

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honoluluupd.org

LATE

KIRK CALDWELL
MAYOR



SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
JONATHAN GREMS
DEPUTY CHIEFS

OUR REFERENCE BM-GR

April 5, 2018

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members:

SUBJECT: House Bill No. 2399, H.D. 1, Relating to Highway Safety

I am Benjamin Moszkowicz, Acting Captain of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the passage of House Bill No. 2399, H.D. 1, Relating to Highway Safety with amendments.

In order to convict a drug-impaired driver of Operating a Vehicle Under the Influence of an Intoxicant (OVUII), the prosecution must prove that he or she was under the influence of a "drug" that impaired him or her. Hawaii Revised Statutes, Section 291E-1, Definitions, currently defines a "drug" as a scheduled substance or its metabolite. In cases where suspects refuse to take a blood or urine test, it is extremely difficult to prove it was "a scheduled substance" that caused his or her impairment. A driver impaired by or under the influence of kawa or Seroquel (a potentially impairing drug prescribed to treat bipolar disorder) would not have a scheduled substance or metabolite in his or her blood. Similarly, a driver impaired by the influence of only synthetic drugs (such as "spice" or "bath salts") would not have a scheduled substance or metabolite in his or her blood.

Failure to prove that particular element would result in a suspect being found not guilty by the court. As the prosecution must prove beyond a reasonable doubt that the suspect is under the influence of a scheduled substance, it is nearly impossible to convict a suspect who refuses to consent to a drug test for OVUII.

As written, the current version of House Bill No. 2399, H.D. 1, would include the language, "or any substance that impairs a person" in the definition of the term 'drug' within the

context of Chapter 291E. The HPD understands that this definition is very broad. In response, we would suggest the following changes to Chapter 291E. We believe these changes would accomplish the original intent of the bill while narrowing the scope of the statute more tightly than "any substance that impairs."

1. Section 291E-61 (a) (2) While under the influence of any drug or psychoactive substance that impairs the person's ability to operate the vehicle in a careful and prudent manner;
2. Section 291E-61.5 (a) (2) (b) (B) While under the influence of any drug or psychoactive substance that impairs the person's ability to operate the vehicle in a careful and prudent manner;
3. Section 291E-1 "Drug" definition can remain as currently written. "Psychoactive substance" could be defined as "a chemical substance that affects the mind or behavior." An alternate definition would be, "a chemical substance that alters brain function, resulting in temporary changes in perception, consciousness, or behavior"; and
4. Remove the definition of the term "substance" from Section 291E-1. "Under the influence" means that a person: (2) Is under the influence of any drug or psychoactive substance that impairs the person's ability to operate the vehicle in a careful and prudent manner.

These proposed changes would not alter the current practice of law enforcement officers arresting suspected alcohol and drug impaired drivers; to establish probable cause to support an arrest, drivers would still have to be impaired. Rather, it would allow impaired drivers to be convicted of OVUII if they refuse to be tested for drugs or test positive for nonscheduled impairing substances.


The HPD urges you to support House Bill No. 2399, H.D. 1, Relating to Highway Safety with amendments.

Thank you for the opportunity to testify.

APPROVED:


Susan Ballard
Chief of Police

Sincerely,


Benjamin Moszkowicz, Acting Captain
Traffic Division



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: Senate Committee on Judiciary
FROM: Carl Bergquist, Executive Director
HEARING DATE: 5 April 2018, 10:45AM
RE: HB2399 HD1, RELATING TO HIGHWAY SAFETY, **OPPOSE**

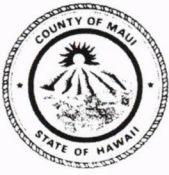
Dear Chair Taniguchi, Vice Chair Rhoads, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **opposes** this measure to expand the definition of “drug” in order to attempt to obtain convictions for operating vehicles under the influence of an intoxicant. This bill purports to address the danger of non-scheduled drugs such as kava or muscle relaxants causing impairment. The movement to add kava, e.g., to the definition of “drugs” is over two decades old, and to date, there is little evidence for the need to do so. **Kava related prosecutions in California, where the drug definition is similar to the one proposed in this bill, have not been successful due to deficient evidence.** [To the contrary, recent research shows that reaction times after kava consumption may actually be better than for non kava consumers.](#)

