



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 1767, H.D. 2, S.D. 1, RELATING TO MOTOR VEHICLES.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, April 3, 2018

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information contact Reuel Toyama or Julie China,
Deputy Attorney General at 587-2992)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General has the following comments on H.B. No. 1767, H.D. 2, S.D. 1.

This bill prohibits any vehicle, except low-range, four-wheel drive vehicles, from being driven in Waipi'o Valley or the Mauna Kea Science Reserve, except under certain circumstances. The bill also amends the definition of "net weight" to exclude the weight of any vehicle modifications made to assist a person with a disability, for purposes of levying the motor vehicle weight tax.

The two subjects, motor vehicles permitted in Waipi'o Valley and the Mauna Kea Science Reserve and the motor vehicle weight tax, should not be in one bill. Article III, section 14 of the Constitution of the State of Hawai'i, states in part, "Each law shall embrace but one subject, which shall be expressed in its title." Although the term "subject," as used in the Constitution, should be given "a broad and extended meaning, so as to allow the legislature full scope to include in one act all matters having a logical or natural connection" there still must be only one subject embraced by a bill. *Schwab v. Ariyoshi*, 58 Haw. 25, 33, 564 P.2d 135, 140 (1977). To constitute a "duplicity of subject," "an act must embrace two or more dissimilar and discordant subjects that by no fair intendment can be considered as having any legitimate connection with or relation to each other." *Id.*

Limiting the types of motor vehicles permitted in Waipi'o Valley and the Mauna Kea Science Reserve and the motor vehicle weight tax are so dissimilar and discordant subjects as to potentially violate the single subject requirement.

We respectfully ask the Committee to consider revising this bill.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
April 3, 2018 at 10:00 a.m.

By
Stephanie Nagata, Director
Office of Maunakea Management
University of Hawai'i at Hilo

HB 1767 HD2 SD1 – RELATED TO MOTOR VEHICLES

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

My name is Stephanie Nagata, Director of the Office of Maunakea Management. Thank you for this opportunity to testify on behalf of this bill.

The Office of Maunakea Management (OMKM) supports this bill. HB1767 HD2 SD1 provides OMKM with a tool for providing safer vehicle access to the higher elevations of Maunakea, and indirectly, a safer environment for those visiting and working on Maunakea.

The use of two-wheel drive vehicles poses not only safety concerns, but environmental and maintenance issues. Drivers using vehicles engaged in low range, 4-wheel drive, have better handling and control of their vehicle on the steep, gravel road and reduce their need to use their breaks and avoid overheating and losing break control. The use of 4-wheel drive also lessens the wear-and-tear of the gravel portion of the road, thus reducing the frequency and costs associated with maintaining the road.

The vast improvements to the Daniel K. Inouye Highway, commonly known as Saddle Road, have been a godsend to the residents of Hawai'i Island. It is a much safer and easier road to drive and has reduced the commute time between Hilo and Kona, and vice versa. However, the improved Saddle Road has resulted in an increase in vehicular traffic to the mountain. Visitors renting cars are no longer prohibited from driving across the Saddle Road in their two-wheel drive vehicles.

Two-wheel drive vehicles are not designed for driving on steep, bedrock and gravel roads, or at high altitudes. It is not uncommon for the Maunakea rangers to come across two-wheel drive vehicles stopped alongside the road with their hoods up, stalled from overheating or experiencing transmission problems. Rangers, in spite of instructing drivers to use low gear, continue to witness cars with their break lights on as they start and continue their descent down from the summit. Not only is there concern for the driver and their passengers, but there is concern about potential harm to others should a car lose the use of their breaks and hit bystanders or another vehicle.

OMKM appreciates the support this bill provides by enhancing safer travel to Maunakea.

Thank you again for this opportunity to testify on HB 1767 HD2 SD1.



HB1767 HD2 SD1
RELATING TO MOTOR VEHICLES
Senate Committee on Ways and Means

April 3, 2018

10:00 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB1767 HD2 SD1, which would help to mitigate the substantial environmental, cultural, and public safety impacts of visitor overuse and vehicular traffic on sites of immense significance to Native Hawaiians and Hawai'i as a whole.

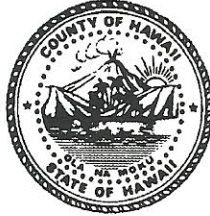
For years, concerns have been raised regarding the growing and largely unregulated number of visitors to Maunakea and Waipi'o Valley, sacred sites of immense significance to Native Hawaiians. Unfortunately, guidebooks, social media, and online websites have exponentially increased the number of people who seek to visit these and other wahi pana and wahi kapu of significance to the Native Hawaiian community. These places, and the unique and fragile ecosystems, resources, and sites they contain, are now continuously impacted in various ways by what may be thousands upon thousands of often uninformed visitors every year, including the combustion-engine vehicles that they use to access such places. As visitor numbers to these sites continue to grow, so does the threat of continuous and sometimes irreparable damage to their environmental and cultural integrity, from both irresponsible and inappropriate activity, as well as from general human overuse.

