

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on Transportation**

February 4, 2020

H.B. No. 2464: RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A
VEHICLE

Hearing: February 5, 2020, 10:15 a.m.

Chair Aquino, Vice Chair Hashimoto, and Members of the Committee:

The Office of the Public Defender respectfully opposes H.B. No. 2464.

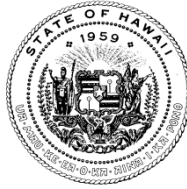
This measure proposes to reduce the OUVII threshold from 0.08% blood alcohol content (BAC) to 0.05% blood alcohol content. For reasons stated below, we oppose this measure.

A reduction of the alcohol impairment level to 0.05% BAC casts too wide a net, and will result in criminalizing the behavior of normal responsible drinkers without having an impact on reducing alcohol related fatalities. There are many responsible drinkers who do not drink and drive, or who limit their alcohol consumption to one to two drinks over the course of a night. These are the people who are law-abiding and follow the rules. A reduction of the BAC will result in some of these individuals being arrested for OVUII. Indeed, a female driver weighing a mere 100 pounds may reach a 0.05% BAC with only one alcoholic drink. See <https://www.tabc.state.tx.us/publications/brochures/BACCharts.pdf> (last visited, February 1, 2020) or https://www.onhealth.com/content/1/alcohol_impairment_chart (last visited, February 1, 2020).

The individuals who drive drunk and plow into innocent people are not this kind of people. The high-level BAC drivers are alcohol dependent and/or uncaring individuals. They do not have licenses and/or insurance. A reduction of the BAC or an increase in penalties will not stop these kinds of people from drinking and driving.

Another consequence of a reduction of the BAC will be increased court congestion. In order to deal with the backlog, you will need to add judges, prosecutors and public defenders. At our current staffing level, the earliest we can schedule an appointment to meet our traffic and misdemeanor clients is 2 ½ to 3 months. An increase in our OVUII caseload will require at least two more attorneys and another clerical position on Oahu alone. With the amount of cases already clogging the district court, there will be more cases dismissed due to a Rule 48 of the Hawai‘i Rules of Penal Procedure.

Thank you for the opportunity to comment on H.B. No. 2464.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN



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

February 5, 2020
10:15 a.m.
State Capitol, Room 423

H.B. 2464
RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN
INTOXICANT.

House Committee on Transportation

The Department of Transportation (DOT) **supports** H.B. 2464 Relating to the use of Intoxicants while Operating a Vehicle. This bill will lower the blood alcohol concentration (BAC) threshold for the offense of operating a vehicle while under the influence of an intoxicant.

Out of concern for Hawaii's increasing number of traffic fatalities involving alcohol and drugs, DOT's Hawaii Drug and Alcohol Intoxicated Driving (DAID) Working Group (comprised of county police and prosecutors, MADD, Hawaii State Department of Health, etc.), decided to look at the possibilities of reducing the current per se .08 BAC law. The DAID believes that reducing the number of impaired drivers will help reach Hawaii's Vision Zero goal of zero motor vehicle fatalities.

During 2015-2019, 30,150 drivers were arrested for Operating a Vehicle Under the Influence of an Intoxicant (OVUII). Of the 30,150 drivers, 5,195 tested had BAC results between .000 - .079 BAC, this represented 1.72 percent of the total number of breath and blood tests that was given.

Based on studies that lowering BAC levels will also change the behavior of those driving after drinking, the state of Utah passed a law to reduce their intoxication limit to 0.05 to save lives, as of December 30, 2018. Other studies have shown that a BAC of .02 can affect the driving-related performance, which concluded that the magnitude of the impairment increased with the increasing BAC.

Although Utah legislators were concerned that the Standardized Field Sobriety Test (SFST) could not detect BACs below the current .08 standard, they were assured that enforcing the law would remain the same, by using reasonable and probable cause to stop suspected impaired drivers based on their driving performance. Additionally, the observations and driver's performance on the SFST would be taken in totality, as it is currently done.

The DOT urges you to pass H.B. 2464 as it would reduce the number of traffic fatalities as a result of impaired drivers under the influence of alcohol and drugs, as well as bring Hawaii closer to Zero Deaths.

Thank you for the opportunity to provide testimony.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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DWIGHT K. NADAMOTO
ACTING PROSECUTING ATTORNEY

LYNN B.K. COSTALES
ACTING FIRST DEPUTY
PROSECUTING ATTORNEY

LATE



THE HONORABLE HENRY J.C. AQUINO, CHAIR
HOUSE COMMITTEE ON TRANSPORTATION
Thirtieth State Legislature
Regular Session of 2020
State of Hawai`i

February 5, 2020

RE: H.B. 2464; RELATING TO USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

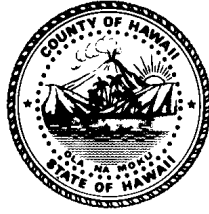
Chair Aquino, Vice Chair Hashimoto, and members of the House Committee on Transportation, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of H.B. 2464.

