

Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 1831

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred H.B. No. 1831 entitled:

"A BILL FOR AN ACT RELATING TO TESTING FOR INTOXICANTS,"

begs leave to report as follows:

The purpose of this measure is to address legal concerns raised regarding the testing of individuals suspected of operating a vehicle under the influence of an intoxicant (OVUII). Specifically, this measure repeals a statute providing that an individual suspected of OVUII who refuses to submit to a breath, blood, or urine test is guilty of a petty misdemeanor.

The Department of the Prosecuting Attorney of the County of Maui and Honolulu Police Department testified in support of this measure. The Department of Transportation testified in support of the intent of this measure.

Act 166, Session Laws of Hawaii 2010, was enacted to promote safety on Hawaii's roadways by adopting the recommendations of Hawaii's Ignition Interlock Implementation Task Force. As a result, section 291-68, Hawaii Revised Statutes (HRS), which provided that refusal to submit to a breath, blood, or urine test is a petty misdemeanor, was enacted. However, on November 25, 2015, the Hawaii Supreme Court found this requirement to be unconstitutional and in violation of the warrant requirement of the Fourth Amendment of the United States Constitution and article 1, section 7 of the Constitution of the State of Hawaii in *State v. Won*, 136 Haw. 292 (2015). Since this Hawaii Supreme Court ruling, a number of OVUII cases have been dismissed and police




departments have discontinued charging individuals for refusing to submit to a blood, breath, or urine test. Your Committee finds that, as a result of the Hawaii Supreme Court ruling, section 291-68, HRS, must be repealed.

Your Committee notes that there may be possible alternatives to repealing section 291-68, HRS. Some of these ideas were presented at the public hearing on this measure as well as during discussions of this measure. However, this is a complex matter involving a number issues that are under the purview of the Committee on Judiciary. Your Committee on Transportation therefore respectfully urges your Committee on Judiciary to consider these alternative ideas should it deliberate further on this measure.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1831 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Transportation,


HENRY J.C. AQUINO, Chair



State of Hawaii
House of Representatives
The Twenty-eighth Legislature

HSCR 535-16

Record of Votes of the Committee on Transportation

Bill/Resolution No.: HB 1831	Committee Referral: TRN, JUD	Date: 2-17-16		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
TRN Members	Ayes	Ayes (WR)	Nays	Excused
1. AQUINO, Henry J.C. (C)	X			
2. LoPRESTI, Matthew S. (VC)	X			
3. HAR, Sharon E.	X			
4. ICHIYAMA, Linda	^			
5. JOHANSON, Aaron Ling	X			
6. KEOHOKALOLE, Jarrett	X			
7. NAKASHIMA, Mark M.				X
8. SAN BUENAVENTURA, Joy A.				X
9. TAKAYAMA, Gregg	X			
10. TAKUMI, Roy M.				X
11. YAMASHITA, Kyle T.	X			
12. TUPOLA, Andria P.L.	X			
TOTAL (12)	9			3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature:				
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