Rather than this sweeping change, we suggest that *if* specific substances actually pose a threat to the public, then the Department of Transportation (DOT) should furnish evidence to that effect, and add specific language listing that particular substance alongside “drugs”. It is worth highlighting that the Administrator of the Narcotics Enforcement Division (NED) at the Department of Public Safety already has emergency scheduling powers, per HRS §329-11(e), in case new substances such as synthetics appear in Hawai'i.

Further, when it comes to cannabis, which the bill anticipates being descheduled, there is no demonstrable blood level test that proves impairment. It is imperative that no arbitrary limit be set that would claim to indicate impairment. Again, **rather than broadening the “drug” definition, should cannabis be descheduled, the legislature can simply specifically list “cannabis” in the HRS definition.**

Finally, as the testimony from the Office of the Public Defender notes, there are not necessarily any scientific verification methods for proving impairment resulting from some of the substances informing this bill. In other words, ***the bill puts the cart before the horse, and we respectfully ask that you defer it.*** Thank you for the opportunity to testify.



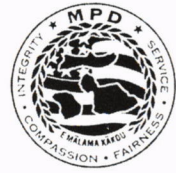
ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

February 5, 2018

Representative Scott Saiki
Hawaii State Capitol, Room 431
Honolulu, Hawaii 96813

RE: House Bill No. 2399, RELATING TO HIGHWAY SAFETY

Dear Representative Saiki:

The Maui Police Department SUPPORTS the passage of H.B. No. 2399.

The passage of this bill enhancing the definition of an “drug” under Hawaii Revised Statute Chapter 291E supports law enforcement’s stance for pursuing convictions under Hawaii Revised Statute Chapter 291E 61(a)(2) Operating a Vehicle Under the Influence of an Intoxicant (OVUII) when the intoxicant is a drug.

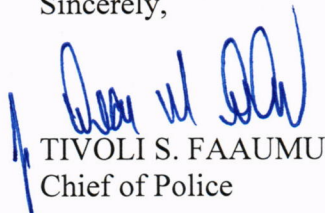
As technologies evolve, drugs/intoxicants become more advanced in composition and synthetics and need to be included in the definition as they do inhibit a vehicle operators’ ability to operate a vehicle in a safe manner.

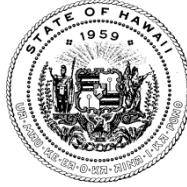
The ability to provide proof beyond a reasonable doubt is crucial in prosecution. By amending the definition under this chapter it reinforces the State & County’s position of increasing public safety through enforcement, prosecution and accountability of the offender(s).

The Maui Police Department asks that you SUPPORT the passage of H.B. No. 2399.

Thank you for the opportunity to testify.

Sincerely,


TIVOLI S. FAAUMU
Chief of Police



Testimony by:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROY CATALANI
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 5, 2018
10:45 a.m.
State Capitol, Room 016

**H.B. 2399, H.D. 1
RELATING TO HIGHWAY SAFETY**

Senate Committee on Judiciary

The Department of Transportation (DOT) **supports** H.B. 2399, H.D. 1 relating to highway safety. The bill clarifies the definition of “drug” in chapter 291E, Hawaii Revised Statutes (HRS), regarding the use of intoxicants while operating a vehicle.

Under Hawaii’s current Operating a Vehicle Under the Influence of an Intoxicant (OVUII) statute, a “drug” is defined as any controlled substance listed in schedules I through IV of chapter 329, HRS. With this definition, law enforcement and prosecutors are limited in keeping our roads safe from impaired drivers. Many substances that are being abused are not listed as schedule I through IV drugs, including kava, kratom, toluene, certain muscle relaxants, and over-the-counter cough syrup and anti-diarrheal medicines. Yet they still have the capability to impair drivers. Even adding new drugs to the schedule is not sufficient because changing just one molecule in the substance changes its chemical makeup, thus making it an entirely new drug that is now excluded from the schedule. In this manner, designer and synthetic drugs like “spice” and “bath salts” evade the scheduling process.

