

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 Finance**

March 2, 2022

H.B. No. 1448 HD1: RELATING TO TRAFFIC FINES

Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Office of the Public Defender respectfully opposes H.B. No. 1448 HD1, which would authorize counties to impose a surcharge for illegally stopping, standing, or parking vehicles on county highways to be distributed to county police departments.

First, the timing of this bill is particularly cruel given the ongoing challenges our poorest residents face in the coming years. We live in the State with the lowest minimum wage when adjusted for our high cost of living. Prices in stores are getting higher, property rents are astronomical, and federal economic support is ending despite the ongoing pandemic-related disruptions to our daily lives. Now is certainly not the time to enact legislation that will allow counties to impose an even greater financial burden on those who can least afford it.

Second, our office has seen firsthand how traffic fines, fees, and surcharges can disrupt the lives of otherwise law-abiding residents. When money is tight, a resident may have to choose between paying the rent or paying their fines. If unable to pay their fines, the resident will not be able to renew the registration for their vehicle. With a lapsed registration, the resident will not be able to update their safety check, even if their car is in perfectly working order. This resident still needs to be able to get to work, often to more than one job, and take their children to school while they save up the money to pay for the registration, the safety check, and the late fees that will attach. While driving to work one day, the resident is pulled over due to their expired stickers, and suddenly they find themselves with a citation for another couple hundred of dollars, which they are also unable to pay. Thirty days later, the fine is sent to a collection agency on the mainland, and a stopper is placed on to the resident’s license. As long as the stopper is in place, the resident will be unable to legally register their car to themselves. In practical terms, this often means that the resident will continue to pick up similar citations while they are saving up to pay the first citation. This resident could save up money for months to pay off their delinquent registration, safety check, and court fines, only to discover that they do

not have the money to cover the interest charged by the collection agency. Finally, the resident's driver's license expires, and the next time that they are pulled over for expired stickers, they receive a citation for the criminal (not civil) offense of Driving Without a Valid License (DWOL). This is the story that our District Court attorneys hear time and time again during intake interviews with our clients charged with DWOL.

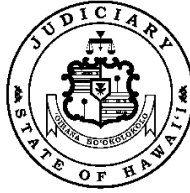
Finally, the previous committee amended this measure by deleting language that authorized the counties to impose fines and instead impose a "County Highway Enforcement Surcharge." This surcharge is for all intents and purposes a fine, and thus a work-around to comply with HRS § 291C-161(b), which provides, in pertinent part:

(b) Except as provided in subsections (c) and (d), every person who is determined to have violated any provision of this chapter for which another penalty is not provided shall be fined:

- (1) Not more than \$200 for a first violation thereof;
- (2) Not more than \$300 for a second violation committed within one year after the date of the first violation; and
- (3) Not more than \$500 for a third or subsequent violation committed within one year after the date of the first violation.

Any additional surcharge imposed by the counties, which results in the total monetary penalty imposed to be greater than \$200, violates the spirit and intent of HRS § 291C-161. Consequently, this measure should be deferred.

Thank you for the opportunity to comment on this measure.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-First Legislature, Regular Session of 2022

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair

Wednesday, March 2, 2022, 1:00 P.M.
State Capitol, Conference Room 308
VIA VIDEOCONFERENCE

by
Kevin Thornton
Director of IT & Business Services

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1448 H.D. 1, RELATING TO TRAFFIC FINES.

Purpose: Authorizes each county to establish a county highway enforcement program. Requires annual reports on the status and progress of the program. Imposes a surcharge for illegally stopping, standing, or parking vehicles on county highways to be distributed to county police departments. (HD1)

Judiciary's Position:

Judiciary takes no position on the intent of this bill and appreciates consideration of concerns made in previous testimony.

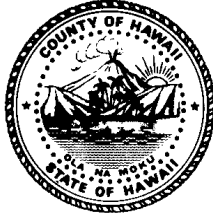
However, we would like to submit testimony on system impacts. With the current schedule to implement electronic filing and case management in the Judiciary Information Management System (JIMS) for Family Civil cases in April 2022, all support time and resources are dedicated to this effort. Therefore, the Judiciary respectfully requests an effective date of July 1, 2022 or later to ensure smooth implementation of this change.

Thank you for the opportunity to testify on this measure.

HEATHER L. KIMBALL

Council Member

*Chair, Committee on Governmental Operations,
Relations and Economic Development
Council District 1*



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HAWAI'I COUNTY COUNCIL

*County of Hawai'i
Hawai'i County Building
25 Aupuni Street, Suite 1402
Hilo, Hawai'i 96720*

TO: Representative Silvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair
House Committee on Finance

FROM: Heather L. Kimball
Council Member, District 1

A handwritten signature in cursive script that reads "Heather L. Kimball".

DATE: March 1, 2022

SUBJECT: **SUPPORT HB 1448, HD 1, RELATING TO TRAFFIC FINES**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to authorize the counties to impose additional fines by ordinance for any violation of state traffic laws.

I am providing testimony in my capacity as an individual member of the Hawai'i County Council.

I **SUPPORT** this measure for the following reasons:

1. It authorizes the counties to establish a county highway enforcement program to designate specific sections of county highways where the county can enforce laws established to prohibit or restrict the stopping, standing, or parking of vehicles and provide for parking management improvements;
2. It establishes a county highway enforcement surcharge of \$200 to be enforced and collected by the district courts; and,
3. It distributes the fines collected, annually, to the police department of the county in which the violations occurred.