The purpose of H.B. 2464 is to lower the allowable level of blood-alcohol content ("BAC") from 0.08 grams of alcohol per 210 liters of breath, or per 100 milliliters or cubic centimeters of blood, to 0.05 grams. The Department believes this change would effectively keep more impaired drivers off of Hawaii's roads, not only by lowering the allowable BAC—which may prompt potential offenders to be more prudent about their choice to "drink and drive"—but also by providing a reasonable amount of time for testing to occur.

Under Hawaii's current laws, law enforcement generally tests someone's BAC by breath or blood test, within three hours after arrest for operating a vehicle under the influence of an intoxicant ("OVUII"). During that time—and anytime after alcohol is consumed—the person's body functions are metabolizing the alcohol, such that someone who was indeed driving with a BAC over 0.08, would actually produce test results (up to three hours later) below 0.08.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of HB 2464. Thank you for this opportunity to testify.

Harry Kim
Mayor



Roy Takemoto
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

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February 4, 2020

Representative Henry J.C. Aquino, Chair
Representative Troy Hashimoto, Vice Chair
Committee on Transportation
Hawai'i State Legislature

Dear Chair Aquino, Vice-Chair Hashimoto, and Committee members:

RE: HB 2464 Relating to the use of intoxicants while operating a vehicle

HB 2464 deals with driving under the influence. This is important and timely, because too many lives are being lost on our highways as a consequence of impaired drivers behind a wheel.

In matters such as this, I think it important to follow the science. If there is good evidence that drivers are impaired if they have a blood alcohol concentration reading as low as .05, then I support making that our new standard. My belief is that this is a measure that is scientifically justified, and a similar finding has been made in Utah and many jurisdictions around the world that have adopted this lower DUI threshold.

I urge a favorable vote on HB 2464.

Respectfully Submitted,

Harry Kim
MAYOR

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 3, 2020

TO: The Honorable Henry J.C. Aquino, Chair
House Committee on Transportation

FROM: Alice L. Lee
Council Chair

SUBJECT: **HEARING OF FEBRUARY 5, 2020; TESTIMONY IN SUPPORT OF
HB 2464, RELATING TO THE USE OF INTOXICANTS WHILE
OPERATING A VEHICLE**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to lower the threshold of blood alcohol concentration from 0.08 to 0.05 for operating a vehicle while under the influence of an intoxicant.

This measure is substantially similar to the one in the Maui County Council's Legislative Package. I offer this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. Half of all traffic fatalities on Maui are the result of drivers operating vehicles while intoxicated.
2. Approximately ninety countries have lowered their Blood Alcohol Concentration levels to 0.05 resulting in decreased alcohol-related traffic fatalities.
3. This measure will deter intoxicated individuals from driving and ultimately, save lives.

For the foregoing reasons, I **support** this measure.

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Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
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www.MauiCounty.us

TO: Chair Aquino, Vice Chair Hashimoto and Members
of the Committee

FROM: Yuki Lei K. Sugimura
Councilmember, Upcountry Maui

DATE: February 4, 2020

SUBJECT: **HB 2464 RELATING TO THE USE OF
INTOXICANTS WHILE RATING A VEHICLE OPE**

I am writing in support of HB 2464, lowering the blood alcohol threshold for determining an offense of operating a vehicle while under the influence of an intoxicant from blood alcohol level .08 to .05%.

According to the Maui County Police Department's data in 2019 570 people were arrested for impaired driving, of this, we regrettably sustained 23 traffic fatalities and 16 were caused by impaired drivers. DUI is not acceptable and this bill will help reduce these staggering numbers.

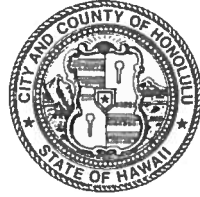
By lowering the threshold for blood alcohol level the State of Hawaii is making a statement that driving under the influence is not acceptable. One death is too many, this bill makes a statement to support the safety of the people of Hawaii. I support HB 2464.

Thank you for this opportunity to provide my opinion on this important matter.

February 4, 2020
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POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
CLYDE K. HO
DEPUTY CHIEFS

OUR REFERENCE CT-LC

February 5, 2020

The Honorable Henry J.C. Aquino, Chair
and Members
Committee on Transportation
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 423
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

SUBJECT: House Bill No. 2464, Relating to the Use of Intoxicants While Operating a Vehicle

I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 2464, Relating to the Use of Intoxicants While Operating a Vehicle.

The HPD supports the proposal of lowering the blood alcohol concentration (BAC) in a person's breath or blood from 0.08 to 0.05 for the offense of Operating a Vehicle Under the Influence of an Intoxicant.

In recent years, alcohol-impaired driving alone has been a factor in approximately 20 percent of all traffic fatalities and critical collisions on Oahu's roadways. Impaired driving is a serious problem that needs to be addressed.

Research shows that critical driving skills are impaired at 0.05 BAC (0.05 or more grams of alcohol per 100 milliliters or cubic centimeters of blood or 0.05 grams of alcohol per 210 liters of breath). This level of impairment significantly increases the risk of senseless and preventable crashes that can take the life of an innocent commuter. Anything that could stop these tragedies and keep impaired drivers off of our roads should be implemented.

The Honorable Henry J.C. Aquino, Chair
and Members
February 5, 2020
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The HPD urges you to support House Bill No. 2464, Relating to the Use of Intoxicants While Operating a Vehicle.

