

The Judiciary, State of Hawai'i

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

House Committee on Judiciary & Hawaiian Affairs

Representative Mark M. Nakashima, Chair

Representative Scot Z. Matayoshi, Vice Chair

Thursday, February 24, 2022, 2:00 p.m.

Via Videoconference

by:

Judge Melanie May

Deputy Chief Judge

District Court of the First Circuit

Judge Blaine J. Kobayashi

Deputy Chief Judge

District Court of the Second Circuit

Judge Michelle K. Laubach

Deputy Chief Judge

District Court of the Third Circuit

Judge Michael K. Soong

Deputy Chief Judge

District Court of the Fifth Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2247 – Relating to Operating a Vehicle Under the Influence of an Intoxicant

Purpose: Lengthens the driver's license revocation period for first time offenders convicted of operating a vehicle under the influence of an intoxicant who do not install an ignition interlock device. Allows early termination of driver's license revocation after nine months upon showing three consecutive months of ignition interlock use without any violations.

Judiciary's Position:

The Judiciary takes no position as to the merits of House Bill No. 2247, but offers the following comments regarding implementation of a procedure for early termination of license revocation periods.

The bill does not provide for a mechanism to verify the installation and maintenance of the ignition interlock device for the specified time period. Likewise, the bill does not provide for a mechanism to verify that a person did not commit any violation pertaining to the ignition interlock device during the specified time period.

To address this, the Judiciary suggests that persons seeking early termination of license revocations be required to provide certification from the Director of Transportation, consistent with certification provided under existing laws regarding ignition interlock devices and modifications to license revocation periods, such as Haw. Rev. Stat. § 291E-61.6.

Haw. Rev. Stat. § 291E-61.6 currently allows a person subject to a lifetime license revocation to apply for an ignition interlock instruction permit, and, after installing and maintaining an ignition interlock device for a specified period without committing specified violations, to petition the court to reinstate the person's eligibility for license and privilege to operate a vehicle without an ignition interlock device. In essence, the statute provides a second chance to persons who would otherwise be barred from driving for life by incentivizing sobriety and safe driving. Under Haw. Rev. Stat. § 291E-61.6(e), the Director of the Department of Transportation ("the "Director") certifies the motorist's compliance with statutory requirements. The Director also provides certification that no violations have occurred with respect to the motorist's operation of the vehicle during the ignition interlock period.

Since 2012, approximately 200 petitions for ignition interlock instruction permits were filed under Haw. Rev. Stat. § 291E-61.6, and approximately 176 such permits were granted. Of the 176 individuals who received ignition interlock instruction permits, approximately 30 individuals filed petitions under Haw. Rev. Stat. § 291E-61.6(e) to reinstate their eligibility for license and privilege to operate a vehicle without an ignition interlock device. In these cases, the presentation of certified statements from the Director provided the courts with critical and reliable information needed for the adjudication of these petitions.

Based on its experience under Haw. Rev. Stat. § 291E-61.6, the Judiciary believes a similar mechanism would provide the courts with baseline information needed to adjudicate motions for early terminations of license revocation periods contemplated by this bill. To this end, the Judiciary suggests the following technical amendment to the language found in SB3165, SD1, starting from page 6, line 6:

(6) A person sentenced pursuant to paragraph (1)(B) may file a motion for early termination of the applicable revocation

period if the person:

(A) Was not sentenced to any additional mandatory revocation period pursuant to paragraphs (3) or (4);

(B) Actually installed and maintained an ignition interlock device in one or more vehicles for a continuous period of six months, after which the person maintained the ignition interlock device in one or more vehicles for a continuous period of three months without violation, as that term is defined in rules established by the department of transportation; and

(C) The person has complied with all other sentencing requirements.

A motion for early termination under this section shall include the following:

(1) A certified court abstract establishing that the person was not sentenced to any additional mandatory revocation period pursuant to paragraphs (3) or (4);

(2) A certified statement from the director of transportation establishing that:

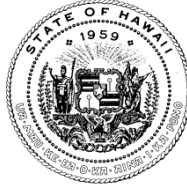
(a) The person actually installed and maintained an ignition interlock device in one or more vehicles for a continuous period of six months; and

(b) After the six month period referenced above, the person maintained the ignition interlock device in one or more vehicles for a continuous period of three months without violation, as that term is defined in rules established by the department of transportation.

