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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Friday, February 22, 2013
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 495 S.D. 1 – RELATING TO INSURANCE.

TO THE HONORABLE DAVID Y. IGE, CHAIR AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports this bill, but request modifications of the provisions adopted by SD 1.

The purpose of this bill is to adopt the recommendations of the Insurance Verification Working Group (“Working Group”), which was convened by the Commissioner pursuant to Senate Concurrent Resolution No. 97, S.D. 1 (2012) (SCR 97).

SCR 97 asked the Working Group to do the following: (1) explore the creation of a web services-based database program to track uninsured motorists; (2) establish a mechanism for funding the uninsured motorist database program and recommend penalties or sanctions for motorists found to be in violation of the State’s mandatory motor vehicle insurance requirements; and (3) explore other alternatives to reduce the number of uninsured motorists in the State, including alternative financing options.

In formulating its recommendations, the Working Group held eight public meetings, gathered information about insurance verification systems established in

other states, and reviewed civil and criminal statutory provisions pertaining to uninsured motorists.

In its report, the Working Group recommended establishing: a motor vehicle insurance verification program to identify uninsured motor vehicles using web-based technology; a working group to assist in the development of the program; and a motor vehicle insurance verification special fund to fund the program. The Department requests that the bill restore the creation of the special fund that is dedicated to paying the expenses of this program.

A portion of the registration fees and fines are necessary to finance this program. The Department estimates that development and operation of the program may cost \$1,000,000 per year.

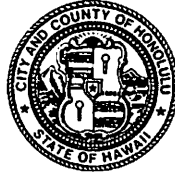
Furthermore, the Department requests amendment of the language in Section 1. (b)(1)(A) to permit "guidance" rather than "adherence" to industry standards set forth by the Insurance Industry Committee on Motor Vehicle Administration.

Finally, the mandatory assessment of a monetary penalty for driving an uninsured motor vehicle is a key provision of this program. Only a real and severe penalty will deter the uninsured motorist. If the violator can avoid the penalty by purchasing insurance after-the-fact, there is no deterrence.

We thank the Committee for the opportunity to submit testimony on this matter and ask for your favorable consideration.

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

KIRK CALDWELL
MAYOR



SHERI T. KAJIWARA
DIRECTOR DESIGNATE

DENNIS A. KAMIMURA
LICENSING ADMINISTRATOR

February 19, 2013

The Honorable David Y. Ige, Chair
and Members
Committee on Ways and Means
State Senate
Hawaii State Capitol
514 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ige and Committee Members:

Subject: S.B. No. 495 SD1, Relating to Insurance

The City and County of Honolulu has concerns relating to several amendments proposed in S.B. No. 495 SD1 relating to the establishment and funding for a motor vehicle insurance verification program.

We recommend that Section 1(b)(1)(A) be amended by not mandating adherence to the Insurance Industry Committee on Motor Vehicle Administration's (IICMVA) standards but using the IICMVA model as a guide.

In order to ensure that this program is self-sufficient, we are opposed to depositing the funds collected into the general fund and a fund not solely dedicated for the purpose of sustaining the program.

Finally, we are opposed to the reinstatement of a judge's discretionary authority to suspend a fine if the defendant later obtains insurance. Rather than the fund being funded by vehicle owners who abide by the insurance laws, we feel that the vehicle owners who violate the law should be paying for the majority of the operational cost for the program. A person who does not have insurance on a vehicle, operates the vehicle on public roads and is cited, should be required to provide verification of obtaining insurance and fined for such a violation. The funds collected should be transferred to the dedicated funding for the operation of the program.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis A. Kamimura".

Dennis A. Kamimura
Licensing Administrator

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MOTOR VEHICLE REGISTRATION, Increase registration fee for motor vehicle insurance verification program

BILL NUMBER: SB 495, SD-1

INTRODUCED BY: Senate Committees on Commerce & Consumer Protection & Transportation and International Affairs

BRIEF SUMMARY: Amends HRS section 249-31 to increase the annual state motor vehicle registration fee from \$45 to \$___ and provide that \$___ shall be deposited into the compliance resolution fund.

Amends HRS section 431:10C-117 (a) to provide that any fine imposed by this subsection shall be deposited into the general fund.