This is further exacerbated by the internet, which rapidly spreads the newest drug trends and offers opportunities for the public to learn how to manufacture, obtain and abuse substances.

In addition, there have been recent attempts at the federal and state levels to remove marijuana and tetrahydrocannabinols from the schedule of controlled substances. If these were to succeed, persons found to be driving while impaired by marijuana could not be prosecuted under Hawaii’s current OVUII statute.

DOT is primarily concerned about improving highway safety and protecting the lives of our community members and visitors. In order to protect our public from impaired drivers, law enforcement and adjudicators should not be forced to rely solely on the controlled substance schedules for OVUII offenses. DOT coordinates specialized training and certifies law enforcement officers to recognize impairment in drivers under

the influence of drugs through its Drug Recognition Expert (DRE) program to combat this issue.

Thank you for the opportunity to provide testimony.

Drug-Free Hawaii

Prevention Through Education

HB 2399, HD1

- RELATING TO HIGHWAY SAFETY.
- Clarifies the definition of "drug" in chapter 291E, Hawaii Revised Statutes, regarding the use of intoxicants while operating a vehicle. (HB2399 HD1)

COMMITTEE ON JUDICIARY

Senator Brian T. Taniguchi, Chair

Senator Karl Rhoads, Vice Chair

DATE: Thursday, April 5, 2018
TIME: 10:45 a.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

The Coalition for a Drug-Free Hawaii Supports HB2399, HD1

Thank you for the opportunity to voice our support.

Aloha,

Greg Tjapkes
Executive Director

The Coalition for a Drug-Free Hawaii CDFH, a private, non-profit, 501(c) 3 organization that provides innovative programs and services that help keep Hawai'i's children and families healthy, strong, and resilient against drug and alcohol abuse.





Mothers Against Drunk Driving HAWAII
745 Fort Street, Suite 303
Honolulu, HI 96813
Phone (808) 532-6232
Fax (808) 532-6004
hi.state@madd.org

April 5, 2018

To: Senator Brian T. Taniguchi, Chair, Senate Committee on Judiciary; Senator Karl Rhoads, Vice Chair; and members of the Committee

From: Carol McNamee and Arkie Koehl, Public Policy Committee - MADD Hawaii

Re: House Bill 2399, HD 1 – Relating to Highway Safety

I am Carol McNamee, offering testimony on behalf of the Hawaii Chapter of Mothers Against Drunk Driving in strong support of House Bill 2399, HD 1, relating to Highway Safety but with a suggested amendment:

Page 3, line 6: ...~~or any substance that impairs a person~~ or psychoactive substance that impairs the person's ability to operate the vehicle in a careful and prudent manner;

(According to Webster's Medical Dictionary, the definition of "psychoactive" is "affecting the mind or body.")

Approximately three years ago, the National MADD organization amended its mission by inserting the phrase, "to help stop *drugged* driving" along with the original "to end *drunk* driving." This was a major step taken after over 10 years of evaluating the problem of impairment caused by substances other than – or in addition to – alcohol. MADD Hawaii applauded this amendment, largely because our chapter has worked on Hawaii statutes relating to drugs and driving since 1986. We have witnessed the beginning of the DRE (Drug Recognition Expert) program from its inception and have always been extremely impressed with the knowledge and capabilities of this specialized sector of the County Police Departments.