Notably, the largely unregulated vehicular access to the Maunakea summit and Waipi'o Valley floor has also resulted in serious public safety concerns, with a history of car accidents due to "brake fade" and other causes on the roads leading to them, including most recently two car crashes – one fatal – on the Mauna Kea Access Road, less than one year ago.

Accordingly, OHA appreciates the prohibitions on vehicular access by automobile types that may be unsafe to operate on the roadways accessing Maunakea's summit and Waipi'o Valley, and that uninformed visitors in particular may nonetheless choose to use in visiting these areas. Such a prohibition may be one potential means of mitigating the substantial and growing impacts of visitors and their vehicles on sites considered sacred by Native Hawaiians. OHA does understand that there is another measure being considered by the House, SB3090 SD2, that also addresses vehicular access to the summit of Maunakea, which the Committee may also wish to review for consistency.

Mahalo nui for the opportunity to testify on this measure.

VALERIE T. POINDEXTER
Council Chairwoman & Presiding Office
Council District 1



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HAWAI'I COUNTY COUNCIL

County of Hawai'i
Hawai'i County Building
25 Aupuni Street, Suite 1402
Hilo, Hawai'i 96720

March 29, 2018

Senate Committee on Ways and Means
Donovan M. Dela Cruz, Chair
Gilbert S.C. Keith-Agaran, Vice Chair

Email: sendelacruz@Capitol.hawaii.gov
Email: senkeithagaran@Capitol.hawaii.gov

Subject: Testimony Supporting HB1767 HD2 SD1, Related to Motor Vehicles
Hearing: April 3, 2018, 10:00 a.m., Room 211

Aloha Honorable Donovan M. Dela Cruz, Chairperson and Members of the Ways and Means Committee:

On behalf of myself and the constituents of Council District 1 in Hāmākua, County of Hawai'i, I would like to express our support of HB1767 HD2 SD1.

This bill prohibits any vehicle, except a low-range, four-wheel drive vehicle, from being driven through or in Waipi'o Valley or the Mauna Kea Science Reserve, except under certain circumstances. HB1767 HD2 SD1 excludes the weight of disability access modifications from the determination of net weight for non-commercial vehicles for purposes of levying the state and county motor vehicle weight tax.

I strongly urge the enactment of HB1767 HD2 SD1. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Valerie T. Poindexter".

Valerie T. Poindexter
Hawai'i County Council Chairwoman
District 1, Hāmākua



To: Senator Donovan Dela Cruz, Chair Senate Committee on Ways and Means
Senator Gilbert Keith-Agaran, Vice Chair Senate Committee on Ways and Means
From: Dr. Doug Simons, Executive Director, Canada-France-Hawaii Telescope
Subj: Letter in Support of HB 1767 HD2 SD1 Relating to Waipio Valley; Mauna Kea; Roadway; Four-Wheel Drive Vehicles; Rental Motor Vehicles; Tour Operators
Date: 28 March 2018

Through this letter I would like to state my strong **support** for HB 1767 HD2 SD1, which restricts public vehicular access to Maunakea to only 4WD vehicles that have low-gear transmissions. At its core, this is a matter of public safety and 2WD vehicles, which frequent the Maunakea summit access road, in general lack the engine braking capacity needed to safely drive down Maunakea Access Road from the summit. This means 2WD vehicles rely heavily on the continual use of brakes, which can overheat and fail. Furthermore, 2WD vehicles lack traction on the drive up and rapidly erode the gravel section of the road, contributing to ruts and washboard road conditions. Maunakea Support Services regularly grades the gravel portion of the road, but the damage being done to the road, in large part by 2WD vehicles, makes even weekly road grading inadequate.

An unintended consequence of the new \$330M DK1 Hwy on Hawaii Island is that it is now possible for nearly anyone with a car to easily go up Maunakea Access Road. Each year nearly 300,000 people make that drive. Most stop at the Visitor Information Station at 9000 ft but many continue up to the summit, particularly during the evening to watch the sunset and of those, many do so in 2WD vehicles despite signs and Maunakea Rangers warning to the contrary. HB 1767 HD2 SD1 gives the Maunakea Rangers the much needed authority to enforce restrictions on 2WD traffic, for the benefit of all drivers on that challenging high altitude mountain road. Again, I strongly support HB 1767 HD2 SD1. It is badly needed and long overdue.

Aloha,

A handwritten signature in cursive script that reads "Doug Simons".

Dr. Douglas A. Simons
Executive Director
Canada-France-Hawaii Telescope Corp.

MAUNAKEA OBSERVATORIES
SUPPORT SERVICES

177 Makaala St. Hilo, Hawaii, 96720
Phone (808) 974-4205 Fax (808) 974-4215

April 2, 2018

Aloha Chairs Dela Cruz, Vice Chair Keith-Agaran, Committee Members,

Mahalo for the opportunity to provide testimony in *strong support* of HB 1767 HD2 SD1:

Over the past 5-years or so, Saddle Road has been significantly improved. Rental car companies responded by removing restrictions that forbade rental cars on Saddle Road. These changes, combined with the ever increasing tourist population and the rise of social media, significantly increased the number of tourists going to the Visitor Information Station. Though rental companies continue to restrict their two-wheel drive vehicles from traveling further up Maunakea, many choose to ignore this restriction and continue on to the summit.

