

Honolulu, Hawaii  
APR 07 , 2022

RE: S.B. No. 2163  
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 S.B. No. 2163 entitled:

"A BILL FOR AN ACT RELATING TO NEGLIGENT HOMICIDE,"

begs leave to report as follows:

The purpose of this measure is to make negligent homicide in the first degree a class A felony if the person causes the death of another by operating a vehicle in a negligent manner while under the influence of drugs or alcohol and the person:

- (1) Has one or more convictions for operating a vehicle under the influence within twenty years of the instant offense;
- (2) Is operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant; or
- (3) Is a highly intoxicated driver.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, Department of the Prosecuting Attorney of the County of Maui, Honolulu Police Department, Mothers Against Drunk Driving Hawaii Advisory Board, and three 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 and one individual.

Your Committee finds that heightened penalties are necessary to deter persons from repeatedly driving while under the influence of an intoxicant or driving at increased blood or breath alcohol levels. This measure is intended to prevent traffic fatalities in the State and hold offenders accountable for their negligent actions.

Your Committee has amended this measure by:

- (1) Lowering the lookback period for convictions for operating a vehicle under the influence from twenty years within the instant offense to ten years within the instant offense;
- (2) Clarifying that the class A felony offense of negligent homicide in the first degree applies to persons who, at the time of the instant offense, engaged in conduct that would constitute a violation of the offense of operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant;
- (3) Allowing the sentencing court to impose a lesser sentence for a person convicted of a class A felony offense of negligent homicide in the first degree if the court finds that strong mitigating circumstances warrant the action;
- (4) Defining the term "has been convicted one or more times for the offense of operating a vehicle under the influence" to include certain convictions and adjudications related to the use of intoxicants while operating a vehicle that, at the time of the instant offense, have not been expunged by pardon, reversed, or set aside; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.



It is your Committee's intent that, if an underlying conviction for operating a vehicle under the influence has been expunged by pardon, reversed, or set aside, at the time of the incident charged as a class A felony offense of negligent homicide in the first degree, that conviction will not be counted as a prior conviction for the heightened sentencing provisions established by this measure.

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 S.B. No. 2163, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2163, 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



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: <b>SB 2163</b>	Committee Referral: <b>JHA</b>	Date: <b>3-29-22</b>		
<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. TOKIOKA, James Kunane		✓		
11. WARD, Gene	✓			
<b>TOTAL (11)</b>	<b>9</b>	<b>1</b>	<b>1</b>	<b>0</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature:				
<b>Distribution:</b> Original (White) – Committee           Duplicate (Yellow) – Chief Clerk's Office           Duplicate (Pink) – HMSO				