Our state annual fatality statistics are showing an increasing number of highway deaths connected to the presence of drugs. In 2016, the number significantly exceeded alcohol-related fatalities. MADD supports measures that give law enforcement (police and prosecutors) the necessary tools to do their jobs. In the case of HB 2399 which amends the definition of "drugs", MADD believes that changing times necessitates this amendment to our current statutes. Although Chapter 329 lists scores of drugs in schedules one through four, clever underground chemists are now able to create new drugs at too swift a rate for our statutes to keep pace. This problem results in fewer arrests and more impaired drivers threatening the safety of our roads.

MADD is very grateful to the Chairman and committee members for considering this measure and we strongly encourage this committee to pass HB 2399, HD 1 with an amendment.

Thank you for this opportunity to submit written testimony.

Committee on Judiciary
Senator Brian T. Taniguchi, Chair,
Senator Karl Rhoads, Vice Chair,

Hearing Date: Thursday, April 5th, 2018 10:45 am
Measure: **HB 2399 HD1**

Dear Chair Taniguchi, Vice Chair Rhoads, and members of the Senate Committee on Judiciary,

My name is Kari Benes and I am the current chair of the Hawaii Strategic Highway Safety Plan (SHSP) asking for your **support of HB 2399 HD1**, which provides clarity to the definition of a “drug” within the impaired driving statute. The definition of a “drug” as stated in HB 2399 HD1, is one of the life saving priorities outlined by the Hawaii SHSP Core Committee.

Providing clarity to the definition of drug within the impaired driving statute will help our trained police officers properly remove dangerous drug-impaired drivers from our roadways. With the ever-changing trends in chemical compositions of both over the counter and illicit drugs, it is important to be a step ahead of what is listed as a controlled substance. This measure sends a clear message that **we don't want individuals to be driving under the influence of any type of substance that impairs their ability to drive.**

Please support HB 2399 HD1 and SHSP's vision that all of Hawaii's road users arrive safely at their destinations.

To view the Hawaii Strategic Highway Safety Plan go to www.hawaiishsp.com.

Thank you for your time.

Sincerely,

Kari Benes -Chair

Hawaii Strategic Highway Safety Plan

HB-2399-HD-1

Submitted on: 4/4/2018 12:49:42 AM

Testimony for JDC on 4/5/2018 10:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alice	Individual	Support	Yes

Comments:

To the members of legislature, Aloha!

My name is Alice Avea. I am a student in the Myron B Thompson School of Social Work Master's program at the University of Hawai'i – MÄ• noa. In regards to the proposed bill H.B. 2399, H.D. 1, RELATING TO HIGHWAY SAFETY, I stand in support for this bill.

Clearly stating the definition of "drug" will allow consistency among law enforcement to hold impaired drivers accountable for choosing to drive while intoxicated with any substance, whether it is kava or marijuana. Although there is a decrease in the state's traffic fatalities in 2014, as mentioned in the Hawaii State Department of Transportation Federal Fiscal Year 2015 report, more than half of all the fatalities had alcohol and/or drugs in their system. Impaired driving presents a problem in Hawaii because it continues to take away the life of innocent individuals. I have lost friends and family members who were killed by a person driving while impaired by substances, such as kava, marijuana, morphine, etc. I agree with the stated definition of "drug" to mean any controlled substance, as defined and enumerated in schedules I through IV of chapter 329, or its metabolites [--], or any substance that impairs a person. Therefore, I stand in support of H.B. 2399, H.D, 1, Relating to Highway Safety.

Mahalo for taking into consideration this testimony.

Aloha fellow members of the legislature. My name is Mindy DeCastro. I am a student in the Masters program at the Myron B Thompson School of Social Work at the University of Hawaii – Manoa and a member of the Sigma Phi Alpha Honors Society. I stand in oppose to the proposed bill H.B. 2399, H.D. 1, Relating to Highway Safety.

Mentioned in this bill is the new definition for the term “drugs”. It states that “drugs” means any controlled substance, as defined and enumerated in schedules I through IV of chapter 329, or its metabolites [--] , or any substance that impairs a person.” I’m in opposed to the phrase *any substance that impairs a person* because as medically prescribed individual, the daily medication that I take for pain management would be considered a controlled substance. If this bill was to be passed, it would greatly affects many individuals like me, who rely on prescribed pain medication in which assist in managing our health and getting through our daily activities.