For these reasons, I **SUPPORT** HB 1448 Relating to Traffic Fines.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Allow Counties to Surcharge Traffic Fines

BILL NUMBER: HB 1448 HD 1

INTRODUCED BY: House Committee on Judiciary & Hawaiian Affairs

EXECUTIVE SUMMARY: Authorizes each county to establish a county highway enforcement program. Requires annual reports on the status and progress of the program. Imposes a surcharge for illegally stopping, standing, or parking vehicles on county highways to be distributed to county police departments.

If the intent is revenue sharing, we think the measure should be changed to do just that as opposed to raising questions about whether total punishment is excessive and who gets to decide whether a particular violation is settled or prosecuted.

SYNOPSIS: Adds a new section to chapter 46, HRS, allowing each county to establish a county highway enforcement program and an associated special fund.

Amends section 291C-111, HRS, to provide that any person committing a violation of any law prohibiting or restricting the stopping, standing, or parking of vehicles on county highways shall be charged, in addition to any other applicable penalties and fines, a county highway enforcement surcharge of \$200 to be enforced and collected by the district courts and to be distributed to the police department of the county in which the violation occurred.

Makes other technical and conforming changes.

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: A long-time sticking point between the State and the counties has been that county police departments and county prosecutors enforce the traffic laws and impose fines, but they don't get to keep any of the money because it is all paid to the State. This bill addresses the situation by allowing the counties to establish their own highway enforcement program and specifying that those who stop, stand, or park illegally on county highways need to pay \$200 on top of all other penalties, and the counties can keep that \$200.

Digested: 2/28/2022

Hawai'i State Association of Counties (HSAC)
Counties of Kaua'i, Maui, Hawai'i, and City & County of Honolulu
Website: hawaiicounties.org | Email: hsac@hawaiicounties.org



Testimony of the
Hawai'i State Association of Counties

on
H.B. No. 1448, HD1
Relating to Traffic Fines.

Committee on Finance

Wednesday, March 2, 2022, 1:00 p.m.

The Hawai'i State Association of Counties (HSAC) **supports** H.B. 1448, H.D.1, which:

- Authorizes the counties to establish a county highway enforcement program to designate specific sections of county highways where the county can enforce laws established to prohibit or restrict the stopping, standing, or parking of vehicles and provide for parking management improvements;
- Establishes a county highway enforcement surcharge of \$200 to be enforced and collected by the district courts; and
- Annually distributes the fines collected to the police department of the county in which the violations occurred.

H.B. 1448, H.D.1, addresses the situation where the counties and county police departments are tasked with enforcing the statewide traffic code, the fines for which are collected by the district courts and deposited into the state general fund.

H.B. 1448, H.D. 1, will allow the counties to designate specific areas of county highways, which are experiencing high levels of traffic violations relating to parking, and implement traffic management improvements to mitigate situations that relate to particular areas of county highways.

For these reasons, the Hawai'i State Association of Counties strongly supports H.B. 1448, H.D.1, and requests your favorable consideration of this measure.

HB-1448-HD-1

Submitted on: 2/28/2022 1:38:49 PM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

The county police have no authority on State Highways this is the State police Job .

Email: cylonone@aol.com

Testimony of Donald Sakamoto before the Committee on Finance (FIN) Hawaii State House of Representatives Thirty-First Legislature, Regular Session of 2022 March 2, 2022, 1:00 PM, hearing on HB1448 H.D. 1

Good afternoon chair, vice chair, and members. I am Donald Sakamoto, fully supporting HB1448 H.D.1, supporting a bill for an act relating to traffic fines.

This bill will definitely allow the county islands to finally receive vital funds that are collected from the traffic fine violations, and to incorporate of these monies collected to go to the police departments enhancing their services to provide the needed safety in our communities, help to endure the cost of overtime when officers have to appear in state courts to provide their testimonies to contested traffic violations, etc. One first hand example that I have personally been experiencing since October 2019 to present is the excessive loud disturbing noises and numerous vehicles (motorcycles and hotrods) that would be performing high speeding on the Oahu H 3 interstate freeway east and west bound in the very early morning hours occurring between 12:25 am to 12:50 am on Saturday and Sundays on the windward side near my home where I live. In fact, I do call our 911 emergency call center to report these speeding incidents to HPD however, the response that I would receive always at the Kaneohe neighborhood board meetings from the HPD's representatives is a lack of officers and equipment such as new radar guns, etc. I've have also, contacted via emails and phone calls to my City Council representative Esther Kiaaina, Mayor Rick Blangiardi, City's Managing Director Michael Formby, Interim Police Chief Rade Vanic, State Representative Scot Matayoshi and others regarding with this matter, and they are just as frustrated with these excessive speeding as well as me and others in the community.

Furthermore, it was reported in the local news media that on the late evening of Friday, June 18, 2021 two vehicles were reported that they were racing and experiencing road rage on the H 1 interstate freeway near Middle Street in Kahili which one of the male driver's was point blank shot by the other driver in the driver seat with a handgun and it resulted in a death of a young man in his early 20's It was also reported in the same media story that between June 18 and June 19, 2021 the HPD's districts 5 and 6 performed a speeding enforcement on the west side of the H 3 side of the Hālawā tunnels between the late evenings and very early mornings in which they reported some 100 citations ranging with DUI's, excessive speeding, no registration, insurance, safety check, and 14 arrest for no driver license. These types of road rage and high-speed racing incidents are happening even more nationwide and is excelling dramatically here especially, with the disregard of enforcement due to lack of officers, equipment, etc.

Since the conception of the corona virus and over two years of restrictions due to the pandemic things have really accelerated for the worst., and the county and state needs to truly work together for a win-win solution and prepare to rectify this ongoing issue before it gets even more out of hand. Famous "by failing to prepare, you are preparing to fail" by Benjamin Franklin.

Mahalo for hearing this bill and let's do the right thing and "GO FOR BROKE" and to moving it forward.