

Honolulu, Hawaii

MAR 03 , 2022

RE: H.B. No. 1866
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 1866 entitled:

"A BILL FOR AN ACT RELATING TO INTOXICATION,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Amend the procedure under which a blood, urine, or breath test is administered in the event of certain vehicular collisions; and
- (2) Prohibit state courts from vacating any conviction for a crime that was committed before December 5, 2016, solely on the basis that the evidence of the person's blood alcohol content was obtained without a warrant, unless otherwise required by constitutional law.

Your Committee received testimony in support of this measure from Mothers Against Drunk Driving Hawaii and four individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender. Your Committee received comments on this measure from the Department of Transportation.

Your Committee finds that the state law establishing the procedure for administering blood, urine, or breath tests in the



event of certain vehicular collisions should be updated to reflect developments in federal and state common law over the years regarding warrantless tests. Your Committee further finds that courts should avoid reversing convictions based on a warrantless blood draw taken after a vehicular collision that occurred before December 5, 2016, since both statutory and common law allowed law enforcement officers investigating vehicular collisions to obtain evidence of a person's blood alcohol content without a warrant if there was probable cause that the person operated a vehicle under the influence of an intoxicant and exigent circumstances justified a warrantless blood draw.

Your Committee has amended this measure by:

- (1) Changing the effective date to January 1, 2222, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1866, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1866, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



State of Hawaii
House of Representatives
The Thirty-first Legislature

HSCRT78-22

Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: HB 1866	Committee Referral: JHA	Date: 2-8-22		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.				✓
5. LoPRESTI, Matthew S.				✓
6. LOWEN, Nicole E.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.	✓			
10. TODD, Chris	✓			
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
TOTAL (12)	10	0	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				