

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the Senate Committee on Judiciary**

February 23, 2020

S.B. No. 2234: RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE

Hearing: February 25, 2020, 12:00 p.m.

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

The Office of the Public Defender respectfully opposes S.B. No. 2234.

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](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 S.B. No. 2234.



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 25, 2020  
12:00 P.M.  
State Capitol, Room 016



**S.B. 2234**  
**RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE**

Senate Committee on Judiciary

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The Department of Transportation (DOT) **supports** S.B. 2234 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 felt that if we could take more impaired drivers off the road, this would bring our traffic fatalities closer to Zero Deaths.

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

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 S.B. 2234 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.

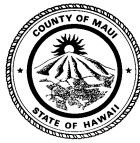
Thank you for the opportunity to provide testimony.

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](http://www.MauiCounty.us)

**LATE**

February 24, 2020

TO: The Honorable Karl Rhoads, Chair  
The Honorable Jarrett Keohokalole, Vice Chair  
Senate Committee on Judiciary

FROM: Kelly Takaya King  
Councilmember

SUBJECT: **HEARING OF FEBRUARY 25, 2020; TESTIMONY IN SUPPORT OF SB 2234, 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 aforementioned reasons, I **support** this measure.

**SB-2234**

Submitted on: 2/21/2020 3:35:34 PM

Testimony for JDC on 2/25/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Testifying for Maui Police Department	Support	No

Comments:

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515

DWIGHT K. NADAMOTO  
ACTING PROSECUTING ATTORNEY

LYNN B.K. COSTALES  
ACTING FIRST DEPUTY  
PROSECUTING ATTORNEY



**THE HONORABLE KARL RHOADS, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY**  
**Thirtieth State Legislature**  
**Regular Session of 2020**  
**State of Hawai'i**

February 25, 2020

**RE: S.B. 2234; RELATING TO USE OF INTOXICANTS WHILE OPERATING A VEHICLE.**

Chair Rhoads, Vice Chair Keohokalole, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of S.B. 2234.

The purpose of S.B. 2234 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, could 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 S.B. 2234. Thank you for this opportunity to testify.



Sen. Karl Rhoads  
Chairman  
Senate Judiciary Committee  
Hawaii State Senate

Sen. Jarrett Keohokalole  
Vice Chairman  
Senate Judiciary Committee  
Hawaii State Senate

Senate Bill 2234—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



February 23, 2020

The Honorable Karl Rhoads, Chair  
The Honorable Jarrett Keohokalole, Vice Chair  
and Members of the Committee on Judiciary

State Senate  
State Capitol, Room 016  
415 South Beretania Street  
Honolulu, Hawaii 96813

RE: Strong opposition to SB2234

We as members of the Hawaii Bar Owners Association strongly oppose the bill SB2234.

This bill would be an extreme expense and cost in insurance to licensed operators within the state. Current coverage for 1 million dollars of mandatory insurance costs anywhere from \$50,000 to \$125,000 annually. By lowering the level it would severely increase the liability expense for all restaurants, bars, and hotels throughout the islands.

The attorney general office recognizes that the courts are full with DUI issues that it cannot process rapidly enough with a .08 BAC level so their courts would be overburdened with a lower limit.

With legislation moving forward to punish the industry for repeat violations, it puts every operation at risk along with all the jobs associated with the industry.

At what level can a business sell one beverage before the legal limit is met and thus make it inappropriate to serve another, thus limiting the number of transactions that can be completed. Will we have to charge \$20 plus for that one beverage to cover the expense of operation including the increased minimum wage, insurance, electricity and air conditioning, health insurance, rent and taxes?

Would you pay that amount for a beer? Neither will anybody else and thus you will definitely hurt those businesses.



The .08 level has been in effect for quite some time and is the standard throughout the nation. We have only one other state with the lower standard and moving in that direction will serve to eliminate a key industry in our island economy. It is better to take action to eliminate the high abusers with high level BACs and recognize that many people act responsibly with the .08. BAC level.

We ask that you maintain the current level and please vote in opposition to SB2234.

Sincerely,

A handwritten signature in black ink that reads "Bill Comerford". The signature is written in a cursive style with a large, stylized initial "B".

Bill Comerford  
Chairman  
Hawaii Bar Owners Association  
10 Marin Lane  
Honolulu, HI 96817  
521-4712 office  
223-3997 cell  
bill@ejlounge.com



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THE SENATE  
THE THIRTIETH LEGISLATURE  
REGULAR SESSION OF 2020

COMMITTEE ON JUDICIARY

**Testimony in Opposition to SB 2234**

Chair Rhoads, Vice-Chair Keohokalole and Members of the Committee:

Thank you for the opportunity to provide testimony on SB 2234 RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT. Wine Institute, a public policy association representing 1,000 California wineries and associate members, is opposed to SB 2234 and offers the following comments.

SB 2234 reduces the legal threshold of alcohol concentration in breath or blood for the criminal offenses of operating a vehicle while under the influence of an intoxicant and habitually operating a vehicle under the influence of an intoxicant from .08 to any measurable amount of alcohol. Wine Institute supports education and the strict enforcement of laws to address drunk driving. The current legal threshold of .08 BAC (Blood Alcohol Concentration) was established as a safe level of consumption based on science and law enforcement guidance. Lowering the legal threshold would effectively criminalize moderate drinking by responsible adults and divert resources that should be used to target repeat offender and high BAC (.15 or higher) drivers.

