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IN REPLY REFER TO:

January 25, 2012

**HB 0014
RELATING TO TRAFFIC INFRACTIONS.**

HOUSE COMMITTEE ON TRANSPORTATION

The Department of Transportation supports HB 14, with the following amendments to conform to federal regulation 49 CFR 384.225(b) affecting the Commercial Driver License (CDL) program. The CDL Program is a nationwide effort to ensure that only qualified commercial drivers receive and maintain commercial driver's licenses (CDLs) and to remove unsafe and unqualified drivers from our highways.

We agree that the bill's limitation on disclosure should not apply to criminal convictions or holders of a commercial driver's license. We request that the bill be amended to exclude a third group of records from the proposed limitation on disclosure. This can be done by adding a third paragraph to read as follows: "(C) A conviction of a driver who was operating a commercial motor vehicle without a commercial driver's license when one was required". ~~The limitation on disclosure should apply also to drivers who were required to hold a commercial driver's license when cited for the violation.~~ This change will conform Hawaii law to the federal commercial driver's license regulation and HRS 286-245(b)(2). 49 CFR 384.225(b) requires states to record and maintain all convictions committed while the driver was operating a commercial motor vehicle, and was required to have a commercial driver's license.

Thank you for the opportunity to provide testimony.



HB 14 - Support

Greetings , and Aloha to Hawaii's Lawmakers, (Letter #1) [Friday—January 13, 2012]

I ask for your attention on a matter that has been overlooked for a number of years now. It is a matter that compromises several of the fundamental tenets upon which The United States is built : Freedom/Justice/ and the idea that a citizen is held to be [Innocent Until Proven Guilty] !

There is a law currently on the books which involves the management and disclosure of personal information about the citizens of Hawaii...specific to the present method of record-keeping used by Hawaii's Traffic Violations Bureau. This statute is listed as (H.R.S. 287-3). There are two parts, (a) & (b), which make up this law. I ask that both parts be carefully and caringly modified under your judicious...and also compassionate scrutiny. Please consider with me here, how each of these two sections damages and undermines the foundation and structure of... not only our individual feelings about ...but, also the "American Citizenry's Own National Concept" on the issues of personal privacy, equality, respect, and dignity (which we still want to believe are protected by our " United States Constitution" and "Bill of Rights"). Please strengthen our confidence in this American system of FAIRNESS & JUSTICE, which we have elected you to safeguard, with your conscientious minds and honorable hearts. I ask you please to join with me in applying a bit of "Critical-Thinking", focused on The Wordage & the Intent Behind The Wordage that describes part (a) of (H.R.S. 287-3).

Let's start with part (a)... then look at part (b)...later. There is a lot to consider. (H.R.S. 287-3) --
Furnishing of Operating Records -- (a) The Traffic Violations Bureaus of the district courts, upon request, will furnish any person a certified abstract of the bureau's record, if any, of any person, relating to all alleged violations and any convictions resulting therefrom, arising from the operation of a motor vehicle, and any administrative license revocation pursuant to Chapter 219E (part III), and Chapter 286 (part XIV), as it was in effect on or before December 31, 2001. What does that mean ? Well, I believe it means that we now need to research Chapter 219E (part III).....and Chapter 286 (part XIV).....in order to try to understand what is only being implied here. However, before we get into that, please note a particularly peculiar phrase that is used in part (a) of (H.R.S.287-3)...“relating to all alleged moving violations” ! Please focus on that phrase Alleged Moving Violations ! Does this imply that the Traffic Violations Bureau of our beautiful State of Hawaii is keeping records of [Dismissed Allegations] ? Well, YES, IT DOES! Please, take a little time now to meditate on this problem... while I look up Chapter 219E (part III). O.K. ? O.K. ! So, as you were deliberating on how an allegation is nothing more than an unproven suspicion which is approximately the same thing as an ACCUSATION.....I found Chapter 219E (part III) in my files. Originally I found Chapter 219E (part III) in your Law Library, in a book of "Session Laws of Hawaii [20th & 21st State Legislatures]". It comes under the heading of ACT 157.....House Bill 1405.....entitled "A Bill for an Act Relating to the Use of Intoxicants". ACT 157 conforms & consolidates a number of provisions about intoxicants & intoxication...including (part XIV) of Chapter 286. So, as it turns out, all these provisions deal with the kinds of penalties associated with a variety-pack of related D.U.I./D.W.I violations. The laws get pretty convoluted...don't they ! It's NO WONDER why some of the mess escapes understanding and consequently doesn't get FIXED ! But that is why I'm trying to help by pointing things out...even though it will continue to cost me a great deal of time that I truly can't afford to spend. I've been trying to get this law corrected for 4 years. I need your help. O.K. – in review--two things in section (a) of (H.R.S.287-3) truly need your attention. The first issue rests in the strange unconstitutionality of keeping DISMISSED ALLEGATIONS on drivers' abstracts.