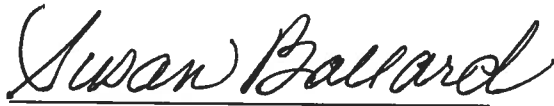
Thank you for the opportunity to testify.

Sincerely,



Calvin Tong, Major
Traffic Division

APPROVED:



Susan Ballard
Chief of Police



POLICE DEPARTMENT

COUNTY OF MAUI



MICHAEL P. VICTORINO
MAYOR

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TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

OUR REFERENCE
YOUR REFERENCE

February 3, 2020

The Honorable Henry J.C. Aquino, Chair
The Honorable Troy N. Hashimoto, Vice Chair
and Members of the Committee on Transportation

House of Representatives
Hawaii State Capitol
Honolulu, Hawaii 96813

RE: House Bill No. 2464
Relating To The Use Of Intoxicants While Operating A Vehicle

Dear Chair Aquino and Members of the Committee:

The Maui Police Department SUPPORTS the passage of H.B. No. 2464.

On September 30, 2019, the County of Maui's Multimodal Transportation Committee discussed the effects of liquor and drug use on drivers accounting for 66 percent of traffic fatalities on Maui's roadways. Lowering the threshold of Blood-Alcohol Concentration (BAC) for the offense of Operating a Vehicle Under the Influence of an Intoxicant from 0.08 to 0.05 will contribute to saving more lives, preventing catastrophic injuries, and decreasing medical costs.

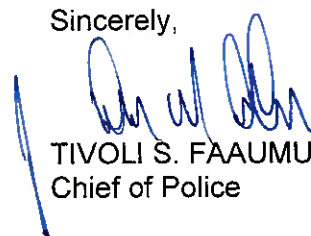
In 2013, the Legislature of the State of Hawaii found that the National Transportation Safety Board (NTSB) recommended that all 50 states adopt a Blood-Alcohol Concentration cutoff of 0.05 compared to the 0.08 standard, and that lowering the rate to 0.05 would save about 500 to 800 lives annually.

Further, according to the NTSB, a driver with a BAC of 0.05 would be affected by exaggerated behavior, loss of small-muscle control and eye focus, impaired judgement, lowered alertness, and release of inhibition. The results would be reduced coordination, reduced ability to track moving objects, difficulty steering, and reduced response to emergency driving situations.

The Maui Police Department asks that you SUPPORT the passage of H.B. No. 2464.

Thank you for the opportunity to testify.

Sincerely,



TIVOLI S. FAAUMU
Chief of Police



February 5, 2020

The Honorable Henry J.C. Aquino, Chair
The Honorable Troy N. Hashimoto, Vice Chair
House Committee on Transportation
Hawaii State Legislature
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairperson Aquino and Vice Chairperson Hashimoto:

As representatives of leading public health and safety organizations working to pass highway and auto safety laws that prevent unnecessary deaths and injuries and contain crash costs, we urge you to support House Bill (HB) 2464, Senate Bill (SB) 2234, SB 2682/HB 2269, SB 2682/HB 2269, SB 2177/HB 1722, and SB 2168/HB 1777. This legislation will lower the limit of alcohol-impaired driving to .05 percent blood alcohol concentration (BAC), deter drunk driving and save lives.

Drunk driving is a deadly and costly threat to Hawaii families. In 2018, there were 117 fatalities on the state's roads and thirty-eight percent of those deaths (45) were alcohol-related (National Highway Traffic Safety Administration (NHTSA)). Traffic crashes also cost Hawaii taxpayers more than \$575 million annually. Drunk driving is a serious problem that requires urgent attention and action. Advancing .05 percent BAC legislation will deter dangerous drinking and driving across all levels of impairment as well as curb needless highway deaths and injuries that threaten the safety of everyone – Hawaii families and visitors.ⁱ

The average male (170 pounds) does not reach the current legal limit for alcohol impaired driving until having consumed a substantial amount of alcohol, approximately five alcohol drinks within two hours.ⁱⁱ However, laboratory evidence found that most adults are significantly impaired at .05 percent BAC.ⁱⁱⁱ When behind the wheel of a car, driving skills are degraded resulting in reduced coordination, decreased ability to track moving objects, difficulty steering and diminished response to emergency driving situations.^{iv} The risk of being killed in a single-vehicle crash with BACs of .05 to .079 percent is seven to 21 times higher than for drivers without measurable alcohol.^v

In 2018, more than 10,500 people died in crashes caused by impaired driving across the nation.^{vi} According to 2010 NHTSA data, these tragic yet preventable crashes resulted in \$201 billion in comprehensive costs to society. Traffic crashes also impact businesses. Motor vehicle crashes cost U.S. employers up to \$47.4 billion annually in direct expenses. Drunk driving crashes cost employers \$6 billion each year. Nearly 83 percent of drunk driving costs to employers, \$5 billion, are due to “off the job” alcohol use.^{vii}

Since the mid-1990s, the percentage of drunk driving fatalities has plateaued, indicating that progress has stagnated.^{viii} It is time to implement proven countermeasures that have yet to be widely employed in our nation but are strongly supported by the public.^{ix} If all states adopted a .05 percent BAC or lower law, our nation would experience an 11 percent decline in fatal alcohol crashes and 1,790 lives would be saved.^x A Texas Medical Center Health Policy Institute national poll found 55 percent of Americans approve lowering the BAC limit while driving to .05 percent (2018).^{xi}

Reducing BAC limits does not discourage alcohol consumption.^{xii} It does deter deadly drinking and driving. Moreover, studies show that when states lowered their BAC limits from .10 to .08 percent, there were no adverse impacts on the operation of the criminal justice system. The data are clear, the lifesaving benefits are certain, the support is documented and the justification for action is compelling.

