

NEIL ABERCROMBIE
GOVERNOR



Testimony of
GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
FORD N. FUCHIGAMI
RANDY GRUNE
AUDREY HIDANO
JADINE URASAKI

IN REPLY REFER TO:

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

January 23, 2014
2:00 PM
State Capitol, Room 325

H.B. 1181, H.D. 1
RELATING TO DRIVING UNDER THE INFLUENCE

House Committee on Judiciary

The Department of Transportation **supports** House Bill No. 1181, H.D. 1, 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 bill as amended clarifies the habitual offender, who is arrested and convicted again for the instant offense, can be charged again under Section 291E-61.5, Hawaii Revised Statutes within the ten year period.

Thank you for the opportunity to provide testimony.

HB1181

Submitted on: 1/21/2014

Testimony for JUD on Jan 23, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Timothy Ho	Office of the Public Defender	Oppose	Yes

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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ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

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GARY A. YABUTA
CHIEF OF POLICE

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

January 23, 2014

The Honorable Karl Rhoads, Chair
And Members of the Committee on Judiciary
House of Representative
State Capitol
Honolulu, HI 96813

RE: House Bill No. 1181, HD1 - RELATING TO DRIVING UNDER THE
INFLUENCE

Dear Chair Rhoads and Members of the Committee:

The Maui Police Department supports the passage of H.B. No. 1181, HD1. The passage of this bill amends the definition of a habitual offender to be convicted of habitually operating a vehicle under the influence of an intoxicant prior to the instant offense of operating a motor vehicle under the influence of an intoxicant.

The Maui Police Department concurs with the Maui County Prosecutors in that this bill will amend the current law to close a "loophole" in which a person committing the offense of Operating a Vehicle under the Influence of an Intoxicant (OVUII) after being convicted of Habitually Operating a Vehicle Under the Influence of an Intoxicant (HOVUII) may not have the status of a habitual operator.

It is our hope that this change in the current law will deter offenders and keep our roadways safe for our citizens.

The Maui Police Department asks that you support the passage of H.B. No. 1181, HD1.

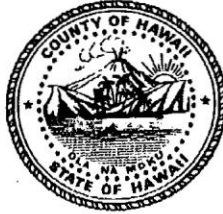
Thank you for the opportunity to testify.

Sincerely,

GARY A. YABUTA *Per:*
Chief of Police

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 1181 HD1

A BILL FOR AN ACT RELATING TO DRIVING UNDER THE
INFLUENCE

HOUSE COMMITTEE ON JUDICIARY
Rep. Karl Rhoads, Chair
Rep. Sharon E. Har, Vice Chair

Thursday, January 23, 2:00 PM
State Capitol, Conference Room 325

Honorable Chair Rhoads, Vice-Chair Har, and Members of the House Committee on Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 1181 HD1.

The purpose of this measure is to protect public safety by amending the definition of a habitual offender to include 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.

The Office of the Prosecuting Attorney of the County of Hawai'i supports the passage of House Bill No. 1181 HD1. Thank you for the opportunity to testify on this matter.

Respectfully,

Mitchell D. Roth
Prosecuting Attorney
County of Hawai'i

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK W. CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE KK-LC

January 23, 2014

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: House Bill No. 1181, H. D. 1, Relating to Driving Under the Influence

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 House Bill No. 1181, H. D. 1, Relating to Driving Under the Influence. 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 operation of a vehicle while under the influence of an intoxicant.

The HPD urges you to support House Bill No. 1181, H. D. 1, Relating to Driving Under the Influence.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt Kendro", is written over a printed name and title.

KURT KENDRO, Major
Traffic Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoa", is written over a printed name and title.

LOUIS M. KEALOHA
Chief of Police

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai'i

January 23, 2014

RE: H.B. 1181, H.D. 1; RELATING TO DRIVING UNDER THE INFLUENCE.

Chair Rhoads, Vice-Chair Har, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following in support of H.B. 1181, H.D. 1.