[Jan.14-16,2012]

The 2nd issue that needs your compassionate and considerate scrutiny... within part (a) of (H.R.S. 287-3)... is the wordage about Certified Abstracts being "furnished" to ANY PERSON. That would appear to mean that it's all a matter of Public Record...so nobody should get upset if the JUDICIARY WEB-PAGE just hangs it all out there for anyone with a computer to look at. Please, once again, meditate, cogitate and maybe even ruminate for a minute on the implications of this wordage...and how it impacts our Rights of Privacy. THANK YOU ! Now, I'll use some information from other sources as examples of the general confusion surrounding (H.R.S. 287-3). My own tendency is to view most Traffic Violations as unintentional. Of course that isn't always the case, but...I would like you to take the time to read an article from June Watanabe's "Kokua Line" column, which appeared in the Sunday Star-Bulletin on May 18, 2008. Just GOOGLE the words...(Traffic Violations Remain on Record for 55 Years)...and that will bring up the article. It begins with the statement... " I received a \$97 ticket [and] a notice of Traffic Infraction for unsafe lane change. It was the very first ticket I have ever received in my life". This Hawaii Driver then asked the question... "Is it really true that even if I have received only one ticket in my life, that it will really stay on my driver's abstract for 55 years." I imagine that this was not a letter from a teenage driver. Why ? Because, this sounds to me like an older person who is thoroughly embarrassed at having committed any traffic infraction at all. This driver has been fined \$97 for what would appear to be a minor infraction, since it was not a "Reckless Driving " ticket, but the blemish on the abstract is the issue...not the fine. Should this elder-person have to feel branded like some sex offender and never be able to erase this stain? Let me, please, continue to use "Kokua Line" as a back-drop for discussing salient points. There is another "Kokua Line" letter, written on April 24, 2010... which will also be useful for explaining the unfairness that this messed-up record keeping system creates. In the second letter, however, it is stated that... "(T)he Judiciary has asked the Legislature to amend H.R.S. 287-3 three times and was unsuccessful each time." Is that true ? Please try to comprehend how frustrating it is for me to know that. Over the past 4 years I've been one of the irate citizens writing letters to Judges, House Reps., Senators ...etc. I have researched and studied the issues involved...and have been trying to help you law-makers to understand what I have figured out about the layered misunderstandings involved in the creation of this record-keeping mess. I hope that enough Law-makers are now listening that something can finally be done about it. Can we please try to work together to straighten it all out ? Marsha Kitagawa, the Judiciary spokesperson who was being interviewed by June Watanabe for her column, explained that... " (T)he Judiciary's proposal, if approved by the Legislature, would have limited the reporting time period for alleged moving violations." Ms. Kitagawa followed that statement by adding that the only exception would be in the case of permanent driver's license revocations, which would continue to be reported indefinitely.

I am reaching the bottom of (PAGE TWO) and will end this first letter. I feel that I've spent my Martin Luther King Day in a worthy effort, exercising my Civil Rights (and my Constitutional Rights). I've been advised not to exceed two pages by Charlie, the Committee Clerk in the office of the Transportation Chairman and Speaker of the House, Joseph Souki...but I will continue in another 2 page letter soon. -----THANK YOU FOR READING IT !-----Guy Moncrief (256-4283) P.O.Box 4942

Kaneohe,Hawaii 97644

STATE OF HAWAII
ABSTRACT OF TRAFFIC RECORD

Date: 18-NOV-2008
Name: [REDACTED]
Driver License: [REDACTED]
ID: [REDACTED]

Case ID: 1DTC-08-004395 Court: FIRST CIRCUIT Location: HONOLULU DIVISION Veh Lic: [REDACTED] Veh St: HI
Juv: CDL: CMV: HAZ:
Posted Speed: Alleged Speed:
Citation/Arrest No.: 1DTC-08-004395 Filing Date: 30-APR-2008

Count: 1 HRS 431:10C-104 NO MOTOR VEH INSURANCE 25-APR-2008
Stopper: Driver's License Status: Cleared
Plea:
Disposition: Dismissed With Prejudice 26-JUN-2008
Vio Text:


Count: 2 HRS 431:10C-114 FAIL TO SURR CERT, PLTS-TERM IN 25-APR-2008
Stopper: Driver's License Status: Cleared
Plea:
Disposition: Dismissed With Prejudice 26-JUN-2008
Vio Text:

Case ID: 5087503MO Court: FIRST CIRCUIT Location: HONOLULU DIVISION Veh Lic: [REDACTED] Veh St: HI
Juv: CDL: CMV: HAZ:
Posted Speed: Alleged Speed:
Citation/Arrest No.: 5087503MO Filing Date: 16-JAN-2001