Nothing in this paragraph shall require a court to grant early termination of the revocation period if the court finds that continued use of the ignition interlock device will further the person's rehabilitation or compliance with this section; and

Thank you for the opportunity to testify on this measure.

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

February 24, 2022
2:00 P.M.
State Capitol, Teleconference

H.B. 2247
RELATING TO OPERATING A VEHICLE
UNDER THE INFLUENCE OF AN INTOXICANT

House Committee on Judiciary & Hawaiian Affairs

The Department of Transportation (DOT) **supports** H.B. 2247 relating to operating a vehicle under the influence of an intoxicant, with suggested amendments. The purpose of this measure is to: (1) Lengthen the driver's license revocation period for first time offenders convicted of operating a vehicle under the influence of an intoxicant who do not install an ignition interlock device; and (2) Allows early termination of driver's license revocation after nine months upon showing three consecutive months of ignition interlock use without any violations.

Out of concern for Hawaii's increasing number of traffic fatalities involving alcohol and drugs, DOT's Hawaii Drug and Alcohol Intoxicated Driving (DAID) Working Group drafted H.B. 2247 to significantly incentivize offenders to install and use an ignition interlock.

As the term "violation" is used in H.B. 2247, page 6, lines 17-19, and the DAID Working Group has not been able to reconvene to develop any formal rules to define "violation" in relation to ignition interlock devices, DOT recommends (1) deleting the phrase: "as that term is defined in rules established by the department of transportation," and replacing it with the phrase: "where the term 'violation' is defined as..."; then inserting the language found in **H.B. 1884, between page 2, line 10, and page 3, line 6** into H.B. 2247.¹

The DOT urges your committee to pass H.B. 2247 with the suggested amendments. We believe the amended bill will reduce the number of impaired drivers on our roadways and save lives.

Thank you for the opportunity to provide testimony.

¹ H.B. 1844 (2022), available online at: https://www.capitol.hawaii.gov/session2022/bills/HB1884_.PDF; last accessed February 22, 2022.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-first State Legislature
Regular Session of 2022
State of Hawai'i

February 24, 2022

RE: H.B. 2247; RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT.

Chair Nakashima, Vice-Chair Matayoshi and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of H.B. 2247, with suggested amendments.

In 2021, our Department worked with multiple stakeholders to craft language that would significantly incentivize more offenders—who have been convicted of operating a vehicle under the influence of an intoxicant ("OVUII")—to install and use an Ignition Interlock device. The Department believes that H.B. 2247 is consistent with the working group's recommendations, and thanks the Committee for its commitment to making Hawaii's roads safer for everyone.

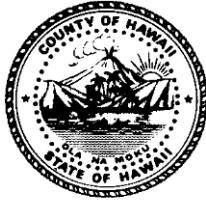
One amendment that the Department recommends—at least for purposes of discussion—is to add a definition of "violation," as that term is used in H.B. 2247, page 6, lines 17-19. Currently, the Department of Transportation does not have any formal rules that define that term in relation to Ignition Interlock devices. While rulemaking is potentially one solution, another option would be to define the term in statute. To date, the working group (mentioned above) has not been able to reconvene for purposes of developing a definition, so the language found in H.B. 1884, between page 2, line 10, and page 3, line 6, could be inserted into H.B. 2247 as a starting-point for further discussion.¹ This language could potentially be added into H.B. 2247, page 6, line 17, by deleting the phrase: "as that term is defined in rules established by the department of transportation," and replacing it with the phrase: "where the term 'violation' is defined as..." then inserting the above-referenced language from H.B. 1884.

¹ H.B. 1844 (2022), available online at: https://www.capitol.hawaii.gov/session2022/bills/HB1884_.PDF; last accessed February 22, 2022.

To the extent Ignition Interlock devices have been shown to prevent alcohol-impaired drivers from operating a vehicle, the Department believes that Hawaii's roads would be safer if a higher percentage of offenders—particularly anyone whose driver's license is presently revoked due to OVUII—actually installed and maintained an Ignition Interlock device in every vehicle that they operate. As always, the Department is open to further discussion regarding the specific provisions of this bill, and welcomes the opportunity to continue working with all stakeholders.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of H.B. 2247, with the suggested amendments. Thank you for the opportunity to testify on this matter.

