

SB 61

RELATING TO STATEWIDE TRAFFIC CODE.

Requires motorists to "move over" when passing a stationary emergency vehicle on a highway.



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

January 30, 2012

SB 61
RELATING TO STATEWIDE TRAFFIC CODE

SENATE COMMITTEE TRANSPORTATION AND INTERNATIONAL AFFAIRS

The Department of Transportation supports with reservations SB 61, which is similar to the national movement for “move over laws” already implemented in the other 49 states in the United States. The intent of the “move over laws” is to enhance safety for personnel utilizing emergency vehicles while performing vital public safety and convenience tasks. The Department of Transportation (DOT) agrees with the objectives of the “move over law” but is concerned with the following:

1. SB 61 requires motorists who are unable to change lanes to slow down to a speed 20 miles per hour below the posted speed limit when the posted speed limit is 25 mph or more; or 5 mph when the posted speed limit is less than 25 mph. It would be impractical for vehicles to drive on several major roadways at 5 or 10 mph. Therefore, the DOT recommends that subsection (2) be revised as follows to be consistent with the majority of other State’s “move over laws”:

(2) If that action would be unsafe or impracticable, slow to a reasonable and prudent speed that is safe for existing weather, road, vehicular or pedestrian traffic concerns.

2. SB 61, section (c) defines visual signals as “flashing vehicle emergency lights or any other reasonable visual means”. The DOT recommends deleting “any other reasonable visual means” from the definition. By restricting visual signals to “flashing vehicle emergency lights”, it would give the driver clear notice of what he is supposed to do.

Thank you for the opportunity to provide testimony.



POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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MAYOR

LOUIS M. KEALOHA
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DEPUTY CHIEFS

OUR REFERENCE KK-GR

January 30, 2012

The Honorable J. Kalani English, Chair
and Members
Committee on Transportation
and International Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair English and Members:

Subject: Senate Bill No. 61, Relating to Statewide Traffic Code


I am Kurt Kendro, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD strongly supports the passage of Senate Bill No. 61, Relating to Statewide Traffic Code. Passage of this bill would require that a vehicle that approaches a stationary emergency vehicle would have to vacate the lane closest to the emergency vehicle or reduce their speed until they pass. This bill would protect first responders throughout the state who are trying to assist others and do their duty.

The HPD recommends three changes to the bill. The first is to remove the "and rendering assistance to another vehicle or person" on page 1, lines 5 and 6. The second would be to change the penalty from a misdemeanor to a petty misdemeanor on page 2, line 1. Finally, on page 2, lines 8 and 9, in the definition of an emergency vehicle, to remove, "or any other vehicle rendering assistance to another vehicle or person."

Thank you for the opportunity to testify.

APPROVED:


LOUIS M. KEALOHA
Chief of Police

Sincerely,


KURT B. KENDRO, Major
Traffic Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE KALANI ENGLISH, CHAIR
SENATE TRANSPORTATION AND INTERNATIONAL AFFAIRS COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2012
State of Hawai`i

Monday, January 30, 2012

RE: S.B. 61; RELATING TO STATEWIDE TRAFFIC CODE.

Chair English, Vice Chair Espero, and members of the Senate Committee on Transportation and International Affairs, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in support of S.B. 61.

The purpose of this bill is to require motorists to vacate the lane closest to the emergency vehicle that is using visual signals and rendering assistance to another vehicle or person when driving on a highway with two or more lanes traveling in the direction of the emergency vehicle; or slow to a speed not to exceed: twenty miles per hour less than the posted speed limit when the posted speed limit is twenty-five miles per hour or more; or five miles per hour when the posted speed limit is less than twenty-five miles per hour. A violation of this new law would be a misdemeanor.

The intent of this legislation is to provide safety for persons who provide emergency roadside assistance from vehicles traveling by on highways and roads that are often busy and have little area on the side of the traveling lanes to provide assistance.

For the following reasons, we strongly support the passage of S.B. 61. Thank you for this opportunity to testify.



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
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January 27, 2012



GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

The Honorable J. Kalani English Chair
And Members of the Committee on Transportation
And International Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Re: Support for **S.B. No. 61**, Relating to Statewide Traffic Code

Dear Chair and Members of the Committee:

The brave men and women of the Maui Police Department are responsible for the safety and traffic enforcement of laws on the public roadways throughout the County of Maui. As a law enforcement entity, we face many dangers every day in our careers. One of these dangers is the possibility that while performing our duties in stopping or assisting a motorist, we could be seriously injured or killed by a careless driver. That is why the **Maui Police Department supports** the "Move Over" bill, S.B. No. 61, Relating to Statewide Traffic Code, **with amendments** in language to the bill.

We would like to delete language in the bill that states, "...and rendering assistance to another vehicle or person", because it appears to not fully cover police officers in the act of enforcing traffic laws on a traffic stop. **We would also like to have the penalty reduced from a misdemeanor to a petty misdemeanor** in order to expedite court proceedings and prevent the clogging of judicial courts with offenders requesting jury trials.