Each person killed in a preventable alcohol-related crash on Hawaii roads forever changes the lives of families and communities. We urge you to take this critical step to seriously address the death and injury toll of alcohol-impaired driving by advancing HB 2464 and similar legislation that is currently pending including SB 2234, SB 2682/HB 2269, SB 2682/HB 2269, SB 2177/HB 1722 and SB 2168/HB 1777.

Thank you for consideration of our views.

Sincerely,

Hali R. Robinett, MPH, President,
Hawaii Public Health Association

Catherine Chase, President
Advocates for Highway and Auto Safety

Janette Fennell, Founder and President
KidsAndCars.org

Marcus Kowal and Mishel Eder, Co-founders
Liam's Life Foundation
Parents of Liam Mikael Kowal

Helen Witty, National President
Mothers Against Drunk Driving (MADD)

Lorraine Martin, President and CEO
National Safety Council

David A. Sleet, Ph.D.
Professor Emeritus
School of Public Health
San Diego State University

Honorable T. Bella Dinh-Zarr, Former Vice Chair
National Transportation Safety Board
Co-founder, .05 Saves Lives Coalition

Thomas M. Louizou, Former Regional Administrator
National Highway Traffic Safety Administration
Co-founder, .05 Saves Lives Coalition

Additional organizations that recommend or support .05 percent BAC Policy:

American Medical Association (AMA)
American Public Health Association (APHA)
Association for the Advancement of Automotive Medicine (AAAM)
FIA Foundation
Liam's Life Foundation
National Academies of Sciences, Engineering and Medicine (NASEM)
National Road Safety Foundation
National Transportation Safety Board (NTSB)
Remove Intoxicated Drivers (RID)
Safe States Alliance
Society for Public Health Education
Transportation Alternatives
Vision Zero Network
World Health Organization (WHO)

cc: Senate Committee on Transportation Members

ⁱ NTSB, *.05 BAC Safety Briefing Facts*, February 2017.

ⁱⁱ Fell, Jim C., Voas, Robert B, *The effectiveness of a 0.05 blood alcohol concentration (BAC) limit for driving in the United States*, Pacific Institute for Research and Evaluation. June 2014. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4448946/pdf/nihms692693.pdf>

ⁱⁱⁱ Ibid.

^{iv} MADD, *What is .08?* Available at: <http://www.madd.org/drunk-driving/about/understanding-08.html>

^v Fell, Jim C., Voas, Robert B, *The effectiveness of a 0.05 blood alcohol concentration (BAC) limit for driving in the United States*, PIRE. June 2014.

^{vi} NHTSA, *Alcohol Impaired Driving 2018 Data*, DOT HS 812 864, December 2019.

^{vii} Network of Employers for Traffic Safety (NETS) *Cost of Motor Vehicle Crashes to Employers – 2015*, June 2016.

^{viii} NASEM, *Getting To Zero Alcohol-Impaired Driving Fatalities - .05% BAC Safety Brief*, 2018.

^{ix} Fell, Jim C., Voas, Robert B, *The effectiveness of a 0.05 blood alcohol concentration (BAC) limit for driving in the United States*, PIRE. June 2014.

^x NORC: Fell JC & Scherer M, *Estimation of the Potential Effectiveness of Lowering the Blood Alcohol Concentration (BAC) Limit for Driving from 0.08 to 0.05 Grams per Deciliter in the United States*, 2017. Available at: <https://bit.ly/2E5p1iq>

^{xi} Governing.com, *How Drunk Is Too Drunk to Drive?* October 2018. Available at: <https://bit.ly/2Et1r6C>.

^{xii} NTSB, *.05 BAC Safety Briefing Facts*, February 2017.



Rep. Henry J.C. Aquino
Chairman
House Committee on Transportation
Hawaii House of Representatives

Rep. Troy N. Hashimoto
Vice Chairman
House Committee on Transportation
Hawaii House of Representatives

House Bill 2464—which would lower the legal blood alcohol concentration (BAC) level for driving from 0.08 to 0.05—is a well-intended but poorly targeted attempt to improve traffic safety in Hawaii. The most recent data released by the National Highway Traffic Safety Administration (NHTSA) reveals Hawaii drivers with BACs of 0.15 and above—three-times the new proposed level—are responsible for most of the alcohol-related traffic fatalities in the state. **In Hawaii the average BAC of a drunk driver involved in a fatal crash is 0.18. Nearly four-times the proposed .05 level.**

These alcohol abusers are where limited traffic safety resources and legislative efforts should be focused.

