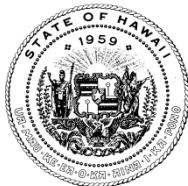


SB2408

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

February 20, 2014
10:30 a.m.
State Capitol, Room 016

S.B. 2408
RELATING TO HABITUALLY OPERATING A VEHICLE WHILE UNDER THE
INFLUENCE OF AN INTOXICANT

Senate Committee on Judiciary and Labor

The Department of Transportation **supports** S.B. 2408. 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 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.



**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 Judiciary and Labor**

February 20, 2014, 10:30 a.m.

S.B. No. 2408: RELATING TO HABITUALLY OPERATING A VEHICLE
WHILE UNDER THE INFLUENCE OF AN INTOXICANT

Chair Hee and Members of the Committee:

This measure would amend the definition of “habitual operator of a vehicle while under the influence of an intoxicant” to include a person who has been previously convicted of habitually operating a vehicle under the influence (of an intoxicant).

The Office of the Public Defender opposes this measure, and proposes an amendment to subsection (2) on page 4, line 4 of this bill.

Under this measure, if a person who was previously convicted of habitually operating a vehicle while under the influence of an intoxicant commits another OVUII twenty, thirty or even forty years after their last OVUII conviction, they would be guilty of a habitual OVUII. We believe that there should be a time period of ten years, during which if another OVUII is committed, would constitute a felony habitual OVUII.

We propose line 4, on page 4 to be amended to include the words “within ten years of the instant offense,” as follows:

- (2) One or more times within ten years of the instant offense for the offense[s] of habitually operating a vehicle while under the influence of an intoxicant.

Thank you for the opportunity to be heard on this matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE CLAYTON HEE, CHAIR
SENATE COMMITTEE ON JUDICIARY
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai'i

February 20, 2014

RE: S.B. 2408; RELATING TO HABITUALLY OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICANT.

Chair Hee, Vice-Chair Shimabukuro, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 2408.

The purpose of this bill is to amend HRS §291E-61.5, to clarify the definition of "habitual operator of a vehicle while under the influence of an intoxicant" ("HOVUII") and ensure charging, sentencing and oversight that are commensurate with the offense. Essentially, the current definition of HOVUII requires that someone have at least 3 convictions of operating a vehicle under the influence of an intoxicant ("OVUII"), and/or HOVUII, within the past 10-years, then be caught a fourth (4th) time in the same 10 years to substantiate a new HOVUII charge. However, if someone was convicted of HOVUII—meaning at least 3 convictions of OVUII (and/or HOVUII) within 10 years prior—but enough time has gone by for 2 of those convictions to fall outside of the current 10-year window, that person might not qualify for a subsequent HOVUII charge today. This applies even if both convictions remaining within the current 10-year window are HOVUII convictions (meaning at least 5 OVUII and/or HOVUII convictions total). Please keep in mind that some offenders will get 2 OVUII convictions in the same year, or in consecutive years, so 2 prior convictions can fall outside of the 10-year window relatively quickly.

Anyone who is convicted of HOVUII, and yet continues to drive-drunk, clearly presents a grave risk to public safety and welfare, and strong measures must be taken to manage this risk. Moreover, such persons have a substantial problem that must be taken very seriously for their own sake as well. Changes proposed in S.B. 2408 would assist in the appropriate enforcement and oversight of these offenses, and ensure that the definition of "habitual operator of a vehicle while under the influence of an intoxicant" more-closely reflects the plain meaning of these words.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of S.B. 2408. Thank you for this opportunity to testify.



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD. K. MINATOYA
Deputy Prosecuting Attorney
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON

SB 2408- RELATING TO HABITUALLY OPERATING A VEHICLE
WHILE UNDER THE INFLUENCE OF AN INTOXICANT
February 20, 2014

The Honorable Clayton Hee
Chair
The Honorable Maile S. L. Shimabukuro
Vice Chair
and Members of the Senate Committee on Judiciary and Labor

Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, SUPPORTS SB 2408, Relating to Habitually Operating a Vehicle While Under the Influence of an Intoxicant.

SB 2408 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 for HOVUII in 2012. If the person commits OVUII in 2014, the person cannot be charged with HOVUII even though he/she was 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. SB 2408 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.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, SUPPORTS the passage of this bill. We ask that the committee PASS SB 2408.