The basic reasoning behind the support of this bill appears obvious in that it will slow down motorists and give emergency service providers a cushion of room to react to the dynamic and ever-moving environment of a traffic stop or while assisting in a traffic accident on a busy roadway. Versions of this bill are already law in 49 states with the exception of Hawaii and the District of Columbia. As these States have seen the benefits of this type of law, I hope this legislature will support the safety of our roadways in Hawaii for everyone.

In closing, this bill is one of several in the current legislative session that will make it safer on the roadways for our police officers and other emergency service providers. It is time to support the safety of all of our emergency service providers that sacrifice to keep our community safe.

Honorable J. Kalani English, Chair
January 27, 2012
Page 2

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Yabuta", written in a cursive style.

For **GARY YABUTA**
Chief of Police



Office of the Public Defender State of Hawaii



Timothy Ho, Chief Deputy Public Defender

Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on Transportation and International Affairs

January 30, 2012, 1:15 p.m.

RE: S.B. 61: Relating To Statewide Traffic Code

Chair English and Members of the Committee:

This measure would require a motorist to move over one lane beyond a stationary emergency vehicle rendering assistance to another vehicle or person, or to slow down by twenty miles per hour less than the posted speed limit, or to five miles per hour if the posted limit is less than twenty-five miles per hour. Failure to either move over or slow down for a stationary emergency vehicle would be punishable as a full misdemeanor.

While we believe that the deaths of Officers Fontes and Davis were both tragic and unnecessary, we do not believe that a violation of this measure should be punishable as a full misdemeanor, and that this measure would have prevented their unfortunate deaths. Therefore, we **oppose Senate Bill 61.**

Legislation that is proposed and debated during or after a sensational and tragic incident has a tendency to be ushered through the legislative process fueled by emotion and a push for "justice." A common sense and/or logical analysis of the ramifications of such legislative proposals may lead to a result that is unpopular with the general public. Your duty, as elected officials, is to have as much courage to make a decision which may prove unpopular with the general public, if it is the correct decision, as making a correct decision that is favored by our populace.

Would a "move over" law have prevented the deaths of officer Fontes and Davis? Probably not. The driver who crashed into the police vehicle that had stopped to help a stranded motorist and killed officer Fontes had fallen asleep at the wheel. He did not see the stopped vehicles, including the police cars that had stopped to render assistance. His failure to move into the right-hand lane, or to slow his speed was not based on an intentional or willful act. Had he not fallen asleep, he most likely would have avoided crashing into the vehicles. The driver who hit officer Davis' police car is a federal fire firefighter, more than likely would have moved one lane over had he noticed the police cruiser stopped behind the stalled vehicle.

The public may want these drivers to be punished for their actions. What criminal offenses could they be charged with? Either driver could be prosecuted

for Negligent Homicide and Negligent Injury, for causing the death or injury to another person while operating a motor vehicle in a negligent manner. Proof of these offenses does not require an intentional, knowing, or reckless state of mind, but that the driver acted in a negligent manner, like driving above the speed limit.

What are the ramifications of creating a misdemeanor offense for a violation of this measure? First of all, anyone who is cited for failing to move over or slow down for a stationary emergency vehicle could be sentenced to a year in jail. Consequently, all individuals charged with this offense would be entitled to a jury trial. Furthermore, an SR-22 requirement would mean the loss of the driver's license for three years, if he/she were unable to post a \$25,000 certificate of deposit, or to purchase insurance for that amount. These may all be appropriate penalties for someone found guilty of negligent homicide or negligent injury, but are excessive penalties for every individual who fails to move over or slow down for a stationary emergency vehicle. As a result of the seriousness of the proposed penalty of this measure, all defendants will be entitled to an attorney, private or court-appointed, and will be entitled to a jury trial. This will have a significant impact on our judicial system.

We ask this committee to amend this bill by striking the "misdemeanor" language in subsection (b) and making the punishment a violation exempt from the SR-22 requirement. We oppose S. B. 61 in its current form. Thank you for the opportunity to comment on this bill.



January 30, 2012

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
TRANSPORTATION & INTERNATIONAL AFFAIRS
ON **SB 61** RELATING TO STATEWIDE TRAFFIC CODE**

Thank you Chair English and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association supports this bill with one comment.

Our comment is to stress the importance of (2) providing for the slowing of speed as an option to moving over one lane. Our concern is it can be difficult for a commercial motor vehicle to move over one lane in a tightly congested scenario simply because motorists tend not to want to allow such a vehicle to pull in front of them.

Thank you.



