

SB345

RELATING TO PASSENGERS RIDING IN BED OF PICKUP TRUCKS.

Raises the age from twelve to eighteen of passengers permitted to ride in the bed of a pickup truck under certain conditions. Deems passengers in the bed of a pickup truck to have assumed the risk of injury or death from an accident or injury occurring while the vehicle is in operation.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE CT-GR

February 5, 2015

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Transportation
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nishihara and Members:

SUBJECT: Senate Bill No. 345, Relating to Passengers Riding in Bed of Pickup Trucks

I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu. The HPD supports the passage of Senate Bill No. 345, Relating to Passengers Riding in the Bed of Pickup Trucks.

Pickup truck beds are not designed or equipped with safety devices for carrying passengers. The passage of this bill would prohibit those 18 years of age and under from riding in the bed of a pickup truck, helping to ensure their safety.

The HPD urges you to support Senate Bill No. 345, Relating to Passengers Riding in the Bed of Pickup Trucks.

Thank you for the opportunity to testify.

Sincerely,

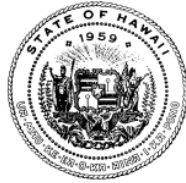
Handwritten signature of Calvin Tong in black ink.

CALVIN TONG, Major
Traffic Division

APPROVED:

Handwritten signature of Louis M. Kealoa in black ink.

LOUIS M. KEALOHA
Chief of Police



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

P. O. Box 3378
Honolulu, HI 96801-3378
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**WRITTEN
ONLY**

**Testimony COMMENTING on SB0345
Relating to Passengers Riding in Bed of Pickup Trucks**

SENATOR CLARENCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON TRANSPORTATION

Hearing Date: 02/05/15, 2:45pm

Room Number: 229

1 **Fiscal Implications:** None

2 **Department Testimony:** We appreciate the intent of SB 345, however, recommend including the
3 language in SB 203 **Section 291-14 (2) (d)**, which designates an appropriate fine and a mechanism for
4 the fine to be collected and utilized.

5 This measure seeks to reduce injuries and death to persons riding in the back of pickup trucks. The most
6 effective means for preventing truckbed injuries and fatalities is to prohibit any and all passengers from
7 riding in the cargo area of pickup trucks. SB 345 extends this protection for passengers up to age 19.

8 Truckbeds were designed to carry cargo and not passengers. There are no national safety standards
9 that support securing passengers in the back of pickup trucks. As a result, passengers in the bed of
10 pickup trucks are at increased risk of death and serious injury. In Hawaii, there have been 33 truck bed
11 passengers killed in traffic crashes since 1996. More than one-third (36%, or 12) of the 33 victims were
12 18 years of age or younger. There have only been 3 victims over the most recent 5 years (2009-2013),
13 and all 3 were under 19 years of age.

14 **Offered Amendments:** The recommends language in SB 203 **Section 291-14 (2) (d)** states,

15 "any person who violates this section shall be subject to a [fine]: (1) Fine of [\$25] \$45 for each
16 violation[]; provided that any person who violates subsection (c) shall be subject to a fine of \$50
17 for each separate violation.];

18 (2) Surcharge of \$10 which shall be deposited into the neurotrauma special fund established
19 pursuant to section 321H-4; and

20 (3) Surcharge of \$10 which shall be deposited into the trauma system special fund
21 established pursuant to section 321-22.5."

22 Thank you for the opportunity to testify.

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO S.B. NO. 345**

Date: Thursday, February 05, 2015

Time: 2:45 pm

To: Chairman Clarence K. Nishihara and Members of the Senate Committee on Transportation:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in OPPOSITION to S.B. No. 345, relating to Passengers Riding in Bed of Pickup Trucks.

The Hawaii Association For Justice fully supports raising the age to 18 for anyone to ride in the back of a pickup truck. Riding in the back of a pickup truck obviously poses increased risk of injury in a vehicle crash and minors are not felt to possess the maturity and capacity to assess the risks associated with riding in the bed of a pickup truck.

However, the provision in the bill that provides: "Any passenger in the bed or load-carrying area of a pickup truck shall be deemed to have assumed the risk of injury or death as a result of an accident or injury occurring while the vehicle is in operation," is bad public policy and a poor means of promoting safe driving and protecting public safety.