However, the Maunakea Summit Access Road above Halepohaku is very steep and wasn't built for use by two-wheel drive passenger vehicles. As the General Manager of Maunakea Observatories Support Services for the past seven years, I have personally seen the problems this has caused:

Two-wheel and all-wheel drive passenger vehicles (including two-wheel drive pick-up trucks & vans) are almost all equipped with an automatic transmission that isn't geared to be used in very steep terrain. Without the low-range gearing, drivers are forced to ride their brakes while descending from the summit. All too often, the brakes overheat and partially or completely fail. Most times, the driver is able to turn into the mauka roadside and stop with some vehicle damage and minor injury. Occasionally, the results are catastrophic.

Four-wheel drive passenger vehicles with low range are equipped for driving in steep terrain as the engine can be used to help brake the vehicle, allowing descent without overloading the brakes.

Visitor Information Station staff and Maunakea Rangers continually educate visitors about the dangers of driving a two-wheel drive car to the summit. However, many ignore this advice and drive their two-wheel drive passenger vehicles to the summit of Maunakea. The safety of kama'aina and visitors is our top priority and this legislation will prevent two-wheel drive passenger vehicles from being driven above Halepohaku.

Driving a two-wheel drive passenger vehicle uphill also increases the need for road grading and tends to create more dust than a four-wheel drive vehicle. Unlike a four-wheel drive, a two-wheel drive concentrates the drive force and has a tendency to lose traction and "chatter" or bounce slightly when going uphill on the gravel road. This causes dust and wash-boarding (a series of ridges that form on the gravel road surface), and requires staff to more frequently grade the road (now done twice weekly) to smooth out the road surface.

Mahalo for your consideration.

Sincerely,


Stewart Hunter
General Manager
shunter@ifm.hawaii.edu

HB-1767-SD-1

Submitted on: 3/31/2018 7:18:32 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Paiva	Testifying for Office of Mauna Kea Management	Support	Yes

Comments:

Aloha,

My name is Paul "Scotty" Paiva, Chief Maunakea Ranger, I am submitting this written testimony in support of HB 1767. The Mauna Kea Access Road is very steep, curvy, and the lower half is unpaved causing dangerous conditions for two-wheel drive vehicles. Two-wheel drive vehicles don't have the low gearing needed for the driver to keep a safe speed without using excessive brakes. I have witnessed brakes lights from two-wheel drive vehicles all the way down the mountain. This means they were using their brakes all the way down the mountain. I have also witnessed vehicles with glowing red hot brakes at the Visitor Information Station.

Two-wheel drive vehicles also frequently get stuck in the loose and soft cinder because they lack sufficient traction and gearing causing traffic jams and hazards.

Another problem caused by two-wheel drive vehicles is they cause a washboard effect on the gravel road going up the mountain. This puts extra burden on the road crew who needs to grade the road more often and increasing the cost for road maintenance.

The washboard effect can also cause vehicles to lose control and traction from bouncing on the uneven road surface.

These are a few of the safety and fiscal reasons I support HB 1767.

Mahalo,

Paul "Scotty" Paiva

Chief Maunakea Ranger ppaiva@hawaii.edu



Hawai'i Island Chamber of Commerce

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March 28, 2018

Senator Donovan Dela Cruz, Chair, Senate Ways and Means Committee
Senator Gilbert Keith-Agaran, Vice Chair, Senate Ways and Means Committee
Re: Letter of support for HB 1767 HD2 SD1 Relating to Waipio Valley; Mauna Kea; Roadway; Four-Wheel Drive Vehicles; Rental Motor Vehicles; Tour Operators.

Aloha Chair Dela Cruz and Vice Chair Keith-Agaran,

I would like to voice my strong support for HB 1767 HD2 SD1 as an individual, lifelong member of our community on the Island of Hawai'i, and in my capacity at the Hawai'i Island Chamber of Commerce.

Restricting public vehicular access to Maunakea above the Visitor Information Station and into Waipio to only 4WD vehicles that have low-gear transmissions will prove that you have the public's safety in mind. I am very familiar with the access road conditions to Maunakea and into Waipio. As a hunter and sometimes personal guide to visiting family members and friends to both locations, I have seen too many times drivers taking 2WD vehicles on these roads where they don't belong, creating a safety risk to not only themselves but to other travelers.

The popularity of Youtube, Facebook and other social media entices visitors to visit these locales increasing the number of vehicles attempting access. More vehicles, inexperienced drivers, and worse, inadequately equipped vehicles for the terrain put our public in jeopardy. Getting hurt in a preventable vehicular accident to Maunakea or Waipio Valley, two of our most iconic features is not the vacation remembrance I'd like our visitors to take home.

Posted warning signs on these access roads fail to deter those risky drivers and HB 1767 HD2 SD1 will give the Maunakea Rangers and other enforcement the much needed authority to enforce restrictions on 2WD traffic, for the benefit of all drivers.

Thank you very much for your consideration.
Sincerely,

Miles Yoshioka, Executive Officer