Mothers Against Drunk Driving HAWAII
745 Fort Street, Suite 303
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Fax (808) 532-6004
www.maddhawaii.com

January 30, 2012

To: Senator J. Kalani English, Chair –Senate Committee on Transportation and International Affairs; Senator Will Espero, Vice Chair and members of the Committee

From: Arkie Koehl/Carol McNamee—Co-chairmen, Public Policy Committee - MADD Hawaii

Re: Senate Bill 61 – Relating to Statewide Traffic Code

I am Arkie Koehl, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving in support of Senate Bill 61, relating to the Statewide Traffic Code.

MADD Hawaii strongly supports this commonly termed “move over” measure to provide greater protection for law enforcement officers and other first responders who are engaged in providing assistance to vehicles or individuals on Hawaii’s roads and highways. MADD has had direct contact with families of law enforcement officers who have been killed after being hit by another vehicle and our organization has adopted the position that more needs to be done to prevent these tragedies. Most other states have already taken action to adopt laws requiring drivers to “move over” when first responders are providing assistance to others on the road.

We encourage the committee to pass Senate Bill 61.

Thank you for this opportunity to testify.



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The Twenty-Sixth Legislature, State of Hawaii
The Senate
Committee on Transportation and International Affairs

Testimony by
Hawaii Government Employees Association
January 30, 2012

S.B. 61 – Relating to
Statewide Traffic Code

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 61 that requires motorists to move over when passing a stationary emergency vehicle on a highway. One hundred sixty-four (164) U.S. law enforcement officers have been killed since 1999 after being struck by vehicles along America's highways, according to the National Law Enforcement Officers Memorial Fund. HGEA represents more than 300 deputy sheriffs in the Department of Public Safety.

Hawaii is the only state without this type of legislation along with the District of Columbia. As drafted, S.B. 61 will require anyone approaching a stationary emergency vehicle with its lights on to: 1) vacate the lane closest to the emergency vehicle if there are two or more lanes going in the direction of the emergency vehicle; or 2) slow to a speed not to exceed 20 miles per hour if the speed limit is 25 miles per hour or more and 5 miles per hour when the posted speed limit is less than 25 miles per hour.

Hawaii must pass S.B. 61 to adequately protect emergency responders from serious injury or death in the line of duty. The recent crashes resulting in two HPD officers being killed while stopped along the freeway to render aid indicate the need for S.B. 61.

Thank you for the opportunity to testify in support of S.B. 61.

Respectfully submitted,

Leiomalama E. Desha
Deputy Executive Director

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 27, 2012 5:23 PM
To: TIATestimony
Cc: david.silva@mpd.net
Subject: Testimony for SB61 on 1/30/2012 1:15:00 PM
Attachments: SB61 (2)testimony.wpd

Testimony for TIA 1/30/2012 1:15:00 PM SB61

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: Lt. David Silva
Organization: Maui Police Department
E-mail: david.silva@mpd.net
Submitted on: 1/27/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 27, 2012 12:38 PM
To: TIATestimony
Cc: judirod@hawaii.rr.com
Subject: Testimony for SB61 on 1/30/2012 1:15:00 PM

Testimony for TIA 1/30/2012 1:15:00 PM SB61

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: JUDITH ROD
Organization: Individual
E-mail: judirod@hawaii.rr.com
Submitted on: 1/27/2012

Comments:

Dear Sir,

We have had two HPD officers killed on our highways within an 8 month period. All 49 states in the United States has this law in force. Please we strongly Approve this bill and feel it is imperative that it take effect as soon as possible. Oahu is a busy major city with high speed and a large population, we need this bill to be approved.

RON and JUDITH ROD

Waianae, Hi.
808 268-7716

Please see this link for more info on Move over law nationally.
<http://www.moveoveramerica.com/>

**Committee on Transportation and International Affairs
Senator J. Kalani English, Chair
Senator Will Espero, Vice Chair**

**Monday, January 30, 2012
1:15 P.M. Conference Room 224, State Capitol**

**TESTIMONY IN STRONG SUPPORT OF S.B. 61
Relating to Statewide Traffic Code**

Chair English, Vice Chair Espero and Committee Members:

It would seem the recent, tragic, and avoidable passing of Honolulu Police officers Garret Davis and Eric Fontes would be testimony enough for this committee to do its part in seeing to it that Senate Bill 61 is enacted as swiftly as possible. It is just a shame that in doing so, Hawaii will be the **last** of the 50 states to adopt a "Move Over" law, and that a handful of Hawaii's Finest had to pay with their lives to make it so.

Indeed, there will be those who would argue that consideration was never given to such a law because it is "unnecessary" ... after all, who doesn't know to slow down and/or give ample space when approaching and passing a stationary emergency vehicle? Apparently – and sadly – not everyone.

I think we can all agree that the jobs of our first responders are dangerous enough, and that any and all safeguards we can afford them in the course of providing their service to the community should be swiftly *and thankfully* implemented.

I sincerely appreciate your consideration of this testimony, and urge this committee to **pass Senate Bill 61**, with the amendments requested by the Honolulu Police Department.

Respectfully,

