

# **SB 444**

RELATING TO HABITUALLY OPERATING A VEHICLE  
UNDER THE INFLUENCE OF AN INTOXICANT.

Expands definition of habitual operator of a vehicle while under the influence of an intoxicant to include persons with convictions within the last ten years of the offense for habitually operating a vehicle under the influence of an intoxicant.

Effective July 1, 2013.

NEIL ABERCROMBIE  
GOVERNOR



Testimony of  
GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
JADE BUTAY  
FORD N. FUCHIGAMI  
RANDY GRUNE  
JADINE URASAKI

IN REPLY REFER TO:  
(808) 586-2165

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

February 11, 2013  
1:18 p.m.  
State Capitol, Room 224

**S.B. 444**  
**RELATING TO HABITUALLY OPERATING A VEHICLE UNDER THE INFLUENCE**  
**OF AN INTOXICANT**

Senate Committee on Transportation and International Affairs

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The Department of Transportation **supports** Senate Bill No. 444, relating to driving under the influence. This bill amends the definition of a "habitual offender" to mean a person who was convicted of habitually operating a vehicle under the influence of an intoxicant within ten years of the instant offense of operating a motor vehicle under the influence of an intoxicant. This amendment would close a loop hole of the existing law by counting the person arrested and convicted for habitual offender as an instant offense of operating a vehicle under the influence of an intoxicant within the ten year period.

The Department of Transportation urges your support in passing House Bill No. 1181 as it will count the charge of habitual offender as an instant offense of operating a vehicle under the influence of an intoxicant.

Thank you for the opportunity to testify.





**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 House Committee on Transportation and International Affairs**

February 11, 2013, 1:18 p.m.

S.B. No. 444: RELATING TO HABITUALLY OPERATING A VEHICLE UNDER  
THE INFLUENCE OF AN INTOXICANT

Chair English and members of the committee:

The Office of the Public Defender opposes S.B. 444.

Under this measure, a person who commits the offense of operating a vehicle under the influence of an intoxicant (OVUII) within ten year of having been convicted of habitually operating a vehicle under the influence of an intoxicant will face another felony charge of habitually operating a vehicle under the influence of an intoxicant.

This measure is unnecessary. Our current laws already permit habitual OVUII offenders to be charged with another habitual OVUII if they are arrested within ten years of three prior OVUII cases, including the most recent habitual OVUII case. If a person commits an OVUII and is on probation or parole for the felony offense habitual OVUII, that person will face a revocation of his probation or parole, and be subject to serving the remainder of his five year prison term.

If a person commits an OVUII with nine years of sobriety between him and his prior habitual OVUII offense, we do not believe that this person should be charged with another habitual OVUII case. Thank you for the opportunity to be heard on this matter.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



KIRK W. CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE KK-LC

February 11, 2013

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

Dear Chair English and Members:

Subject: Senate Bill No. 444, Relating to Habitually Operating a Vehicle Under the Influence of an Intoxicant

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

The HPD supports the passage of Senate Bill No. 444, Relating to Habitually Operating a Vehicle Under the Influence of an Intoxicant. Passage of this bill would include those persons convicted of habitually operating a vehicle under the influence of an intoxicant as a qualifying conviction in the definition of habitual operator of a vehicle while under the influence of an intoxicant.

The HPD urges you to support Senate Bill No. 444, Relating to Habitually Operating a Vehicle Under the Influence of an Intoxicant.

Thank you for the opportunity to testify.

Sincerely,

  
KURT KENDRO, Major  
Traffic Division

APPROVED:

  
LOUIS M. KEALOHA  
Chief of Police

ALAN M. ARAKAWA  
Mayor



JOHN D. KIM  
Prosecuting Attorney  
ROBERT D. RIVERA  
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
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CONTACT: **RICHARD K. MINATOYA**  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY  
ON  
SB 444 - RELATING TO HABITUALLY OPERATING A VEHICLE UNDER THE  
INFLUENCE OF AN INTOXICANT

February 11, 2013

The Honorable J. Kalani English  
Chair  
The Honorable Donovan M. Dela Cruz  
Vice Chair  
and Members  
Senate Committee on Transportation and Internal Affairs

Chair English, Vice Chair Dela Cruz and Members of the Committee:

SB 444 seeks to expand the definition of "*habitual operator of a vehicle while under the influence of an intoxicant*" as it exists under HRS Section 291E-61.5(b). Under that current law, a prior felony conviction for Habitually Operating a Vehicle Under the Influence of an Intoxicant ("HOVUII") is treated the same as a prior petty misdemeanor conviction for Operating a Vehicle under the Influence of an Intoxicant ("OVUII") for purposes of triggering a subsequent HOVUII charge.

Under SB 444, a single prior conviction for HOVUII (or similar type offense) within ten years of the instant offense will trigger a felony charge under HRS Section 291E-61.5(b). Amending the current law in this manner will allow the criminal justice system to have increased supervision over a defendant who, in some cases, would only be charged with a petty misdemeanor under the present law.

Accordingly, the Department of the Prosecuting Attorney, **County of Maui, STRONGLY SUPPORTS** the passage of this bill. We ask that the committee **PASS SB 444.**

Thank you very much for the opportunity to provide testimony on this bill.



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

# POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, HAWAII 96793  
(808) 244-6400  
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GARY A. YABUTA  
CHIEF OF POLICE

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

February 8, 2013

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

Re: **S.B. No. 444, RELATING TO HABITUALLY OPERATING A  
VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT**

Dear Chair English and Members of the Committee:

Proposed S.B. No. 444 will expand the definition of habitual operator of a vehicle while under the influence of an intoxicant to include persons with convictions within the last ten years of the offense for habitually operating a vehicle under the influence of an intoxicant, to become effective July 1, 2013.

This bill will greatly enhance the ability for law enforcement to investigate and charge a person for the offense of operating a vehicle under the influence of an intoxicant. **The clarification of the law will assist in identifying, in a consistent manner, habitual operators of vehicles while under the influence of an intoxicant, reflecting their behavior within the last ten years.**

The **Maui Police Department** asks your committee to **support S.B. No. 444.**

Thank you for the opportunity to testify.

Sincerely,

GARY A. YABUTA  
Chief of Police



LATE

February 11, 2013

To: Senator Kalani English, Chair — Senate Committee on Transportation & International Affairs; Sen. Donovan Dela Cruz, Vice Chair and members of the Committee

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

Re: Senate Bill 444 – Relating to Driving Under The Influence

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I am Arkie Koehl, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving in support of Senate Bill 444, which removes an ambiguity in the statute by clarifying the definition of “habitual offender.” It removes the possibility that the most serious, highest risk drivers might receive a lighter sentence than the one originally intended by the Legislature. This is because, in determining prior contacts, the current language only counts “OVUII”s, thereby potentially excluding “Habitual OVUII”s. SB 444 would make clear that a Habitual OVUII counts as an OVUII.

We encourage the committee to pass Senate Bill 444.

Thank you for this opportunity to testify.

# SB444

Sunday, February 10, 2013

12:44 PM

Subject	<b>*Submitted testimony for SB444 on Feb 11, 2013 13:18PM*</b>
From	<a href="mailto:mailinglist@capitol.hawaii.gov">mailinglist@capitol.hawaii.gov</a>
To	TIATestimony
Cc	pamelapcm@gmail.com
Sent	Friday, February 08, 2013 1:49 PM

## **SB444**

Submitted on: 2/8/2013

Testimony for TIA on Feb 11, 2013 13:18PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
<b>Pamela Williams</b>	Individual	<b>Oppose</b>	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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