Adds a new chapter the HRS to require the department of commerce and consumer affairs to develop and operate a program to identify uninsured motor vehicles in the state. Specifies that the allocated portion of the state motor vehicle registration fee shall be deposited by the director of commerce and consumer affairs to the credit of the compliance resolution fund.

Establishes a working group to assist in the development of a program to identify uninsured motor vehicles in the state using web-based technology. The working group shall cease to exist on 1/1/2015.

EFFECTIVE DATE: July 1, 2013

STAFF COMMENTS: As drafted, this measure proposes to increase the state motor vehicle weight tax from \$45 to \$___ and provide the amount due to the increase be deposited into the compliance resolution fund. The measure also provides that a portion of the fines imposed for driving without motor vehicle insurance shall be deposited into the general fund.

While it appears that the measure would provide that a portion of the increased motor vehicle weight tax would be used to fund a program to identify uninsured motor vehicles in the state, the added monies would be deposited into the compliance resolution fund. There is also no indication or directive that the funds deposited into the compliance resolution fund are to be used for any specific agenda - the measure just states that the monies are to be deposited into the compliance resolution fund.

If the intent of the measure is to establish a funding source to generate funds for a program to identify uninsured motor vehicles, a direct appropriation would be preferable to the earmarking methodology proposed in this measure. As proposed, this will provide funds to the program automatically without any legislative oversight or scrutiny, resulting in a special fund that could either be underfunded or produce more revenues than needed to run the program, thereby making it a fund to be raided when the legislature is on the hunt for more money to spend.

More importantly, motor vehicle taxes are dedicated for the construction and maintenance of the state highway system. Deviating from the relationship between users and beneficiaries seriously jeopardizes the accountability for this fee. In addition, the adoption of this measure may open the door for other “add-ons” to provide revenue for other “important” programs. A nominal fee amount enacted can easily be increased in subsequent years to a more substantial fee. In 2004, Act 158 increased the state motor vehicle registration fee from \$5 to \$25 and deposited \$20 in the highway fund and \$5 into the emergency medical services special fund.

While the measure notes that the proposal implements the recommendations of the Insurance Verification Working Group, the question should be raised as to why funds are needed to implement the findings when there are departments complete with staff like DCCA and transportation, as well as the various county transportation departments, that are already funded by the taxpayer/highway user that exist to enforce and implement the laws regarding the insurance of motor vehicles which use the public highways. So the question why is the highway user being tapped for more money to fund something that should already be undertaken by existing staff and departments? Is this measure nothing more than another way to raise more money to sustain an already oversized government bureaucracy? Taxpayers should view this as just another tax increase heaped on an already overburdened public.

Digested 2/21/13

TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair

Senator Michelle N. Kidani, Vice Chair

February 22, 2013

9:00 a.m.

SB 495, SD1

Chair Ige, Vice Chair Kidani, and members of the Committee, my name is my name is Alison Powers, Executive Director of the Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council's (HIC) representative Mike Onofrietti sat on the Insurance Verification Working Group and HIC supported the original bill submitted, SB 495. A large part of the reason HIC supported the legislation, even knowing it will have some cost increase for insurers, is that there were reasonable enforcement provisions. One of those appeared in the original bill that disallowed a judge's discretion in suspending a fine if insurance is produced ***after the fact***.

We oppose Section 8 of the Senate Draft 1 as it pertains to leaving intact the current law that allows judges the discretion to suspend all or any portion of the fine if the defendant provides proof of having a current motor vehicle insurance policy. This is now in Section 431:10C-117(a)(2)(B)(i).

The original bill took away judges' discretion in suspending a fine if proof of current insurance was shown. This is a provision HIC believes is integral in making any law to enforce uninsured motorists work. If a judge has the ability to suspend all or part of a

fine for someone caught without insurance and shows they have insurance **later**, but not on the day they were caught, the law continues to give great incentive to not purchase insurance until caught and hope the judge will show mercy.

A key to decreasing the proportion of uninsured vehicles are penalties that are greater than the cost of purchasing insurance, and the perception among offenders that if they get caught they will be subject to those penalties. If this is not the case, a well-designed and efficient insured vehicle reporting process will not likely reduce uninsured vehicles on our roads. We believe that without adequate consistent enforcement, a law change is not warranted.

Thank you for the opportunity to present comments.