Mitchell D. Roth
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado Jr.
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
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February 24, 2022

Representative Mark M. Nakashima,
Chairperson and Committee Members
Committee on Judiciary & Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: HOUSE BILL 2247, RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN
INTOXICANT
HEARING DATE: February 24, 2022
TIME: 02:00 p.m.

Dear Representative Nakashima:

The Hawai'i Police Department **supports** House Bill 2247, with its purpose to provide the court with the option of extending the revocation period of an individual's driver's license from one year to no more than eighteen months.

The Hawai'i Police Department supports the addition of subsection (6) allowing the convicted person the opportunity to file a motion with the court for early termination of the revocation period if they have met all of requirements listed in (A, B, C). They must not have been sentenced to additional mandatory revocation; they must have installed and maintained an ignition interlock device in one or more vehicles for a continuous six month period. We would recommend the bill identify in subsection (6) (B) that the three month period with no violations must immediately precede the driver's motion to terminate the revocation.

We believe in holding drivers accountable for their dangerous driving behaviors, as well as educating and counseling them how driving impaired impacts our communities. We support the opportunity for drivers to file for early termination of the revocation period if they have complied with all other sentencing requirements.

It is for these reasons, we urge this committee to approve this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 2247.

Sincerely,

PAUL K. FERREIRA
POLICE CHIEF



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February ~~24~~15, 2022

To: ~~Representative~~Senator ~~Mark M. Nakashima~~Chris Lee, Chair, Representative Scot Z. Matayoshi~~Senator Lorraine Inouye~~, Vice-Chair, and members of the Committee on Judiciary & Hawaiian Affairs~~Transportation~~

From: JoAnn Hamaji-Oto, Territory Operations Director, Smart Start LLC, Hawaii Corporate Office

Re: ~~House~~Senate Bill ~~2247~~2133, Relating to Operating a Vehicle Under the Influence of an Intoxicant~~Relating to the Statewide Traffic Code – Testimony in Support~~

I am JoAnn Hamaji-Oto, Territory Operations Director for Smart Start LLC, Hawaii Corporate Office. Smart Start is the current vendor contracted by the Hawaii Department of Transportation to install and service alcohol ignition interlocks in the state of Hawaii. I am offering comments on HB 2247 - Relating to Operating a Vehicle Under the Influence of an Intoxicant, which lengthens the driver's license revocation period for first time offenders convicted of operating a vehicle under the influence of an intoxicant who do not install an ignition interlock device and allows early termination of driver's license revocation after nine months upon showing three consecutive months of ignition interlock use without any violations.

In short, we ask that you amend this bill to include the provisions of HB 1884.

We support **closing a gap in the current law** which allows people who have already plead guilty, been convicted, or administratively adjudicated to have been impaired while driving, *to continue to attempt to drive drunk without limit on the restoration of their license.* We feel that this is not only wrong, but dangerous. For this reason, we prefer the compliance based language in HB 1884 because a person who blows into an interlock device while impaired is demonstrating that they cannot yet be trusted with a vehicle on the road. Under HB 1884, previously adjudicated drunk drivers using an interlock must have a certain period of no recordable violations before removal, known as a compliance-based regulation. This is the law in at least 34 states. Interlock compliance- based removal laws are important in teaching sober driving behavior. Currently, OVUII offenders in Hawaii merely have their interlock removed when it is time for end of program, whether they have proved sobriety to drive or not or they wait out the revocation period and do not install an interlock, many choosing to drive unlicensed and not interlocked.

Since the implementation of Hawaii's Ignition Interlock law in 2011, we have prevented more than 100,000 drunk driving attempts in the state of Hawaii. The interlock did what it was supposed to do, it directly prevented drunk driving and the injuries and deaths it causes. An indigent program is available for those that qualify to help lessen the costs associated with an interlock. The Hawaii Department of Transportation (HDOT) established a program to provide for partial financial relief on the installation, calibration, and other related charges to participants who apply for such assistance and who are recipients at the time of license revocation or suspension, of either food stamps under the Supplemental Nutrition Assistance Program (SNAP), or free services under the Older American Act or Developmentally Disabled Act.

Under state law and per contract terms with HDOT, if the participant qualifies for receiving financial relief, the installation and monthly service fees are discounted at 50% off the standard rate. This discounted rate breaks down the monthly service fee cost to the participant at \$1.48 a day.