Additionally, the term controlled substance is very broad and can apply to many other things. Another controlled substance in particular is over the counter medication. Many in society rely on this type of medication to help us through common sicknesses and there has also been research proven that if one uses a great amount of a particular over the counter medication that over time that too can influence and become a substance that impairs a person.

Therefore, I greatly encourage that before the voting of this bill, that a more defined definition of controlled substance is clarified and that a list of prescribed medications is added to the bill. This list of prescribed medications should provide a clearer and mutual understanding of what medications are to be considered as a substance that impairs a person.

From my own experience and for the reasons I provided above, I am in opposed to H.B. 2399, H.D. 1 Relating to Highway Safety. Thank you for the opportunity to provide testimony in this matter.

HB-2399-HD-1

Submitted on: 4/3/2018 12:15:11 PM

Testimony for JDC on 4/5/2018 10:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments:

With "drugs" being sold over the counter; issues between law enforcement and proving a claim in court where driving under the influence has grown to mean a number of items, feel that laws need to adapt to keep up with the growing issues that face our legal system.

HB-2399-HD-1

Submitted on: 4/3/2018 9:30:32 PM

Testimony for JDC on 4/5/2018 10:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen K.	Individual	Support	No

Comments:

I strongly support HB2399 HD1. People know how to work the system to either refuse to submit to blood or urine testing, or they take advantage of loopholes to drive while impaired on non-scheduled substances. Impairment is impairment. We need to stop being hung up on the exact substance, and instead, focus on the impairment. When people (kids and adults) are ingesting Tide Pods, making cocktails out of cough syrup, and snorting nutmeg to get high, it doesn't make sense to use the schedule of controlled substances to determine if someone is "impaired" or not.

HB-2399-HD-1

Submitted on: 4/4/2018 1:21:18 PM

Testimony for JDC on 4/5/2018 10:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Courtney Mrowczynski	Individual	Oppose	No

Comments:

Aloha! My name is Courtney, I am a member of Hawai'i Justice Coalition, and I **strongly oppose** the passage of **HB2399, HD1**.

This proposed definition is simply too vague and ambiguous. The term "any substance" could include things like caffeine from consuming too many cups of coffee, energy drinks or soda. This phrase is too vague, subject to wide interpretation, is simply too problematic and needs revision.

This bill purports to address the danger of non-scheduled drugs such as kava or muscle relaxants causing impairment. The movement to add kava, e.g., to the definition of "drugs" is over two decades old, and to date, there is little evidence for the need to do so. Kava related prosecutions in California, where the drug definition is similar to the one proposed in this bill, have not been successful due to lack of evidence. To the contrary, recent research shows that reaction times after kava consumption are actually better than for non kava consumers.

Also, the phrase "that impairs a person" does **not** provide enough context or clarification to give citizens a clear idea of what "impairment" means in the context of operating a vehicle. When it comes to cannabis, which the bill anticipates being descheduled, there is **no** demonstrable blood level test that proves impairment. It is imperative that no arbitrary limit be set that would claim to indicate impairment.

It is concerning that the *revisions to the original bill* by the House Committee on Judiciary are a step in the wrong direction, as this revised proposed definition is even more broad and more open to interpretation than the original definition proposed. Are you impaired just because you have taken an over-the-counter drug for a headache getting into your car to run errands? Are you impaired because you chose to drink an extra cup of coffee before heading home after a long day of work? Are you impaired if you have an energy drink or have some ginseng tea before driving?

Because this definition can be interpreted so broadly, **I strongly encourage revision**. An *assumption* that a substance can or *may impair* operation of a vehicle is **not** the same as proof of impairment. For these reasons, **I strongly oppose HB2399, HD1**.

Mahalo for the opportunity to provide testimony in this matter.