Thank you for the opportunity to testify.



February 24, 2020

The Honorable Karl Rhoads  
Chair, Senate Committee on Judiciary  
415 South Beretania St. Rm 204  
Honolulu, HI 96813

The Honorable Jarrett Keohokalole  
Vice Chair, Senate Committee on Judiciary  
415 Beretania St. Rm 203  
Honolulu, HI 96813

Dear Chair Rhoads and Vice-Chair Keohokalole:

On behalf of the National Safety Council (NSC), I am writing today to ask for your support of SB 2234, 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.<sup>i</sup> 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.<sup>ii</sup> By the time they reach .08, drivers are four times more likely to crash.<sup>iii</sup>

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.<sup>iv</sup> 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).<sup>v</sup> 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.<sup>vi</sup> 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.<sup>vii</sup>

This legislation will save lives and prevent injuries in Hawaii. NSC fully supports SB 2234, and we hope you will support it as well. Thank you for your consideration. If you have any questions or need more information, please contact Tara Leystra at [tara.leystra@nsc.org](mailto:tara.leystra@nsc.org) or 202-602-1020.

Sincerely,

Lorraine M. Martin  
President and CEO

Copy: Senate Committee on Judiciary



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

**Erik K. Abe**  
**55 South Kukui Street, #1606**  
**Honolulu, Hawaii. 96813**  
**Ph. (808) 537-3081. Cell: (808) 537-3081**

**TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY**  
**TUESDAY, FEBRUARY 25, 2020; 12:00 P.M.**  
**STATE CAPITOL, CONFERENCE ROOM 016**

**RE: SENATE BILL NO. 2234, RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.**

Chair Rhoads, Vice Chair Keohokalole, 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 Senate Bill No. 2234, 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 Senate Bill No. 2234**  
**Tuesday, February 25, 2020; 12:00 p.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 provisions of Senate Bill No. 2510, 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.



February 24, 2020

The Honorable Karl Rhoads  
Chair, Senate Committee on Judiciary  
415 South Beretania St. Rm 204  
Honolulu, HI 96813

The Honorable Jarrett Keohokalole  
Vice Chair, Senate Committee on Judiciary  
415 Beretania St. Rm 203  
Honolulu, HI 96813

Dear Chair Rhoads and Vice-Chair Keohokalole:

On behalf of the National Safety Council (NSC), I am writing today to ask for your support of SB 2234, 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.<sup>i</sup> 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.<sup>ii</sup> By the time they reach .08, drivers are four times more likely to crash.<sup>iii</sup>

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.<sup>iv</sup> 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).<sup>v</sup> 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.<sup>vi</sup> 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.<sup>vii</sup>

This legislation will save lives and prevent injuries in Hawaii. NSC fully supports SB 2234, and we hope you will support it as well. Thank you for your consideration. If you have any questions or need more information, please contact Tara Leystra at [tara.leystra@nsc.org](mailto:tara.leystra@nsc.org) or 202-602-1020.

Sincerely,

Lorraine M. Martin  
President and CEO

Copy: Senate Committee on Judiciary





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

**LATE**

**SB-2234**

Submitted on: 2/24/2020 3:14:45 PM

Testimony for JDC on 2/25/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chad Taniguchi	Testifying for Hawaii Bicycling League	Support	Yes

Comments:

Hawaii Bicycling League strongly supports lowering the alcohol level tolerated by the law to .05. This will make our streets safer for everyone. Impaired driving is one of the scourges of our time, and is even more fearful than the covid-19 virus. Impaired driving results in senseless killing and maiming that are preventable if we have the courage and will to say no more.

We should actually be pushing for zero tolerance of alcohol while people exercise the privilege of driving a dangerous weapon. Let's take this intermediate step, save lives, and then work later for zero tolerance.

I make this testimony in honor and memory of Zach Manago, Kaulana Werner, and Travis Lau, who might still be with us had our laws been more stringent on preventing impaired driving. Be strong and courageous in supporting life.

**SB-2234**

Submitted on: 2/24/2020 1:43:16 AM

Testimony for JDC on 2/25/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerard Silva	Individual	Oppose	No

Comments:

**SB-2234**

Submitted on: 2/24/2020 3:08:56 PM

Testimony for JDC on 2/25/2020 12:00:00 PM

**LATE**

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

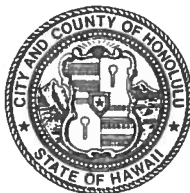
Comments:

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE CT-LC

February 25, 2020

The Honorable Karl Rhoads, Chair  
and Members  
Committee on Judiciary  
State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 016  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 2234, Relating to the Use of Intoxicants While Operating a Vehicle

I am Stephen J. Silva, Jr., Acting Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 2234, 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.

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The HPD urges you to support Senate Bill No. 2234, Relating to the Use of Intoxicants While Operating a Vehicle.

Thank you for the opportunity to testify.

Sincerely,



Stephen J. Silva, Jr., Acting Major  
Traffic Division

APPROVED:



Susan Ballard  
Chief of Police