com)  
Submitted on: 2/14/2011

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February 14, 2011

To: House of Representatives  
Committee On Judiciary  
Rep. Gilbert S.C. Keith-Agaran, Chair  
Rep. Karl Rhoads, Vice Chair and Members of the Committee

Re: Testimony; HB1435 Relating to Highway Safety

Chair Agaran, Vice Chair Rhoads, and members of the Committee on Judiciary, thank you for allowing me to present testimony on House Bill 1435.

I am testifying as an interested individual to encourage passage of HB1435 which was amended to permit drivers, like myself, who had once received an administrative lifetime license revocations the ability to legally drive again.

On January 19, 1997 I had my fourth alcohol enforcement contact in a ten year period and received an administrative lifetime license revocation (ALLR). I recognize how irresponsible I was in the past and how lucky I was that I never was involved in a crash or caused injury driving while intoxicated.

Not driving these past fourteen years has affected every aspect of my life from the most important to the mundane. My license status dictates where I live, where I work, who I work for, how often I see my grown children and my grandson. I have lost jobs held, been turned down for new employment opportunities, have been passed over for promotion and even had life insurance applications rejected solely because of my lifetime revocation. My life, for the most part, has been confined to a three mile radius from where I live. There has not been a day that has gone by over the last fourteen years where I have not wished I had a driver license. I can only imagine how much harder it must be for those with an ALLR who live on the neighbor islands where public transportation is not readily available. I fully realize now what a privilege it is to be able to drive legally.

In 2009 it was estimated by the Administrative Drivers License Office that there are as many as 1,800 individuals who have received lifetime revocations. Many, like myself, have managed to turn their lives around, have years of sobriety, and pose no threat to others if given the opportunity to drive again.

In 2007 I sent a letter to Ronald Sakata who was then the Chief Adjudicator for the Administrative Drivers License Office asking what I could do to get my license reinstated. Mr. Sakata responded, saying, in part "Currently therefore regrettably, I do not, nor does any other person, office, or agency have the authority or discretion to

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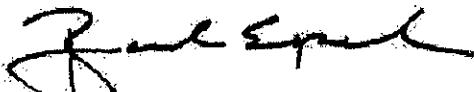
amend your revocation period." I have come to understand that even if the Governor was inclined to pardon me for one or all of my DUI offenses, that I could not become eligible for license reinstatement.

SB 716 which was enacted into law stated "Rather than taking a punitive approach that prohibits driving, Act 171 takes a pragmatic approach that requires installation of an ignition interlock device shortly after arrest so that the person can drive, but is prevented from drinking and driving, during the pendency of the case and the revocation period thereafter." The new law which went into effect on January 1, 2011, in part, recognized that lifetime revocations are not effective and that something more was required to curb Hawaii's dismal record on alcohol related fatalities. The "something more" envisioned by the new laws is the combination of tougher jail sentences, vehicle impoundment and highlights the utilization of interlock devices in the vehicles of repeat offenders.

However, in this new set of laws there are no provisions for those held a lifetime revocation prior to it's enactment on January 1, 2011. In fact, a person arrested or convicted on December 31, 2010 with three prior alcohol enforcement contacts would receive a lifetime revocation while, that same person, if arrested or convicted one day later, on January 1, 2011 could be fully eligible to get an unrestricted license in as little as five years.

I am asking the legislature to address this obvious inequity by giving those of us who have received an administrative lifetime license revocation the same rights and remedies as those who receive the maximum mandatory revocation period after January 1, 2011.

Respectfully submitted,



Brandon Espedal