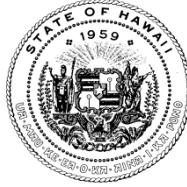


DAVID Y. IGE  
GOVERNOR



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDUARDO P. MANGLALLAN  
PATRICK H. MCCAIN  
EDWIN H. SNIFFEN

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 1, 2022  
11:00 A.M.  
State Capitol, Teleconference

**H.B. 2246, H.D. 1**  
**RELATING TO THE STATE HIGHWAY ENFORCEMENT PROGRAM SURCHARGE**

House Committee on Finance

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The Department of Transportation (DOT) **supports** H.B. 2246, H.D. 1, which would increase the state highway enforcement program surcharge for violations of Section 291C-111, Hawaii Revised Statutes (HRS). HRS 291C-111 prohibits or restricts stopping, standing, or parking of vehicles where such activities may present a hazard to highway users.

According to federal crash statistics, roughly 566 deaths and 14,371 injuries occur annually involving stopped or disabled vehicles on a roadway. Increasing the surcharge for those willfully creating unsafe conditions for other road users could reduce deaths and injuries.

Eighty percent of this surcharge would be applied to parking enforcement efforts that help the state and counties be better able to enforce parking regulations on the roadways.

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  
Gabe Johnson  
Kelly Takaya King  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

Deputy Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

February 28, 2022

TO: Honorable Sylvia Luke, Chair  
House Committee on Finance

FROM: Alice L. Lee  
Council Chair

DATE: February 28, 2022

SUBJECT: **SUPPORT OF HB 2246, HD1, RELATING TO THE STATE HIGHWAY ENFORCEMENT PROGRAM SURCHARGE**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to amend the State Highway Enforcement Program surcharge.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

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

1. With increased tourism and the parking issues that come with it, the County has experienced unsafe conditions on State highways in culturally and environmentally sensitive areas, such as on the Road to Hana.
2. This measure will provide funding for the Maui Police Department to improve parking enforcement in these sensitive areas, improving safety for all roadway users, enhancing emergency response, and protecting sensitive resources.
3. Increasing the surcharge will further deter illegal activity.

For the foregoing reasons, I **SUPPORT** this measure.

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# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Increase Highway Enforcement Program Surcharge

BILL NUMBER: HB 2246 HD 1

INTRODUCED BY: AQUINO, CULLEN, ILAGAN, YAMANE

EXECUTIVE SUMMARY: Amends the state highway enforcement program surcharge from \$200 to an unspecified amount.

SYNOPSIS: 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 state highways shall be charged, in addition to any other applicable penalties and fines, a state highway enforcement program surcharge of \$\_\_\_\_\_ to be enforced and collected by the district courts and to be deposited into the state highway fund. Fifty per cent of each surcharge collected shall be disbursed to the police department of the county in which the violation occurred.

EFFECTIVE DATE: July 1, 2050.

STAFF COMMENTS: A large part of the state highway fund, which is the primary fund paying for road and bridge repairs, maintenance, and new projects, comes from the state fuel tax. Fuel tax is currently applied only to fossil fuel, leading to the anomaly that electric vehicles and alternative fuel vehicles pay less or no fuel tax but still use and cause wear and tear on the roads. As a result, revenues going to the state highway fund have flattened, leading to cries for help from the Department of Transportation.

The Legislature answered those cries in 2019, enacting a \$200 per violation surcharge in Act 250, SLH 2019, with the money split between the state highway fund and the county police department.

We are concerned, as we were in 2019, that this levy being directed to a special fund violates the statutory criteria and subverts the appropriation process. The bill relies upon earmarking civil fine moneys for its success. As with any earmarking of revenues, the legislature will be preapproving each of the programs fed by the fund into which the monies are diverted, expenses from the funds largely avoid legislative scrutiny, and the effectiveness of the programs funded becomes harder to ascertain. It is also difficult to determine whether the fund (or the departments involved) has too little or too much revenue.

We are also concerned that the bill creates some arbitrariness in the law. Motorists who illegally park on a state highway would be hit with this extra charge (now \$200) but those who park on county highways or the Federal Interstates would not.

Digested: 2/26/2022

Douglas Meller  
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Honolulu, Hawaii 96813  
douglasmeller@gmail.com

## **Testimony on HB 2246, HD1 Relating to the State Highway Enforcement Program Surcharge**

Submitted to the House Committee on Finance  
Tuesday, March 1, 2022, 11 am, State Capitol Room 308 & Videoconference Hearing

I strongly recommend that you amend HB 2246, HD1, to require that HDOT adopt rules which limit where the “state highway enforcement program surcharge” applies. I also recommend that you amend HB 2246, HD1 to require HDOT to submit annual reports to the Legislature concerning the revenues and impacts of the “surcharge”. I do not recommend changing the current \$200 “surcharge” without HDOT evaluation of revenues or impacts.

Under §264-6(2) and §291C-111(c), Hawaii Revised Statutes, a Hawaii resident who leaves a parked car partially within the right-of-way of any State highway without a written DOT permit is liable for a \$200 “state highway enforcement program surcharge”. Although not being enforced as written, the current statutory wording literally requires:

- larger fines for parking violations than for minor moving violations on all state highways.
- much larger fines for parking violations on urban streets under HDOT jurisdiction than counties can impose for parking violations on connected urban streets under county jurisdiction. (For example, part of Liliha Street is under HDOT jurisdiction and part of Liliha Street is under county jurisdiction.)
- much larger fines for parking violations on uncongested rural highways under HDOT jurisdiction than counties can impose for parking violations on highly congested urban streets under county jurisdiction.

***§264-6 State highway not to be disturbed without permit. No person ... shall ... do any of the following acts without a written permit from the director of transportation or the director's authorized representative: ...***

***(2) Place ... or store any ... motor or other vehicle ... wholly or partially within the right-of-way of any state highway....***

***§291C-111 Noncompliance with stopping, standing, or parking requirements. ...***

***(c) Any person committing a violation of any law prohibiting or restricting the ... parking of vehicles on state highways shall be charged, in addition to any other applicable penalties and fines, a state highway enforcement program surcharge of \$200 to be enforced and collected by the district courts....***