Conversely, research suggests having a conversation while driving is substantially more impairing than someone at the proposed 0.05 BAC limit.

Some will sidestep the statistics and argue lowering the legal limit to 0.05 will have a broad deterrence effect and discourage high-BAC drivers from getting behind the wheel. While this idealistic prediction of human behavior is refreshing, it's not probable nor proven. Criminals who already break the current 0.08 law are unlikely to change their behavior simply because the legal definition of drunk driving is expanded.

We all want to save lives and I applaud the committee for investigating the issue. But lowering the legal BAC limit by 40 percent to 0.05 will not improve road safety. Lawmakers should pursue alternative strategies to target the real problem, high-BAC drunk drivers, rather than make criminals out of moderate and responsible consumers.

Sincerely,

Jackson Shedelbower
Communications Director
American Beverage Institute



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

February 5, 2020

To: Representative Henry J. C. Aquino, Chair, House Committee on Transportation; Representative Troy Hashimoto, Vice Chair; and members of the Committee

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

Re: House Bill 2464 – Relating to the Use of Intoxicants While Operating a Vehicle

I am Carol McNamee, offering testimony on behalf of the Hawaii Chapter of Mothers Against Drunk Driving in strong support of House Bill 2464 – relating to the Use of Intoxicants While Operating a Vehicle.

Alcohol-impaired driving is the leading killer on U.S. roadways. According to the National Highway Traffic Safety Administration (NHTSA), 12,389 people were killed in alcohol-impaired crashes in the United States in 2018. That same year there were 117 fatalities on Hawaii's roads and 38 percent (45) were alcohol-related (NHTSA). These crashes cost Hawaii taxpayers over \$575 million annually.

According to the NTSB (National Transportation Safety Board) the risk of being in a fatal crash is at least seven times higher for drivers with a .05 - .079 BAC than for drivers with no alcohol in their system. At a .08 BAC, drivers could have a reduced ability to concentrate, short-term memory loss, difficulty in controlling speed, a reduced information processing capability, and impaired perception.

Currently, every state except Utah has an illegal BAC of .08. These .08 BAC laws have helped to save over 40,000 lives in the U.S. over the last 20 to 25 years. MADD believes .05 BAC will help save even more lives – in fact studies suggest over 1,700 lives could be saved each year if all states enacted a .05 BAC law. A meta-analysis of all studies on lowering the blood alcohol limit found that a .05 BAC level would reduce drunk driving deaths by 11.1 percent.

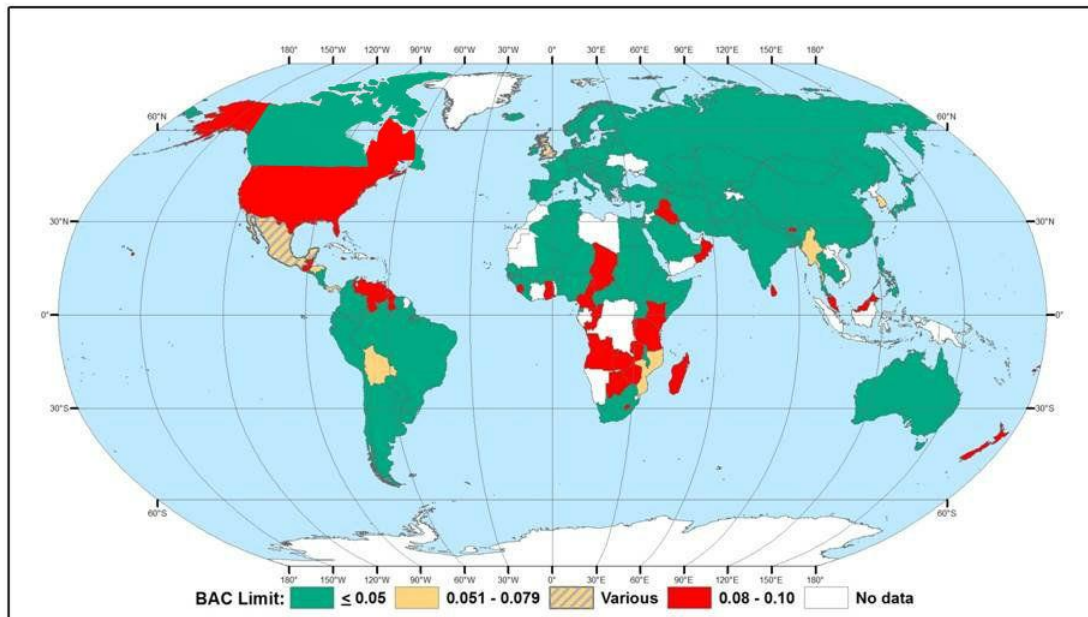
If Hawaii passes this bill, we will join the majority of industrialized countries having a .05 or lower limit for driving. The tourism industry may be concerned about the proposed reduction of the BAC in Hawaii but most of our foreign visitors may very well be coming from a country used to a .05 or lower BAC level. (See map attached below)

The goal of a .05 BAC is not to stop people age 21 and over from consuming alcohol, but to deter people from driving after drinking. According to the AAA Foundation, sixty-three percent of people surveyed already think .05 BAC should be the illegal level in the United States. A lower BAC will encourage more people to get serious about having a designated driver or taking a bus, cab, or ride-share to and from their destination if they plan to consume alcohol.