Count: 1 HRS 431:10C-104 NO MOTOR VEH INSURANCE 06-DEC-2000
Stopper:
Plea:
Disposition: Dismissed With Prejudice 04-DEC-2000
Vio Text: BAIL A: 99999 B: 99999; CIT AMT A: 0 B: 0; WEIGHT: DIM: COMMENTS:
00463263/MINOR ORIGINAL SECTION CODE: HRS431:10C104 OFFICER
BADGE ID: B101100538

Case ID: 5032457MO Court: FIRST CIRCUIT Location: WAHIAWA DIVISION Veh Lic: [REDACTED] Veh St: HI

This abstract shows all alleged moving violations and any judgments resulting therefrom, arising from the operation of a motor vehicle and any administrative license revocation pursuant to HRS /291E, part III and HRS/286, part XIV as it was in effect on or before December 31, 2001. Pursuant to HRS/92F-13(1), 92F-13(4) and 571-84(a), juvenile records other than civil traffic infractions occurring on or after January 1, 2008 are not subject to public disclosure. As of November 7, 2005, the record of the Traffic Violations Bureau included ten years of alleged moving violations and convictions. This record will grow with the passage of time to comply with federal Commercial Driver's License (CDL) law, 49 U.S.C./1301 et. seq., which requires states to maintain records of certain convictions for up to 55 years from the conviction date.

I hereby certify that the information provided herein is extracted from the official records of the District Courts of the State of Hawaii.
by 

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Hawaii Court Records | Search Court Record Information Online

The JIMS CourtConnect database is the primary resource residents may use when searching for Hawaii court records related to traffic cases. ...
recordsproject.com/court/hawaii.asp - 25k - [Cached](#) - [Similar pages](#)

EBSCOhost Connection: Hawaii Court Affirms Inherent Risk for ...

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Hawaii Public Records Information

Hawaii State Judiciary - Search the CourtConnect database for traffic court records.
Hawaii Business Express - Step-by-Step online business registration ...



The Judiciary, State of Hawaii

Testimony to the House Committee on Transportation

The Honorable Joseph M. Souki, Chair
The Honorable Linda Ichiyama, Vice Chair

Wednesday, January 25, 2012, 9:00 a.m.
State Capitol, Conference Room 309

by
Calvin C. Ching
Acting Deputy Chief Court Administrator
District Court of the First Circuit

Bill No. and Title: House Bill No. 14, Relating to Traffic Infractions

Purpose: Requires district court to delete from a driver's traffic abstract any violation that the driver is found not to have committed. Prohibits disclosure of dispositions of infractions that precede the date of request by more than years.

Judiciary's Position:

The Judiciary does not take any position on House Bill No. 14. However, the Judiciary would like to point out that this bill proposes to amend HRS 286-137 to the extent that it would contradict HRS 604-17, which states:

§604-17 Courts of record; testimony and proceedings. The district courts shall be courts of record. The district courts shall in all cases preserve in writing, on tape, or such other mechanical device as may be appropriate, the minutes, proceedings, and testimony of their trials, transactions, and judgments, and the facts upon which their decisions rest. [L 1892, c 57, §13; RL 1925, §2285; am L 1927, c 71, §1; RL 1935, §3774; RL 1945, §9684; RL 1955, §216-15; HRS §604-17; am L 1970, c 188, §22; am L 1971, c 144, §6E]

If the intent of this bill relates to traffic abstracts, the appropriate section to amend would be HRS 287-3. We note that if the legislature amends HRS 287-3 to fulfill the intent of this measure, the following clarifying revision should also be considered:



House Bill No. 14, Relating to Traffic Infractions
House Committee on Transportation
Wednesday, January 25, 2012
Page 2

§ 287-3. Furnishing of operating records

(a) The traffic violations bureaus of the district courts, upon request, shall furnish any person a certified abstract of the bureaus' record, if any, of any person relating to ~~[all alleged]~~ convictions or civil judgments for moving violations ~~[and any convictions resulting therefrom]~~, arising from the operation of a motor vehicle and any administrative license revocation pursuant to chapter 291E, part III and chapter 286, part XIV, as it was in effect on or before December 31, 2001. The traffic violations bureaus may collect a fee, not to exceed \$20, of which \$18 shall be deposited into the general fund and \$2 shall be deposited into the judiciary computer system special fund.

(b) Notwithstanding any provision to the contrary, all alleged moving violations as well as any convictions resulting therefrom or any administrative license suspension pursuant to chapter 291A shall not be included in a certified abstract of the bureaus' record.

Further, we recommend the purpose section in this measure be amended to substitute "court record" for "traffic abstract."

Moreover, the passage of this bill would greatly impact the Judiciary's Information Management System (JIMS) and would require the additional programming to mask, delete or report records as may be required by this bill. Should this bill become final, the Judiciary would require a minimum of 6 months to implement this bill.

Thank you for the opportunity to provide comments on this measure.