**LATE**

Toxicology Dept.
99-193 Aiea Heights Drive
Aiea, HI 96701
808-834-5141
March 14, 2018

Senate Committee on Judiciary
Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair

Re: HB2399 HD1 Relating to Highway Safety

Dear Sirs:

I am a board-certified forensic toxicologist (ABFT), and am currently employed at Clinical Labs of Hawaii, the private clinical laboratory that conducts the toxicology analysis of blood and urine specimens submitted for DUI testing in the state of Hawaii. I also serve as the toxicology consultant for the State Impaired Driving Task Force and for the state-wide County Traffic Commanders meetings.

I wish to add my support to this proposed legislation to broaden the list of drugs that can be used to charge as a DUI offense. Currently, only drugs listed as part of the state/federal Schedules of Controlled Substances can be used to support a DUI prosecution. Unfortunately, there are other drugs not listed, that can cause driving impairment. We have encountered occasions where the drugs detected were not controlled substances, but nevertheless, would have been designated the primary agent as an intoxicant in the arrest.

I wish to bring your attention to some examples found in our state in DUI and postmortem cases of drugs used that were not listed as controlled substances, but have caused intoxication or impairment of driving here as well as on the mainland:

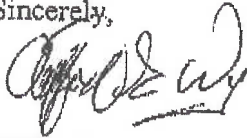
- 1) Dextromethorphan – OTC cough suppressant (“DMX”)
- 2) Diphenhydramine – common OTC antihistamine which causes drowsiness
- 3) Chlorpheniramine – common OTC antihistamine which causes drowsiness
- 4) Cyclobenzaprine (Flexeril) – used as a muscle relaxant for back pain
- 5) Kavain (Kava root constituent)- used in Polynesian cultural events which causes CNS depressant activities similar to alcohol
- 6) Mitragynine (Kratom) – stimulant/analgesic from leaves of a Southeast Asian tree

HB2399 HD1 will provide law enforcement agencies the opportunity to prosecute drivers who can be impaired by such drugs, or by future designer-type drugs that are not currently listed as controlled substances. Passage of the bill will not automatically open a deluge of new DUI cases as the predicates of DUI arrest must include observed impaired driving and impaired behaviors/symptoms of the arrestee. The burden of proof must still

also fall on the prosecutors to prove that the identified drugs can cause impairment at the blood/urine concentrations measured in the arrestee.

I wish to thank all of you for your attention to my oral support regarding this proposed bill, and hope that you will all support its passage in its final hearing.

Sincerely,



Clifford G Wong, Ph.D., DABFT-FT
Toxicology Technical Director
Clinical Labs of Hawaii

April 4, 2018

LATE

TO: Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Judiciary

FROM: Park, Mei Linn

SUBJECT: Comments for HB 2399 HD1 Relating to Highway Safety
Hawaii State Capitol, Room 016, April 4 2018, 10:45am

Honorable Brian T. Taniguchi, Vice Chair Senator Karl Rhoads and members of the Senate Committee on Judiciary, I am Mei Linn Park, a resident of Mililani, O‘ahu and a graduate student at the University of Hawai‘i Mānoa Myron B. Thompson School of Social Work. I wish to submit testimony for comments of HB 2399 HD1 relating to transportation, drug, intoxicants, and impairment, which would clarify the definition of "drug" in chapter 291E, Hawaii Revised Statutes, regarding the use of intoxicants while operating a vehicle.

While I strongly support the intent of this measure, I would advise the committee to thoroughly evaluate the bill before proceeding. With that in mind, I provide the following considerations:

1. There are concerns with the proposed definition – *“any substance that, when taken into the human body, can impair the ability of a person to operate a vehicle safely”*.
 - a. It is vague, ambiguous, subject to wide interpretation, and is simply too problematic. The term “any substance” could include things like caffeine, energy drinks, or soda. It could include common food and drinks that may help you feel more energy or help you relax. It is suggested to make major revisions.
 - b. The phrase *“can impair the ability of a person to operate a vehicle safely”* does not provide enough context or clarification to give citizens a clear idea of what “impairment” means in the context of operating a vehicle
2. There are also implementation issues.
 - a. There is no demonstrable blood level test that shows current impairment. For example, how would you test for Kava intoxication and how can you pinpoint current intoxication levels for Marijuana when it can remain in a persons’ system for extended lengths of time? How will “intoxication” be proven in prosecution?
3. Rather than this sweeping change, we suggest that if specific substances actually pose a threat to the public, then the Department of Transportation (DOT) should furnish evidence to that effect, and add specific language listing that particular substance alongside “drugs”.

