

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in OPPOSITION to HCR0097  
REQUESTING THE DEPARTMENT OF HEALTH TO CONDUCT A STUDY TO  
ESTABLISH A RELIABLE SCIENTIFIC THRESHOLD AND TESTING PROTOCOL  
FOR DETERMINING WHETHER A PERSON CANNOT SAFELY OPERATE A  
MOTOR VEHICLE DUE TO BEING UNDER THE INFLUENCE OF MARIJUANA.**

REPRESENTATIVE DELLA AU BELATTI, CHAIR  
HOUSE COMMITTEE ON HEALTH  
Hearing Date: Friday, April 1, 2016 , 10:00am Room Number: 329

- 1 **Fiscal Implications:** The resolution provides no staff or budget for the proposed project.
- 2 Department of Health (DOH) is requested to conduct a study to establish a reliable scientific
- 3 threshold and testing protocol for determining whether a person cannot safely operate a motor
- 4 vehicle due to being under the influence of marijuana; and submit a report of its findings and
- 5 recommendations, including any proposed legislation, to the Legislature no later than twenty
- 6 days prior to the convening of the Regular Session of 2017.
- 7 **Department Testimony:** We commend the Legislature for their efforts to address this
- 8 important issue. DOH opposes HCR0097 due to the high cost and resource intensive
- 9 requirements for such a study. The National Institute on Drug Abuse has been studying this
- 10 issue for many years and has been unable to establish a per se level for driving under the effect
- 11 of marijuana. Blood cannabinoid analyses are challenging. Cannabinoid blood levels may
- 12 persist even after several weeks of cessation thus complicating the interpretation of blood
- 13 concentrations. Although single blood concentration always associated with impairment for both
- 14 occasional and frequent cannabis users would be ideal, there is no one blood concentration that

1 will achieve this goal. Multiple cannabinoid (usually tetrahydrocannabinol (THC) blood  
2 concentrations associated with driving impairment have been proposed ranging from THC 3.5–5  
3 µg/L. Some European Union countries use 1 µg/L. Nine states have zero tolerance for THC or  
4 metabolites, 3 states have zero tolerance for THC but no restriction on metabolites, 5 states have  
5 specific per se limits for THC, and Colorado has a reasonable inference law for THC. There are  
6 no federal guidelines or standards to determine “safe” levels of THC for operating a motor  
7 vehicle.

8 Currently, DOH does not have the capacity or resources needed to fund and perform the  
9 extensive requirements for a study of this nature. Researching this issue could be approached in  
10 one of several ways that might include: 1) driving simulations with human subjects, or 2)  
11 convene an expert panel to perform a medical literature review on the hundreds of published  
12 papers to include the rationales used by the States that already have set various limits.

13

14 Both of these processes are time and labor intensive. It is not easy to conduct clinical research in  
15 this area so option 1 might not even be possible and would conservatively cost upwards of a  
16 million dollars. Following a format used by the Institute of Medicine using expert panels could  
17 be used for option 2. This would require at least 6 experts in the field ideally chosen from both  
18 sides of the issue, 2 years to run, 1-2 full time staff including data management person, 2-3 in  
19 person meetings and would cost an estimated minimum of \$ 250,000 – \$500,000.

20

21 Thank you for the opportunity to testify.

DAVID Y. IGE  
GOVERNOR



**Testimony by:**  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

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

April 1, 2016  
10:00 a.m.  
State Capitol, Room 329

**H.C.R. 97**  
**REQUESTING THE DEPARTMENT OF HEALTH TO CONDUCT A STUDY TO**  
**ESTABLISH A RELIABLE SCIENTIFIC THRESHOLD AND TESTING PROTOCOL**  
**FOR DETERMINING WHETHER A PERSON CANNOT SAFELY OPERATE A**  
**MOTOR VEHICLE DUE TO BEING UNDER THE INFLUENCE OF MARIJUANA**

House Committee on Health

---

The Hawaii Department of Transportation (DOT) is submitting comments because it has concerns as it relates to H.C.R. No. 97, which requests the Hawaii State Department of Health (DOH) to conduct a study to establish a reliable scientific threshold and testing protocol for determining whether a person cannot safely operate a motor vehicle due to being under the influence of marijuana.

The DOT does not believe that setting a per se level of impairment for marijuana will adequately protect drivers or other roadway users. While the impairing effects of alcohol are well-understood, this is the result of years of research and studies. This resolution requires DOH to submit a report of its findings and recommendations to the Legislature no later than 20 days prior to the convening of the 2017 Regular Session.

In addition, establishing a specific per se limit won't accurately determine that a person is too impaired to drive. As our current law is written, a person commits the offense of operating a vehicle under the influence of an intoxicant (OVUI) if the person "operates or assumes physical control of a vehicle ... while under the influence of any drug that impairs the person's ability to operate the vehicle in a careful and prudent manner...." It is left up to the law enforcement officer's discretion whether or not the driver is too impaired to drive, based on the officer's observations of unsafe driving patterns and traffic violations.