Hawaii was the 13th state to reduce its illegal blood alcohol level for driving from .10 to .08 in 1995. Our alcohol-related fatality rate improved but it is still higher than most states. We see evidence of that in the terrible crashes our local media seem to report almost every week. A fatality is not just a word – it represents a life lost - from young children, to young adults, to our kapuna. The word means that a family has experienced overwhelming grief knowing life will never again be the same. Let Hawaii again be one of the first states to take the life-saving step of reducing its blood alcohol level for driving. This time, from .08 to .05.

MADD Hawaii encourages this committee to pass HB 2464.
Thank you for this opportunity to testify.

BAC Limits World Wide





LATE

Date: February 4, 2020

To: Honorable Henry J.C. Aquino, Chair
Honorable Troy Hashimoto, Vice Chair
Honorable Members of the House Committee on Transportation

Re: Support for HB2464 Relating to the Use of Intoxicants While Operating a Vehicle

Hrg: February 5, 2020 at 10:15am at Conference Room 423

The Maui MPO Policy Board is in **support of HB2464** to lower the blood alcohol concentration threshold for the offense of operating a vehicle while under the influence of an intoxicant.

Hawai'i ranks 5th worst in the nation for percentage of alcohol-impaired driving fatalities¹. Of the 23 traffic fatalities on Maui in 2019, 15 crashes involved drivers under the influence of drugs or alcohol. Following a County Council resolution and Mayor's proclamation in support of road safety, Maui MPO is working to develop a Vision Zero Action Plan to eliminate traffic fatalities and serious injuries through a combination of education, engineering and enforcement.

Lowering the threshold blood alcohol concentration has proven to be an effective way to save lives. The National Transportation Safety Board has been recommending that states change the threshold to .05% or lower since 2013. So far only Utah has lowered its BAC from .08% to .05%, leading to a 43% decrease in alcohol-related crashes and a 70% decrease in resulting deaths².

With a lower legal limit, people don't necessarily change the amount they drink. They just don't drink and drive. Reducing the BAC limit acts as a broad deterrent. It lowers the incidence of crashes and crash deaths at all BAC levels, not just those in the narrow range between .05% and .08%. The goal is to separate drinking from driving.

Please support HB2464 to discourage drunk driving and save lives.

¹ National Highway Traffic Safety Administration (NHTSA), accessed online:
<https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812630>

² National Transportation Safety Board (NTSB), accessed online:
<https://www.nts.gov/safety/mwl/Pages/mwl8-2016.aspx>



February 4, 2020

The Honorable Henry J.C. Aquino
Chair, House Committee on Transportation
415 South Beretania St. Rm 419
Honolulu, HI 96813

The Honorable Troy N. Hashimoto
Vice Chair, House Committee on Transportation
415 Beretania St. Rm 332
Honolulu, HI 96813

Dear Chair Aquino and Vice-Chair Hashimoto:

On behalf of the National Safety Council (NSC), I am writing today to ask for your support of HB 2464, SB 2234, SB 2682/HB 2269, SB 2177/HB 1722 and SB 2168/HB 1777, legislation that would lower the legal blood alcohol concentration (BAC) limit in Hawaii from .08 to .05. Lowering the legal BAC limit will save lives. NSC is a nonprofit organization with the mission of eliminating preventable deaths at work, at home and on the road through leadership, research, education and advocacy. Our more than 15,000 member companies represent employees at more than 50,000 U.S. worksites, including 170 in Hawaii.

The science is clear – impairment begins with the first drink. When behind the wheel, there is no safe level of impairment. Even one or two drinks can significantly impact a driver's concentration, ability to react and make decisions. In one survey, more than 1 in 8 drivers admitted to driving when close to or over the legal limit in the past year, despite believing that drunk driving poses a serious threat.ⁱ After two or three drinks, which corresponds to a BAC of .05 for most adults, drivers have a 40% higher crash risk than drivers who are sober.ⁱⁱ By the time they reach .08, drivers are four times more likely to crash.ⁱⁱⁱ

Driving is one of the riskiest tasks all of us undertake on a daily basis. More than 39,000 people died in crashes on our nation's roads in 2018, according to NSC analysis.^{iv} In Hawaii, 117 people died in motor vehicle crashes in 2018, and 35 of those people were victims in alcohol-related crashes (BAC \geq .08).^v Alcohol continues to be involved in about 28% of all fatal crashes in America, and this percentage has not significantly fluctuated in more than a decade.^{vi} We need new strategies to create a culture of change and new laws.

Utah already has implemented .05 BAC, and other states are considering similar legislation. Research shows that lowering the BAC limit from .08 to .05 reduces crash fatality risk by preventing not only low BAC drivers, but also high BAC drivers, from driving.^{vii}

This legislation will save lives and prevent injuries in Hawaii. NSC fully supports HB 2464, SB 2234, SB 2682/HB 2269, SB 2177/HB 1722 and SB 2168/HB 1777, and we hope you will support them as well. If you have any questions or need more information, please contact Tara Leystra at tara.leystra@nsc.org or 202-602-1020.