Since the implementation of Hawaii's Ignition Interlock law in 2011, we have prevented more than 100,000 drunk driving attempts in the state of Hawaii. The interlock did what it was supposed to do, it directly prevented drunk driving and the injuries and deaths it causes. An indigent program is available for those that qualify to help lessen the costs associated with an interlock.

Thank you for the opportunity to testify.

~~I am JoAnn Hamaji-Oto, Territory Operations Director for Smart Start LLC, Hawaii Corporate Office. Smart Start is the current vendor contracted by the Hawaii Department of Transportation to install and service alcohol ignition interlocks in the state of Hawaii. I am offering testimony in support of Senate Bill 2133—Relating to the Statewide Traffic Code, which implements compliance-based regulations effectively ensuring that a person whose driver's license has been administratively revoked or who has been convicted for offenses involving operating a vehicle under the influence of an intoxicant will be ineligible for a driver's license unless providing proof of compliance.~~

~~We support **closing a gap in the current law** which allows people who have already plead guilty, been convicted, or administratively adjudicated to have been impaired while driving, *to continue to attempt to drive drunk without limit on the restoration of their license.* We feel that this is not only wrong, but dangerous. We support this bill because a person who blows into an interlock device while impaired is demonstrating that they cannot drive sober. Under Senate Bill 2133, previously adjudicated drunk drivers using an interlock must have a certain period of no recordable violations before removal, known as a compliance-based regulation. This is the law in at least 34 states. Interlock compliance-based removal laws are important in teaching sober driving behavior. Currently, OVUII offenders in Hawaii merely have their interlock removed when it is time for end of program, whether they have proved sobriety to drive or not or wait out the revocation period and do not install an interlock, many choosing to drive unlicensed and not interlocked. OVUII offenders should be made to comply with the requirements to install an interlock device before their driving privileges are restored. They should not be given the choice of waiting out the revocation period without ever installing an interlock. An interlock is the only technology and the single most effective tool available to physically separate drinking from driving and to enhance public safety.~~

~~Since the implementation of Hawaii's Ignition Interlock law in 2011, we have prevented more than 100,000 drunk driving attempts in the state of Hawaii. The interlock did what it was supposed to do, it directly prevented drunk driving and the injuries and deaths it causes. An indigent program is available for those that qualify to help lessen the costs associated with an interlock.~~

~~Under state law and per contract terms with HDOT, if the participant qualifies for receiving financial relief, the installation and monthly service fees are discounted at 50% off the standard rate. This discounted rate breaks down the monthly service fee cost to the participant at \$1.48 a day.~~

~~In conclusion, we strongly We urge you to pass Senate Bill 2133 as it will make interlock users prove compliance and demonstrate they are able to drive sober before removing the device. This bill will help strengthen Hawaii's ignition interlock laws which is critically important to help save lives and keep Hawaii roads safe.~~

~~Thank you for the opportunity to provide testimony in support of this important bill.~~



JoAnn Hamaji-Oto

Territory Operations Director-Hawaii

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Setting the Standard in Alcohol Monitoring Technology™



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February 24, 2022

To: Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair
House of Representatives Committee on Judiciary & Hawaiian Affairs

From: Kurt Kendro, Chair, Public Policy Committee; Mothers Against Drunk Driving
(MADD) Hawaii

Re: HOUSE BILL 2247- RELATING TO OVUII

I am Kurt Kendro, Chair of MADD Hawaii's Public Policy Committee and retired Major from the Honolulu Police Department speaking on behalf of the members of MADD Hawaii Advisory Board in STRONG SUPPORT of House Bill 2247.

MADD strongly supports ignition interlock devices and compliance-based removal of these devices. MADD Hawaii has worked with the Hawaii Department of Transportation, stakeholders, and partners to come up with a working solution to ensure that offenders install an ignition interlock and then comply with law. MADD Hawaii feels that this bill provides those protections and at the same time, rewards offenders who are in compliance with the ignition interlock law with an opportunity for early removal.

An ignition interlock device is often the very first line of defense from preventing a person who has been drinking from making a bad choice that could end in tragedy. Ignition interlock devices prevents impaired drivers from being able to start a vehicle. It is a known fact that ignition interlock devices save lives. Those convicted offenders who choose not to install an ignition interlock should not be given the privilege of being allowed to drive.

MADD Hawaii STRONGLY SUPPORTS House Bill 2247 and ask that this bill be passed.

Thank you for the opportunity to testify.