

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
Judiciary and Hawaiian Affairs**

February 1, 2022

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

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender respectfully opposes H.B. No. 1448, which would authorize counties to impose and collect fines for violations of the Statewide Traffic Code, in addition to the fines imposed by the State.

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 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, this measure may be subject to challenge, as HRS § 291C-161(b) 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 fines imposed by the counties for a first violation that results in the total fine imposed to be greater than \$200 is in violation of HRS § 291C-161(b).

Thank you for the opportunity to comment on this measure.



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second State Legislature, 2022 Regular Session

Committee on Judiciary & Hawaiian Affairs

Representative Mark M. Nakashima, Chair

Representative Scot Z. Matayoshi, Vice Chair

February 1, 2022, 2:00 p.m.

Via Videoconference

by:

Michelle D. Acosta

Deputy Chief Court Administrator

District Court of the First Circuit

Bill No. and Title: House Bill No. 1448 – Relating to Traffic Fines

Purpose: Authorizes the respective counties to impose and collect fines for violations of the Statewide Traffic Code, in addition to the fines imposed by the State under Chapter 291C, HRS.

Judiciary's Position:

The Judiciary takes no position on the merits of this measure, but is concerned that if passed this measure will cause significant impacts to the courts traffic divisions.

Currently, the Judiciary is responsible for supplying all citations statewide to various law enforcement agencies. Since traffic fines under the traffic code are currently uniform statewide, all traffic citation forms are ordered by just one of the four Traffic Violations Bureaus (TVB) for efficiency and economies of scale. It takes approximately 15 weeks to prepare the citations for the next calendar year. This labor-intensive process includes proof updates, revisions, corrections, review and approval in coordination with all the judicial circuits and law enforcement. Once the citations are printed they must be folded then hand-collated and stapled into each book as there is no machine that can do this task. It takes approximately 6 months for the preparation, printing and delivery to be completed to ensure that the citations can be distributed to law enforcement prior to the start of the new calendar year.

All citations are pre-printed with the most common statute, ordinance, or rule as determined by the individual judicial circuit and law enforcement to best fit their needs. If a fine has been set by the statute, ordinance or rule, the fine amount is included on the citation. This measure would allow the county to impose another fine to an existing statewide traffic fine. Rather than having citations issued statewide, each TVB would need to order their own citation forms. This would require additional resources and expenditures. The Judiciary would anticipate confusion by the public traveling intrastate who find that one traffic fine is different depending on which county they are in as the citations would no longer be the same statewide.

As currently drafted, the Judiciary would be required to create a new citation form “thirty days after the effective date of the county ordinance...” As outlined above, the process for preparing citation books could not be timely accomplished whenever the county passed an ordinance adding the additional fine. Creating new citation books would create confusion as law enforcement would not know which citation book is current. The cost that would be incurred by the Judiciary would be significant. The cost for the 2022 statewide citations was approximately \$189,000.

The Judiciary is also concerned that identifying each county ordinance with an additional fine and transmitting those fines would be a very difficult task, especially within a 30-day time frame.

Further, significant modifications to the Judiciary Information Management System (JIMS) will have to be made in order to create a “county fine code” field especially if there will be different amounts per county then individualized county fine code fields will need to be created. The Judiciary will need ample time to create, test and put into production the necessary codes that would be needed.

Thank you for the opportunity to testify on this measure.

COUNTY COUNCIL

Arryl Kaneshiro, Chair
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Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
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KipuKai Kualii



OFFICE OF THE COUNTY CLERK

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Council Services Division
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January 28, 2022

**TESTIMONY OF MASON K. CHOCK
COUNCIL VICE CHAIR, KAUAI COUNTY COUNCIL
ON**

HB 1448, RELATING TO TRAFFIC FINES
House of Representatives Committee on Judiciary & Hawaiian Affairs
Tuesday, February 1, 2022
2:00 p.m.
Via Videoconference

Dear Chair Nakashima and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 1448, Relating to Traffic Fines, which is included in the 2022 Hawai'i State Association of Counties (HSAC) Legislative Package. My testimony is submitted in my individual capacity as Council Vice Chair of the Kaua'i County Council.

HB 1448 authorizes respective counties, by ordinance, to impose additional fines for the violation of state traffic laws; requires the Traffic Violations Bureau to prepare citation forms showing all state and county fines for the police departments; and requires the Traffic Violations Bureau to collect the fines for the counties and remit the fines semi-annually to the counties.

The counties and county police departments are directed to enforce any traffic infraction, the fines for which are collected by the district courts and "deposited into the State General Fund for State use." The Judiciary has argued that traffic offenses "cause a disproportionate workload for the Judiciary, much of which is done manually." The 2015 report by the Judiciary failed to recognize the costs of the counties to enforce traffic laws, such as:

- Detection of violations;
- Issuance of citations and making of arrests;
- Equipment costs; and
- Personnel and administrative costs.

Thank you again for this opportunity to provide testimony in support of HB 1448. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via E-mail to cokcouncil@kauai.gov.