Sincerely,

Lorraine M. Martin
President and CEO

Copy: House Committee on Transportation



- ⁱ AAA Foundation for Traffic Safety. (2016). 2015 Traffic Safety Culture Index.
- ⁱⁱ https://www.nsc.org/Portals/0/Documents/NSCDocuments_Corporate/Policy-Positions/Transportation/T-Low Alcohol Concentration Culture Change-130.pdf.
- ⁱⁱⁱ Blomberg RD, Peck RC, Moskowitz H, Burns M, Fiorentino D: The Long Beach/Fort Lauderdale relative risk study; J Safety Res 40:285; 2009.
- ^{iv} NSC analysis of NCHS mortality data.
- ^v FARS 2014 - 2017 Final and FARS 2018 ARF.
- ^{vi} NSC analysis of NHTSA FARS data.
- ^{vii} <https://www.madd.org/wp-content/uploads/2019/03/05BACResearch.pdf>

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TESTIMONY TO THE HOUSE COMMITTEE ON TRANSPORTATION
WEDNESDAY, FEBRUARY 5, 2020; 10:15 A.M.
STATE CAPITOL, CONFERENCE ROOM 423

RE: HOUSE BILL NO. 2464, RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

Chair Aquino, Vice Chair Hashimoto, and Members of the Committee:

My name is Erik Abe, and I am the Public Affairs and Policy Director for the Hawaii Primary Care Association (HPCA). However, I am testifying today solely in my capacity as a concerned citizen, and my views expressed do not necessarily nor officially reflect those of the HPCA.

I **SUPPORT** the **INTENT** of House Bill No. 2464, RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE., and offer **PROPOSED AMENDMENTS** for your consideration.

As received by your Committee, this bill would reduce the threshold at which a person may be convicted of operating a vehicle under the influence of an intoxicant from .08 grams of alcohol per one hundred milliliters or cubic centimeters of blood to .05 grams.

By way of background, I was requested three years ago by a friend, Mr. Ron Shimabuku, to assist his family draft legislation before the Hawaii State Legislature to strengthen Hawaii's laws applicable to driving under the influence of an intoxicant (OVUII). At that time, Mr. Shimabuku informed me that his hanai brother, Kaulana Werner, was killed by an intoxicated driver in Nanakuli, Island of Oahu, and that his family wanted to change the laws to prevent similar situations from occurring in the future to ease the suffering of families of victims.

During our examination of Hawaii's OVUII Law, we spoke with numerous police officers from across the State, all of whom requested to share their views "off the record". We learned that on any given night, between 30 and 40 drivers are detained on suspicion of driving under the influence. This comes out to between 11,000 and 15,000 detentions per year. However, because of the time it takes to test the blood alcohol level of drivers, as well as the reluctance of the City Prosecutor to prosecute these types of crimes, only 5,992 of the detained drivers were arrested last year.

At the point a police officer requests the suspect to submit to an alcohol level test, the suspect has the choice of either agreeing to or refusing to take the test. If the suspect chooses to take the test, the suspect is given the option of taking a breath test or a blood test. If the suspect chooses the blood test, it may take hours for the results to be determined because the suspect must be taken to an emergency room or another health facility to have the blood drawn and tested. The time it takes to have the blood drawn allows the suspect's body to metabolize the alcohol in it. As such, by the time the test results are found, the person's blood alcohol level may be considerably lower than it was at the time of the stop. And if the level is lower than .08, no violation would have taken place.

And even if the police officer obtains evidence that the suspect indeed had a blood level at or above .08, oftentimes, these cases are thrown out by the Office of the Prosecuting Attorney. For many of our front-line police officers, there is a perception that the Prosecutors look for any reason whatsoever to throw these types of cases out of court, either because of the complexity of obtaining a conviction, or the large amount of resources it takes to prosecute.

For front-line officers who risk their lives at night walking on busy streets to operate DUI checkpoints and confront sometimes agitated and impaired drivers, to have their work disregarded because the Prosecuting Attorney deems it wasteful to pursue these types of crimes is demoralizing to them and counter to the public policy that the OVUII Law was intended to serve.

In my opinion, the OVUII Law is fundamentally flawed because it rests on the premise that an individual is able to determine on his or her own whether he or she has reached a subjective level of intoxication (i.e., .08, .05, or any blood level). And every time someone dies from a drunk driver, it becomes evident to all that this public policy has failed.

This flaw, however, can be fixed if lawmakers mandate a "Zero Tolerance" policy. If a person wants the privilege of operating a vehicle in the State of Hawaii, the person must not have a measurable amount of alcohol in their blood while operating the vehicle at all times.

If the "Zero Tolerance" policy is applied to adults, law enforcement would only need to show that the offender had a measurable amount of alcohol in the person's blood. This would make enforcement much easier and serve as an even greater deterrent to operating a vehicle under the influence of an intoxicant. Also, if the individual refuses to take the test, the individual will face an even longer license revocation period with the Administrative Driver's License Revocation Office.