H.B. 1181, H.D. 1 would clarify the definition of "habitual operator of a vehicle while under the influence of an intoxicant," for purposes of section 291E-61.5, Hawaii Revised Statutes. Essentially, the problem is that the current definition requires three (3) or more prior convictions of operating a vehicle under the influence of an intoxicant ("OVUII") within the past 10 years. It does not mention prior convictions of habitually operating a vehicle under the influence of an intoxicant ("HOVUII").

So if, within the past 10 years, someone had two (2) convictions of OVUII and one conviction of HOVUII—but one (1) or more of the OVUII's that led to the HOVUII conviction is now outside of the applicable 10-year window—and this person is caught driving under the influence yet again, this person may not meet the current definition for a new HOVUII charge. In fact, regardless of how many HOVUII convictions someone has had within the past 10 years, none of those convictions are expressly included under the current definition for a new HOVUII charge. H.B. 1181, H.D. 1, would clarify this perceived "loophole," and assist in the proper enforcement of HOVUII offenses.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports H.B. 1181, H.D. 1. Thank you for this opportunity to testify on this matter.



Mothers Against Drunk Driving HAWAII
745 Fort Street, Suite 303
Honolulu, HI 96813
Phone (808) 532-6232
Fax (808) 532-6004
hi.state@madd.org

January 23, 2014

To: Representative Karl Rhoads, Chair — House Committee on Judiciary;
Rep. Sharon Har, Vice Chair, and members of the Committee

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

Re: House Bill 1181, HD 1 – Relating to Driving Under The Influence

I am Carol McNamee, offering testimony on behalf of the Hawaii members of Mothers Against Drunk Driving in support of House Bill 1181,HD1 which removes an ambiguity in the statute by clarifying the definition of “habitual offender.”

The need for this clarification is a sad, but real, commentary on the highest risk drivers on our roads. These are drivers who, even after being convicted four times for OVUII and being sanctioned as a felon for habitually operating a vehicle under the influence of an intoxicant (291E-61.5), still continue to drive legally impaired. This bill makes it clear that a habitual offender who is again arrested for OVUII within a ten year period will be charged under 291E-61.5 rather than 291E-61.

Without this amendment, there is a possibility that the most serious, highest risk drivers would receive a lighter sentence than the one originally intended by the Legislature. HB 1181,HD1 would make it clear that for habitual OVUII offenders, another incidence of operating a vehicle under the influence of an intoxicant within a ten year period will result in a felony charge under 291E-61.5 rather than a petty misdemeanor under 291E-61.

MADD encourages the committee to pass House Bill 1181,HD1

Thank you for this opportunity to testify.

HB1181

Submitted on: 1/22/2014

Testimony for JUD on Jan 23, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Samuel thomas	Hawaii Police Department	Support	No

Comments:

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Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy


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Victim/Witness Program Director

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Victim/Witness Program 808-241-1898 or 800-668-5734

**TESTIMONY IN SUPPORT OF
H.B. NO. 1181 – RELATING TO THE DRIVING UNDER THE INFLUENCE**

Justin F. Kollar, Prosecuting Attorney 
County of Kaua'i

House Committee on Judiciary
January 23, 2014

Chair Rhoads, Vice Chair Har and Members of the Committee:

HB 1181, HD 1 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 the 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. Because of this, a loophole exists where a person committing OVUII after being convicted of HOVUII may not have the status of a habitual operator.

For example, under the current law, a person was convicted of OVUII in 2002, 2003, and 2010, and was also convicted of HOVUII in 2012. If that person commits OVUII in 2014, the person cannot be charged with HOVUII even though he was just determined to be a habitual operator just two years prior. The problem is that the HOVUII conviction is treated the same as an OVUII conviction. The 2002 and 2003 convictions must be disregarded, leaving the person with only two prior convictions. HB 1181, HD 1 will close this loophole by keeping a person’s habitual operator status for a period of ten years, and make that status apply to subsequent offenses within that time period.

Based on the foregoing, the County of Kauai, Office of the Prosecuting Attorney, **STRONGLY SUPPORTS** the passage of this bill. We ask that the Committee **PASS** HB 1181, HD 1.