



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

February 1, 2012

**HB 2727**  
**RELATING TO VEHICLE IMMOBILIZATION**

**HOUSE COMMITTEE ON TRANSPORTATION**

The Department of Transportation opposes House Bill No. 2727. This will place additional resources (i.e., employees, funding) on the department at this time to establish and administer a statewide immobilization program.

There are additional concerns regarding the procedures of this bill. Because the original violation is pursuant to section 291E-62, a criminal violation, all matters should be referred to the courts. The word "director" as used in this bill does not refer to any particular director within the state government and it cannot be assumed that it is the director of transportation or the director of the administrative driver's license revocation office as section 291E-62 is under Part IV of Chapter 291E. In this regards, the bill mentions various procedures and investigations to be conducted administratively. When in fact, this is a criminal matter and nothing in the bill mentions an administrative process.

Although the Department of Transportation is supportive of this effort, we feel that more work must be done to make this bill work.

Thank you for the opportunity to provide testimony.





*The Judiciary, State of Hawaii*

Testimony to the Twenty-Sixth Legislature, 2012 Regular Session

House Committee on Transportation  
Representative Joseph M. Souki, Chair  
Representative Linda Ichiyama, Vice Chair

Wednesday, February 1, 2012  
9:00 a.m.  
State Capitol, Conference Room 309

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

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**Bill No. and Title:** House Bill No. 2727, Relating to Vehicle Immobilization.

**Purpose:** To require the immobilization of vehicles operated by persons whose licenses are suspended or revoked for operating a vehicle while under the influence of an intoxicant (OVUII). This bill also establishes a process for the owner of a vehicle, if other than the operator, or a household member to request the removal of the immobilization device.

**Judiciary's Position:**

The ADLRO strongly opposes House Bill No. 2727 as currently drafted. This bill attempts to establish an administrative process for the immobilization of vehicles operated by persons who violate §291E-62, HRS. However, the process set forth in the proposal is too vague and incomplete to be implemented by the ADLRO.

For example, the bill does not specifically require a hearing upon a request for removal of an immobilization device. However, the ADLRO decision on a request for removal is subject to judicial review and therefore, implies that a hearing is required, because a record is needed for judicial review. If a hearing is required, a hearing must be set, noticed, and held, and a decision rendered within five days of receipt of a request. This is an unrealistic timeframe.



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In addition, it is unclear who is responsible for determining the duration of vehicle immobilization. Is it the immobilization vendor who issues the notice of immobilization, law enforcement officials, the ADLRO, or someone else? If the intent is to have the ADLRO determine the duration of vehicle immobilization, then reports in connection with arrests for violations of §291E-62 must be forwarded to the ADLRO.

Under the administrative license revocation process, a person's license is confiscated upon arrest but the person is issued a temporary permit to drive until a decision is made to uphold or reverse the revocation of license. This proposal would immediately immobilize a vehicle upon arrest and raises questions as to due process.

Thank you for the opportunity to testify on House Bill No. 2727.



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February 1, 2012

To: Representative Joe Souki, Chair, House Committee on Transportation; Representative Linda Ichiyama, Vice Chair; and members of the Committee

From: Carol McNamee, Co-Chair– Public Policy Committee, MADD-Hawaii

Re: House Bill 2727 – Relating to Vehicle Immobilization

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I am Carol McNamee, speaking in support of House Bill 2727 on behalf of the membership of MADD-Hawaii.

MADD Hawaii strongly supports the concept of immobilization of a vehicle for the crime of “driving while a license is revoked”. This bill proposes: a largely administrative system of implementing the immobilization program rather than court-based; the use of a vendor to provide the immobilization devices and monitor their use; penalties for tampering with or circumventing the device; a schedule of time periods for the immobilization device to remain on the vehicle; and a procedure for family members to petition for removal of the device if they have no other means of transportation.

Individuals who are arrested for driving on a suspended or revoked license when the suspension or revocation was the result of an alcohol or drug related law enforcement contact fall into a high risk category of drivers. Highway safety research and advocacy groups recommend that penalties for these drivers include vehicle sanctions. It is obvious that the license revocation penalty has been disregarded, jail time is usually too short to be an effective sanction and fines may also be postponed or also disregarded. Immobilizing the vehicle is a sanction that is relatively simple and avoids the challenges and costs associated with impoundment or forfeiture.

MADD suggests that when family members petition the “director” for removal of the immobilization device because of hardship, the alternative of mandatory use of an interlock device be offered the DWR or DWS offender so that both he or she and the household members can legally drive. A system for non-licensed drivers to obtain an interlock device is being proposed in other legislation this session (HB2320).

The purpose of HB 2727 is to deter individuals from driving illegally when their licenses have been suspended or revoked. The threat of immediate immobilization for those apprehended driving without a license may encourage more OVUII drivers facing license revocation to install an ignition interlock device in their vehicles rather than chance driving illegally. For those not eligible for an interlock device, the possibility of vehicle immobilization should discourage individuals from driving illegally without a valid license. Ultimately, there should be fewer crashes caused by high-risk drivers.

MADD encourages the committee to pass HB2727 to reduce the problem of individuals illegally driving after their license has been suspended or revoked after an OVUII (DUI).

Thank you for the opportunity to testify.



Feb. 1, 2012

To: Representative Joe Souki, Chairman, Committee on Transportation; Rep. Linda Ichiyama, Vice Chair; and members of the Committee

Re: House Bill 2727, Related to Vehicle Immobilization

From: Arkie Koehl

I am submitting testimony in support of House Bill 2727 in my capacity as chair of the Impaired Driving Emphasis Area of the Hawaii 5-year Strategic Highway Safety Plan.

This immobilization initiative is one of several priorities identified in the Strategic Highway Safety Plan. Its objective is to reduce risks to Hawaii residents and visitors by strengthening the penalties for violating section 291E-62, which criminalizes driving while under license revocation or suspension for OVUII. We believe that temporary (6-12 months) loss of the use of a vehicle being driven by such a violator may represent a significant additional deterrent to this criminal behavior, which already carries jail time.

The U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) estimates that, nationally, 50-75% of drivers who lost their licenses for DUI continue to drive illegally. Anecdotally, we see no reason why Hawaii's experience should differ.

Immobilization of vehicles is not new. NHTSA's most recent report (2008) states that *"This sanction prevents the vehicle from being driven by immobilizing it via the installation of a 'boot' or 'club.' The vehicle can be immobilized on the offender's property and does not need to be taken to an impound lot. Thirteen States had laws permitting vehicle immobilization as a sanction for impaired driving offenses as of 2004 (FL, IA, IL, KS, MI, MS, NM, OH, OR, SC, VA, VT, & WI) and 4 States permit immobilization for DWS offenses (IL, OR, SC, & VA)."*

In addition to the proposed law's significance as a deterrent to unlicensed driving, we believe that it will increase compliance with the successful ignition interlock law by discouraging some OVUII offenders from claiming that they have no vehicle in which to install the in-car breathalyzer; and serve as a warning to anyone tempted to lend his vehicle to someone they know to be unlicensed because of drunk driving.

The bill describes numerous safeguards against inappropriate immobilization, and describes the appeals process. It also provides financial aid for indigent offenders. There is no cost to the taxpayer. Like ignition interlock, the offender pays all costs.

The measure calls for an effective date of July of next year, 2013. This allows time to identify potential vendors, create an RFP, select a vendor, create administrative rules if needed, and complete other administrative tasks.

Thank you for the opportunity to testify.