Testimony on House Bill No. 2464
Wednesday, February 5, 2020; 10:15 a.m.
Page 3

The business community, and especially small businesses, will argue that the establishment of such a policy will have an enormous financial impact on their sales. As a whole, however, the establishment of a "Zero Tolerance" policy may cause other businesses to thrive -- taxi cabs, and Uber will find more people seeking their services; the visitor industry could use this as an opportunity to campaign for more Kamaaina to go to resort areas and party rather than risk driving impaired; these are just a few examples where change will force businesses to evolve to meet the newer demands of consumers.

Some will say that such an approach is too strict. But compare this approach to the laws of England, for example. There, a person needs only to show the intent to drive under the influence to be convicted of OVUII. A person walking from a pub with keys in hand was stopped by a police officer. The person was trying to get to his car to go home. The person was arrested and convicted, and the conviction was upheld by the courts.

Lastly, some will also say that if the law is too strict, people will merely ignore it and keep driving while intoxicated. That could be said for any law enacted because there will always be some who will refuse to obey the law. But if a "Zero Tolerance" policy gets the majority, or a few, or even a single intoxicated driver off the roads, then that would be one less potential victim who would otherwise die.

For these reasons, I respectfully request that the contents of this measure be deleted, and the substance of House Bill No. 1999, a measure that would establish a "Zero Tolerance" policy for both minors and adults in the State of Hawaii, be inserted.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact me.

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
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Kelly Takaya King
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Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 4, 2020

TO: The Honorable Henry J.C. Aquino, Chair
House Committee on Transportation

FROM: Kelly Takaya King
Councilmember

SUBJECT: **HEARING OF FEBRUARY 5, 2020; TESTIMONY IN SUPPORT OF HB 2464, RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to lower the threshold blood alcohol concentration for the offense of operating a vehicle while under the influence of an intoxicant.

This measure is similar to one in the Maui County Council's Legislative Package and HSAC Legislative Package. I offer this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. Maui has experienced an unprecedented number of tragic traffic fatalities this year, with more than half being the result of intoxication.
2. For virtually all people, impairment of important driving skills is certain at a blood alcohol level of .08. Reducing the blood alcohol concentration from .08 to .05 while driving is a clear step to help prevent casualties.
3. Approximately ninety countries have lowered their Blood Alcohol Concentration laws to .05 and in doing so have lowered their alcohol-related traffic fatalities.
4. This law will improve the overall health and wellness of our community and save lives!

For the foregoing reasons, I **support** this measure.

Ron Shimabuku
ronkshimabuku@gmail.com
#808-295-4954

**Testimony on House Bill No. 2464
RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.
Wednesday, February 5, 2020
10:15am
Conference Room 423
State Capitol
415 South Beretania Street**

Re: Houes Bill No. 2464, Relating to the Use of Intoxicants While Operating a Vehicle.

Chair Henry Aquino, Vice Chair Troy Hashimoto, and Members of the Committee:

My name is Ron Shimabuku and I am the hanai brother and godparent to the late Kaulana Matthew Auwae Werner, who as you are aware was the victim of a drunk driving, hit-and-run crash which occurred on the evening of April 24, 2016 in Nanakuli, Hawaii. I am testifying in **support of the intent of Houes Bill No. 2464 with amendments for your consideration.**

The Werner ohana's aspiration to rid Hawaii's streets of drunk driving and ensure the safety of our communities continues with House Bill No. 1999 which would establish a zero tolerance policy for operating a vehicle under the influence of an intoxicant (OVUII) for adults. I respectfully ask that you consider the arguments set forth in the following article:

<https://www.civilbeat.org/2020/01/zero-tolerance-essential-for-keeping-hawaiis-roads-safe/#comments>

Additionally, I would also ask that you reflect on the following questions to assist in making a determination on this measure.

- Why are there differing laws in Hawaii to substantiate a blood alcohol content (BAC) level for drinking and driving? i.e. 0.08% BAC for adults versus a measurable BAC for minors.

- If an individual consumes alcohol with an intent to drive, would this individual be able to identify the number of beverages it takes to get to the current BAC threshold of under 0.08% which allows this individual to drink and drive under Hawaii law?
- It is proven that alcohol alters an individual's state of mind and decision-making ability. If an individual consumes alcohol with an intent to drive, is this individual's state of mind altered causing a false decision on how many beverages was consumed?

Finally, here is additional information to take note of:

- These are several countries that have zero tolerance laws in place for drinking and driving: China, Colombia, Czech Republic, Hungary, Japan, and Vietnam. This is not an exhaustive list. It should be noted that although Australia's BAC limit is 0.05%, operators of commercial vehicles are subject to a zero tolerance policy.
- The following countries have a 0.02% BAC threshold limit for drinking and driving: Norway, Poland, Russia, and Sweden.

I point out these examples to stress that the United States will not be unique if a zero tolerance law were to be adopted by a state. These countries have taken a strong stance against a preventable disease. Many of citizens of these countries consume tons of alcohol throughout their lifetime, however, that does not mean drinking and driving is condoned. I believe these countries got it right and they are very concerned about saving lives.

We need to strongly consider or at minimum have a discussion on how to ensure our roads are safe from drunk drivers. With this, I respectfully request that the contents of **this measure be revised to include the provisions of House Bill No. 1999**. Thank you for the opportunity to testify. Should you have any questions, please feel free to contact me.