Mahalo for your consideration and for the opportunity to provide testimony.

Respectfully submitted by,
Mei Linn Park

HB-2399-HD-1

Submitted on: 4/4/2018 3:23:17 PM

Testimony for JDC on 4/5/2018 10:45:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Jonathan L Howery	Individual	Oppose	No

Comments:

Aloha,

I am a Hawaii Citizen and I strongly oppose HB2399 HD1.

At first glance the intent of the bill is to better define what a "drug" is and how they relate to impairment for transportation purposes. However, the intent describes a drug as "any substance" which could potentially impair someone while driving. A drug is defined as a medicine or any substance which has a physiological effect when ingested or otherwise consumed. This loosely defined term in the bill could be associated from anything like caffeine or to sugar.

In addition, the term and definition does not provide clear context for "impairment." People drinking coffee prior to driving or while driving could get the jitters and make a mistake while on the road... but not necessarily be impaired and unable to handle the responsibilities as a driver.

To these extents I oppose HB2399 HD1 and the terms/definitions in this bill need to be more clear and contextual. Mahalo for your time.

LATE

HB-2399-HD-1

Submitted on: 4/5/2018 5:42:03 AM

Testimony for JDC on 4/5/2018 10:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jolon Wagner	Individual	Support	No

Comments:

Good Morning,

My name is Jolon Wagner and I am an Officer in the Honolulu Police Department. The views and opinions given in this testimony are solely of this writer, they are not supported or endorsed by the HPD and this testimony is being given as a private citizen on my own personal time using my own personal resources.

As an officer in the HPD there have been numerous occasions when I have seen vehicles in front of me being operated in a manner that is not only hazardous to other road users but also to the operator themselves. Upon stopping this vehicle I have found that the operator is under the influence of Kava, which I know to be **NOT** on the list of scheduled substances. As a Drug Recognition Expert I know that in order to get a conviction for OVUII under the current version of the law that the state needs to prove that the person is impaired by a scheduled substance. In these cases mentioned before, I know that there is no chance of proving this case.

Through my personal history there have been times when my brother has spoken to me about his own drug use. He related to me that one of the reasons that he uses drugs is to "escape reality." Through talking to other people while at work, that theme seems to be a common one among drug users. The impact to public safety is enormous if you think that people who are taking various drugs to "escape reality" then get behind the wheel of a motor car and drive on our roadways.

The reason to take some prescription drugs is to interact with the neurons in a person's brain. Manufacturers of illicit drugs have the same goal in mind, to interact with the neurons of a person's brain. Marijuana is also ingested to interact with a person's brain chemistry. Makers of illicit drugs are always adapting their product to be ahead of law enforcement, changing chemical makeups of their product, to keep the product that they are selling off the list of scheduled substances but still mind impairing.

As an Officer and road user, too many times have I seen impaired people either almost hit or actually collide with other users or even officers.

The revision of the definition of the word drug as suggested by this bill would allow a qualified officer to charge a person with impaired driving with the vast training and

experience that A Drug Recognition Expert Officer has received. This Drug Evaluation and Classification Program is established nationwide and has been tested and validated by the National Highway Traffic Safety Administration as a valid method to detect an impaired driver. The officers certified in this program are done so to aid in the safe operation of vehicles upon our roadways, to make the roadways we all drive on and are even pedestrians on, safe for all users.

I thank the committee for its time and wish to show my support for this measure, in amending the definition of the word drug.