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

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy

ORIGINAL



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White, LCSW
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Lihu'e, Hawai'i 96766

808-241-1888 ~ FAX 808-241-1758

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

TESTIMONY IN SUPPORT OF

S.B. No. 2408

**A BILL FOR AN ACT RELATING TO HABITUALLY OPERATING A VEHICLE
WHILE UNDER THE INFLUENCE OF AN INTOXICANT**

**Justin F. Kollar, Prosecuting Attorney
County of Kauai**

Senate Committee on Judiciary and Labor

**Thursday, February 20, 2014
10:30 a.m., Room 016**

Honorable Chair Hee, Vice-Chair Shimabukuro, and Members of the Senate Committee on Judiciary and Labor, the Office of the Prosecuting Attorney, County of Kaua'i submits the following testimony in support of S.B. 2408, Relating to Habitually Operating a Vehicle While Under the Influence of an Intoxicant.

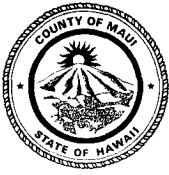
The proposed measure in S.B. 2408 is to amend Section 291E-61.5, Hawai'i Revised Statutes subsection (b) to expand the definition of "habitual operator of a vehicle while under the influence of an intoxicant" to include violators with at least one (1) conviction within the last ten years for offense of habitually operating a vehicle while under the influence of an intoxicant (HOVUII).

This bill is essentially a housekeeping bill intended to ensure that felony OVUII convictions are treated as prior offenses the same way that petty misdemeanor OVUII cases are. This will close a loophole that currently allows felony OVUII convictions to slip through the cracks and not be counted. In doing so, this bill seeks to maintain a defendant's status as a habitual operator for ten (10) years so that subsequent offenses may be charged and prosecuted appropriately.

For these reasons, we strongly support S.B. 2408. Thank you for the opportunity to testify on this matter.

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

A handwritten signature in black ink, appearing to read "Justin F. Kollar".



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE

YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

February 18, 2014



GARY A. YABUTA
CHIEF OF POLICE

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

The Honorable Clayton Hee, Chair
And Members of the Committee on Judiciary and Labor
The Senate
State Capitol
Honolulu, HI 96813

RE: Senate Bill No. 2408 – Relating to Habitually Operating a Vehicle while Under the Influence of an Intoxicant

Dear Chair Hee and Members of the Committee:

The Maui Police Department supports SB 2408. This bill expands the definition of “habitual operator of a vehicle while under the influence of an intoxicant” to include violators with at least one conviction within the last ten years for the offense of habitually operating a vehicle while under the influence of an intoxicant.

The passage of this bill will eliminate a loophole in the current law, which treats the prior offense of habitually operating a vehicle under the influence of an intoxicant conviction, the same as convictions for operating a vehicle under the influence of an intoxicant.

This bill will include offenders with at least one prior offense of habitually operating a vehicle under the influence of an intoxicant conviction within the last ten years to be classified as a habitual operator of a vehicle while under the influence of an intoxicant.

The Maui Police Department supports the passage of SB 2408.

Thank you for the opportunity to testify

Sincerely,


GARY A. YABUTA
Chief of Police

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: icalkins@hawaii.rr.com
Subject: Submitted testimony for SB2408 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 1:52:54 AM
Attachments: [DEMOCRATIC PARTY BLACKMAIL.odt](#)

SB2408

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
IRA CALKINS	Individual	Support	Yes

Comments: IRA CALKINS GOVERNMENTAL RESEARCHER 730 Captain Cook Ave Unit 426 Honolulu, Hawaii 96813-2161 CORPORATION BLACKMAIL Is the Democratic Party a Corporation? Is blackmail unlawful? The Democratic Party Line has taken away the voice of the people in the making of laws. Taxation with out representation in Hawaii. It appears the State Legislators are being blackmailed in to voting the Democratic party line, or else the Democratic Party will not support the Legislator in all state wide elections. It does not matter what the tax payers thinks, the Democratic Party line lays down the law on all bills before the Legislature. The chairman's in all committee meetings has a predisposed script to follow that the Speaker of the House, and the Speaker of the Senate has given the Committee Chairs to follow, to instruct the committee members how to vote on a any given measures, all Bills in all committees of the State of Hawaii Legislature. It is determined ahead of time by the Democratic Party members how a committee member will vote when staying with in the party line on any given Bill in the State of Hawaii Legislature, Democracy has been taken away from the tax payers in the State of Hawaii. Is the Democratic Party a Corporation? Is blackmail unlawful? Ira Calkins Honolulu 4696434 or 3498667 FAX 808-545-4707 Washington D.C. 202-697-9782

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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