Sincerely,

MASON K. CHOCK
Council Vice Chair, Kaua'i County Council

AAO:mn

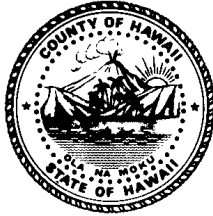
HEATHER L. KIMBALL

Council Member

*Chair, Committee on Governmental Operations,
Relations and Economic Development*

Council District 1

Hawai'i State Association of Counties, Secretary



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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: Honorable Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Heather L. Kimball
Council Member, District 1

DATE: January 31, 2022

SUBJECT: **SUPPORT HB 1448, 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 these reasons:

1. The counties and county police enforce traffic violations yet all fines collected are deposited in the state general fund for state use.
2. The counties incur the following costs when enforcing state traffic laws: detection, issuance of citations, making of arrests, equipment, personnel and administrative.
3. HB 1448 does not reduce the state's portion of traffic fines collected, but allows counties to impose additional fines.
4. Having the ability to increase fines provides the counties with another tool to control overuse of some of our tourists destinations as the State has done in Kauai.

In addition, this measure would require the traffic violations bureau to prepare citation forms showing all state and county fines and to collect the fines and remit the counties' portion on a semi-annual basis to the counties.

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

Heather Kimball
Council Member District 1



Testimony of the
Hawaii State Association of Counties

on

H.B. No. 1448

Relating to Traffic Fines.

Committee on Judiciary & Hawaiian Affairs

Tuesday, February 2, 2022, 2:00 p.m.

The Hawaii State Association of Counties (HSAC) strongly **supports** H.B. 1448, which authorizes the counties to impose additional fines by ordinance for any violation of state traffic laws.

The counties and county police departments are directed to enforce any traffic infraction, the fines for which are collected by the district courts and “deposited into the state general fund for state use.” The Judiciary has argued that traffic offenses “cause a disproportionate workload for the Judiciary, much of which is done manually. The 2015 report by the Judiciary failed to recognize the costs of the counties to enforce traffic laws, such as:

- Detection of violations;
- Issuance of citations and making of arrests;
- Equipment costs; and
- Personnel and administrative costs.

H.B. 1448:

- Authorizes the counties by ordinance to impose additional fines for the violation of state traffic laws;
- Requires the traffic violations bureau to prepare citation forms showing all state and county fines for the police departments;
- Requires the traffic violations bureau to collect the fines for the counties and remit the fines semi-annually to the counties.

For these reasons, the Hawaii State Association of Counties strongly supports H.B. 1448, and requests your favorable consideration of this measure.



February 1, 2022

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
JUDICIARY & HAWAIIAN AFFAIRS
ON HB 1448 RELATING TO TRAFFIC FINES**

Aloha Chair Nakashima, and committee members. I am Gareth Sakakida Managing Director of the Hawaii Transportation Association (HTA) with over 350 members involved with the commercial ground transportation industry.

HTA opposes what amounts to an increase of traffic fine cost.

The counties are probably in favor of this because they are doing all the work and getting little or nothing for their labors.

We support the counties receiving all the traffic fines generated in their respective county.

Mahalo.

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, SB 2051

INTRODUCED BY: HB by SAIKI by request; SB by KOUCHI by request (Hawaii State Association of Counties package)

EXECUTIVE SUMMARY: Authorizes the respective counties to impose and collect fines for violations of the Statewide Traffic Code, in addition to the fines imposed by the State under Chapter 291C, HRS. 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: Amends section 291C-171, HRS, to provide that each county by ordinance may impose additional fines for the violation of any section or provision of the state traffic laws. Within thirty days after the effective date of the county ordinance, the applicable traffic violations bureau shall prepare citation forms for the police department of that county showing all state and county fines. Persons receiving citations having county fines may contest the county fines in the same manner that state fines are contested. The respective traffic violations bureaus shall collect the fines for the counties and shall remit the fines to the respective directors of budget and fiscal services, or finance, of the counties on a semi-annual basis.

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. The apparent intent of this bill is to address the situation by letting the counties enact their own penalties and impose their own fines. If the intent is revenue sharing, however, a better way would be to amend this same section to pay over a certain amount of the state-collected fines to the county that prosecuted the violator. Otherwise, questions could arise about whether the total punishment is excessive; whether the state or the county has true authority to decide whether a case should be settled, dismissed, or prosecuted; and so on.

Digested: 1/30/2022

HB-1448

Submitted on: 1/31/2022 1:39:19 PM

Testimony for JHA on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Brett Kulbis	Honolulu County Republican Party	Oppose	No

Comments:

We OPPOSE, this is just another fee imposed on the voters.

A ticket for driving 15 miles above the limit in Hawaii costs \$142, how much more do the counties plan to penalize drivers. This does not account for the increase in insurance premiums.

If the counties want their own traffic fines, they should lobby the legislature to either remove the State Fines and allow the counties to collect, rather than the monies collected going to the State funds.