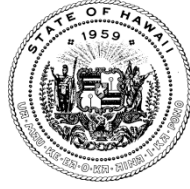


DAVID Y IGE  
GOVERNOR



FORD FUCHIGAMI  
DIRECTOR

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

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

IN REPLY REFER TO:

February 26, 2015  
1:00 p.m.  
State Capitol, Room 308

**S.B. 128 S.D. 1**  
**RELATING TO MOTOR VEHICLES**

Senate Committee on Ways and Means

---

The Department of Transportation (DOT) **supports the intent** of S.B. 128, S.D. 1 with the following concerns:

1. Part I of S.B. 128, S.D.1 will require one meter between an operating motor vehicle and moving bicycle. Although this has the potential to improve bicycle safety, DOT believes Part I will be difficult for the police departments to enforce. Additionally, drivers would have a difficult time determining if they have the allowable one meter distance due to varying roadway conditions, different vehicle speeds, board range in driving skills and knowledge of what is one meter.
2. Provided Part II of S.B. 128, S.D. 1 to appropriate grant-in-aid funding to the City and County of Honolulu for operating a van pool program on the island of Oahu does not replace or adversely impact priorities indicated in our Executive Budget.

Thank you for the opportunity to provide testimony.



February 26, 2015

**TESTIMONY BEFORE THE SENATE COMMITTEE ON WAYS & MEANS  
ON SB 128 SD1 RELATING TO MOTOR VEHICLES**

Thank you Chair Tokuda and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

We oppose that part of the bill prohibiting motor vehicles from operating within one meter of a moving bicycle.

The language places the onus entirely on the motor vehicle, and makes them sitting ducks for violations.

During peak traffic periods bicycle traffic can move faster than vehicular traffic and naturally bicycles can, and do, ride past motor vehicles. If the bicycle goes past inside of a meter, the vehicle is illegal under this proposal.

If traffic is stopped and a bicycle comes along side, again, inside of one meter, then the motor vehicle is illegal again!

The motorist has little or no control over the spacing, and sometimes no knowledge that the spacing is being jeopardized, yet only the motor vehicle is to be cited.

The three meter prohibition needs to go both ways to be fair to motor vehicles and bicycles.

Mahalo.

TESTIMONY OF  
**Daniel P. de Gracia, Th.D., D.Min.**

IN OPPOSITION WITH SUGGESTED AMENDMENTS TO THE MEASURE  
**Senate Bill. No. 128 SD1, Relating to Motor Vehicles**

BEING HEARD BEFORE THE  
**SENATE COMMITTEE ON WAYS AND MEANS**  
February 26, 2015, 1:00 p.m. Agenda, Conference Room 211

---

**Chair Tokuda, Vice Chair Kouchi, Honorable Members of the Committee:**

Senate Bill No. 128 as amended in present SD1 form (SSCR No. 418) seeks to amend Chapter 291C of the Statewide Traffic Code by adding a new section which would criminalize operation of a motor vehicle within “one meter of a moving bicycle” and adds an appropriation for a GIA to the City & County of Honolulu to establish a van pool program.

This measure is extremely problematic for several reasons. **First and most distressing of all, the Hawaii State Constitution specifies in Article III, Section 14 “Each law shall embrace but *one subject, which shall be expressed in its title.*”** The most recent SD1 draft attempts to combine legislation for two separate subjects, one which concerns revising the Traffic Code and another which appropriates monies to van pools, neither of which have a legislative nexus.

Secondly, the measure does not provide a safe harbor clause or a codified distinction between proximity which occurs between a motor vehicle incidentally and proximity which occurs as a result of operator recklessness. Many of Hawaii’s streets are extremely narrow, either as a result of developer intent to maximize housing density or as a function of old design. Residents and business patrons often park on one or both sides of a street, permitting only one vehicle to pass at a time. **This measure, as currently drafted, would criminalize a motor vehicle coming into close proximity to a bicycle even if the operator came to a complete stop to allow a bicycle to pass.** Furthermore, if a bicyclist were to breach the one-meter separation requirement as outlined in SB 128 SD1, the motor vehicle operator would be in violation for an incident initiated by someone other than their own.

**The Fourteenth Amendment of the U.S. Constitution is clear that “No state shall make or enforce any law which shall ... deny to any person within its jurisdiction *the equal protection of the laws.*”** In effect, SB 128 SD1 establishes a regime of inequality where a motor vehicle operator can at any time, under circumstances not of their control or choice, be in violation of the law.

While the legislative intent to protect bicyclists is greatly appreciated, this measure needs a distinction between **incidental proximity** and **reckless proximity** of a motor vehicle and a bicycle. I recommend that for the purposes of this section, “reckless proximity” be defined as “operation of a motor vehicle in excess of the posted speed limit within one meter of a bicycle.” Furthermore, the bill should state “Nothing in this section shall be construed to prohibit a motor vehicle from coming within incidental proximity of a bicycle, either at a complete stop or within the posted speed limit.” Thank you for this opportunity to testify.

**SB128**

Submitted on: 2/24/2015

Testimony for WAM on Feb 26, 2015 13:00PM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
HCCtestimony	Individual	Support	No

Comments: Aloha Chair and Vice-Chair and Members of the Committee: I support the passage of SB128 RELATING TO MOTOR VEHICLES. As someone who regularly commutes by bicycle in Honolulu, and has experience bicycle commuting in New York City and Tokyo by comparison, I can personally attest to the benefits of promoting sharing the road. Cyclists must also be mindful and respectful of all traffic. If motorists adopt the good habit of driving at a safe distance from bicyclists, it is an expression of Aloha. Bicycle commuting is a proven mode of economic and environmentally friendly transportation. Considering the broken condition of the shoulders on our roads, bicyclists are sometimes required to swerve or evade debris, potholes, cracks, or flooded roads and shoulders especially.

**SB128**

Submitted on: 2/25/2015

Testimony for WAM on Feb 26, 2015 13:00PM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	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)