The officer can corroborate his suspicions by administering the Standardized Field Sobriety Tests (SFST), a battery of three tests at the roadside to assist in making an arrest decision. If an officer suspects drug impairment, he or she may call upon a Drug Recognition Expert (DRE), who is specially trained in drug detection and classification. Toxicology results would confirm the presence of marijuana in the driver's system.

The SFST and DRE programs are backed by controlled, scientific laboratory studies and validated clues of impairment, supported by years of field studies. Therefore, a testing protocol for marijuana-impaired driving already exists, and DOH does not need to establish one, as requested in the resolution.

Thank you for the opportunity to provide testimony.

87-3217 Carissa Rd  
Captain Cook HI 96704  
808 987 8431

March 30, 2016

Re: HCR 97 Hearing Friday, April 01, 2016, 10:00 am

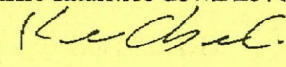
To COMMITTEE ON HEALTH

Representative Della Au Belatti, Chair - — —

Representative Richard P. Creagan, Vice Chair

This seems like a solution in search of a problem. It seems unlikely that Hawaii Department of Health has the resources to unilaterally solve this anticipated need if no one else has. A more productive approach would be something like the Android App DUI kNOW ( <http://www.androidapp.com/android-app-allows-users-to-self-test-sobriety-to-prevent-drunk-driving/> ) that measures impairment directly, rather than trying to infer it from an invasive medical procedure that at best has a weak correlation to actual impairment. Just as the blood alcohol standard does not measure impairment, but only adherence to a negotiated almost arbitrary criterion.

Every time the law is amended to remove a restriction people predict carnage, so far they have been wrong almost 100% of the time. For example: National 55mph speed limit abolished, traffic fatalities down 25%.

Ken Obenski 

Hawaii Highway Safety Council

Kaohe South Kona

March 30, 2016

Honorable Committee on Health  
J William Sanborn  
In support of passage  
The Committee on Health  
Friday, April 01, 2016  
TIME: 10:00 am  
HCR 97

Please consider especially youth and medical pain individuals in traffic stops that without guidelines on limits, if perceived or even tested currently would be considered impaired due to general use rather than over use or abuse causing real impairment. The important fact is the residual effect of any use in the blood stream for longer than the day of use.

Before passing any marijuana type bills now or in the future, knowing the scientific limits and testing methods would be the right first step to identify correct knowledge for law enforcement, insurance providers, legal representatives and especially education of most at risk youth. Mahalo for your common sense review and support . J William Sanborn, Waimea.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 31, 2016 9:20 AM  
**To:** HLTtestimony  
**Cc:** tabraham08@gmail.com  
**Subject:** \*Submitted testimony for HCR97 on Apr 1, 2016 10:00AM\*

**HCR97**

Submitted on: 3/31/2016

Testimony for HLT on Apr 1, 2016 10:00AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Troy Abraham	Individual	Support	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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

# Susan J. Moss

P.O. Box 2824  
Kamuela, Hawaii 96743

E-mail: susan@trans-  
pacificdesign.com  
Phone: (808) 885-5587 Sue  
Wk  
Fax: (808) 885-5512 Sue Wk

March 31, 2016

I would like to express my support for HCR97.

We have testing available for drunk driving and NOT for driving under the influence of Marijuana. How do the police know if the person is impaired without some testing available to them and a means to judge the test results?

Without this testing, there is no way to know what levels in the system are dangerous nor even how long the drug has been in the system since it apparently stays in your body for much longer than alcohol.

This is a public safety issue that needs to be addressed now!

Thank you for your support,

Susan J. Moss  
64-5176 Kamamau St.  
Kamuela, HI 96743



Katherine T. Kupukaa  
Mililani Town, HI 96789

COMMITTEE ON HEALTH  
Rep. Della Au Belatti, Chair  
Rep. Richard P. Creagan, Vice Chair

**DATE:** Friday, April 1, 2016

**TIME:** 10:00 a.m.

**PLACE:** Conference Room 329

State Capitol

415 South Beretania Street

RE: OPPOSE HCR 97 REQUESTING THE DEPARTMENT OF HEALTH TO CONDUCT A STUDY TO ESTABLISH A RELIABLE SCIENTIFIC THRESHOLD AND TESTING PROTOCOL FOR DETERMINING WHETHER A PERSON CANNOT SAFELY OPERATE A MOTOR VEHICLE DUE TO BEING UNDER THE INFLUENCE OF MARIJUANA.

I oppose this house concurrent resolution whereas this study should have been conducted before even passing medical marijuana dispensaries bill. Marijuana is still an illegal drug under the federal law and knowing full well that it does impair brain functioning concerns me that unwise decisions were made.

Thank you for giving me the opportunity to voice my concern.