An unintended consequence of this provision is that it actually discourages safe driving. For example, if someone is riding in the back of a pickup truck, a drunk driver could injure or kill the pickup bed passenger and not be responsible because the pickup bed passenger is deemed to have assumed the risk. Assumption of the risk is a doctrine of the old common law that disqualified a person from recovering for the negligent infliction of injury or death regardless of how bad the negligent conduct was or how innocent the assumption of the risk. This produced grossly unfair results that led to the abandonment of assumption of the risk. This unfairness is apparent when you consider that drunk or reckless speeding drivers would be able to injure or kill people riding in pickup beds without responsibility and those hurt or killed would have no right of recovery.

In addition, for many people who need pickups, there is simply no practical alternative to riding in the bed. For example, people with businesses such as yard workers, small contractors,

rubbish haulers, small retailers, and many more, need trucks but are not rich enough to buy and maintain another car are unfairly discriminated against simply because they are too poor to buy additional cars. Construction workers who are shuttled to job sites would also unfairly lose their rights through no fault or choice of their own.

HAI recognizes that this measure is well intended; however, its unintended consequences outweigh its benefits. It is requested that this measure be held or amended to delete subsection (d) relating to assumption of the risk.

Thank you very much for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

From: mailinglist@capitol.hawaii.gov
To: [TRA Testimony](#)
Cc: hi0050@yahoo.com
Subject: Submitted testimony for SB345 on Feb 5, 2015 14:45PM
Date: Wednesday, February 04, 2015 9:09:22 AM

SB345

Submitted on: 2/4/2015

Testimony for TRA on Feb 5, 2015 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Hirata	Safe Community of Maui	Support	No

Comments: My name is Charles Hirata and I am a retired police captain. This bill is needed to prevent death and injuries to persons riding in the back of pickup trucks. Having investigated many incidents involving persons thrown from the back of pickup trucks, I know the consequences first hand. Victims included children, teens and adults that I got to see up close and personal while commanding the Maui Police Department Traffic Section for eleven years. I can state that this law was needed years ago. The hardest part of my job was making a death notification. Let us protect all road users and pass this bill. It is only common sense to protect our most precious passengers.

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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From: mailinglist@capitol.hawaii.gov
To: [TRA Testimony](#)
Cc: csmorimoto@aol.com
Subject: *Submitted testimony for SB345 on Feb 5, 2015 14:45PM*
Date: Wednesday, February 04, 2015 12:08:06 PM

SB345

Submitted on: 2/4/2015

Testimony for TRA on Feb 5, 2015 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Curt S. Morimoto	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [TRA Testimony](#)
Cc: david@kingdonconsulting.com
Subject: Submitted testimony for SB345 on Feb 5, 2015 14:45PM
Date: Tuesday, February 03, 2015 11:51:07 AM

SB345

Submitted on: 2/3/2015

Testimony for TRA on Feb 5, 2015 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David Kingdon, MPH, Paramedic	Individual	Support	No

Comments: I offer my strongest support for this bill. As a field paramedic in Hawaii, I have responded to several critical and fatal injuries that occurred as a direct result of occupants riding unrestrained in the back of pick-up trucks. Once grave injuries occur, there is little that paramedics can do to save these patients' lives, thus prevention - including through legislation and enforcement - is the only hope for reducing mortality from this cause. David Kingdon, MPH, Paramedic Operations Team Leader, Maui County EMS / AMR Assistant Professor of EMS, University of Hawaii / KCC

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To: [TRA Testimony](#)
Cc: gailm808@gmail.com
Subject: Submitted testimony for SB345 on Feb 5, 2015 14:45PM
Date: Wednesday, February 04, 2015 11:35:21 AM

SB345

Submitted on: 2/4/2015

Testimony for TRA on Feb 5, 2015 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Gail Miyahira	Individual	Support	No

Comments: This bill will save lives.

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To: [TRA Testimony](#)
Cc: sherry.campagna@kamakagreen.com
Subject: *Submitted testimony for SB345 on Feb 5, 2015 14:45PM*
Date: Thursday, February 05, 2015 11:42:11 AM

SB345

Submitted on: 2/5/2015

Testimony for TRA on Feb 5, 2015 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Campagna	Individual	Support	No

Comments:

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Date: Wednesday, February 04, 2015 1:58:22 PM

SB345

Submitted on: 2/4/2015

Testimony for TRA on Feb 5, 2015 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Steinemann	Individual	Support	No

Comments: As a trauma surgeon (18 years in Hawaii) I support this measure. However, I believe SB203 is a stronger piece of legislation which will provide funding to educate citizens about the danger of truck bed transportation.

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