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February 15, 2024

Committee on Judiciary & Hawaiian Affairs
Rep. David A. Tarnas, Chair
Rep. Gregg Takayama, Vice Chair
415 South Beretania Street, Conference Room 325
State Capital
Honolulu, HI 96813
via email: JDCtestimony@capitol.hawaii.gov

Re: Testimony in Support of H.B. 2526
Hearing: February 16, 2024, 2:00 PM

Dear Chair Tarnas, Vice Chair Takayama and Committee Members:

This letter is in opposition of H.B. 2526 which would significantly increase penalties for, *inter alia*, driving without a valid driver's license and driving while license suspended for operating a vehicle under the influence of an intoxicant.

H.B. 2526 disproportionately increases penalties for driving without a license from a misdemeanor offense to Class C and Class B felony offenses which are five to ten years of incarceration, respectively, for a non-violent driving offense. Increasing the penalty will not curb the conduct but will perpetuate and exacerbate the cause of the problem. Most individuals charged with driving without a valid driver's license want to get their license but are unable to do so because of unpaid fines for traffic infractions that are now in collections with compounding interest. Most default judgments start small, but when unpaid due to the financial constraints of living in one of the most expensive states, the outstanding balance grows and a license stopper is triggered. By significantly increasing the penalty, it will not only result in an onslaught of felony cases clogging the circuit courts, but it will incarcerate non-violent and impoverished individuals, perpetuating destituteness, incarcerating parents and triggering the loss of employment. All of the foregoing sustains the cycle of poverty.

H.B. 2526 also takes away the sentencing discretion of the trial court. It mandates prison sentences, and in some cases it requires consecutive prison sentences. The trial court is in the perfect position, with the relevant facts of the case and investigative sentencing reports by officers of the court, to craft a just and appropriate sentence to address the crime and circumstances of the offender.

Mandatory imprisonment and felony penalties are not the solution to driving without a valid driver's license. Such penalties perpetuate poverty, cause disproportionate finance consequences on the individual, the state and clog the circuit courts statewide. Although repetitive behavior of driving without a license is being addressed, the trial court's discretion of sentencing up to a year in jail and \$2,000.00 in fines adequately addresses this conduct.

Thank you for taking these comments into consideration.

Sincerely,
/s/ Taryn Tomasa
Deputy Public Defender

HB-2526-HD-1

Submitted on: 2/14/2024 3:13:15 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kim Coco Iwamoto	Individual	Support	In Person

Comments:

Support with Amendments

It is my understanding that this bill was introduced in honor of Sara Yara who was killed while crossing the street in a marked crosswalk. If so, I urge this committee to refer to this bill as "Sara Yara's Law."

The news reported that the alleged driver of the vehicle that killed Sara Yara, was stopped and cited 12 times for driving without a license in the last five years. He was convicted for only six of those offense before the fatal incident.

Police need to be able to distinguish whether a driver has a valid license, but not on them at the time of the stop, versus whether the driver is unlicensed; the citation needs to clearly state that distinction. This is not about charging people who forgot their driver's license in a different purse or pair pants, this is about protecting the public from people who may not know how to drive or who have been adjudicated unsafe to drive and had their licensed revoked.

When people flagrantly violate the law designed to increase safety for the community, it often demonstrate a level of unwillingness to take responsibility and modify their behavior. Because mandatory minimums via elevated charges are ineffective deterrents of behavior, I urge this committee to remove the mandatory minimum sentencing language and replace with the following provisions that directly narrow the opportunities for habitually driving while unlicensed and will result in safer streets for all of our keiki.

When an officer accesses the DMV database at a traffic stop and realizes the individual was never issued a driver's license or had their license revoked, the police officer should not let that unlicensed driver get back in the car and drive away. The driver can either have another driver who is licensed drive the car away or have the car towed (not impounded) to a legal parking spot, until a licensed driver can drive the car to the car owner's home.

It is our understanding that this does not happen. To our surprise the police allow the unlicensed driver to get back in the car and drive off. The reason for this, we heard, is because there is no law that says otherwise and/or that the police think they would need to impound the car as evidence and they do not have the physical space to store the car. Again the car just needs to be left in a safe, legal spot, not impounded unless the car itself is evidence to a separate crime.

Realtime records should be kept regarding ownership of a vehicle when the driver is determined to be unlicensed and cited, available to the police and the courts. On conviction of driving while unlicensed, the judge shall order the owner of the car that was driven to sign a statement that affirms the following:

- they know the driver does not have a license,
- if this driver drives their car again, the owner understands they may be subject to a fine,
- upon a third conviction of guilt for driving while unlicensed by the same defendant driving this same car - the car will be subject to asset forfeiture;
- owner knows their insurance company will be notified by the court that owner has permitted an unlicensed driver to drive a vehicle covered by that insurance company and the insurance company may take affirmative steps to adjust coverage or premiums.

If the car is financed by a commercial institution, it will give that institution cause to repossess the car.

If the car is owned by another household member, the owner may be motivated to get rid of the car by selling it or donating it. If they cannot stop their unlicensed household member from driving their car, the owner can report the car stolen by a household member. Obviously cars reported stolen should not be seized by asset forfeiture.

HB-2526-HD-1

Submitted on: 2/15/2024 9:44:43 AM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and Committee Members,

I am in Strong Support of HB 2526 HD1.

Stiffer penalties are needed to deter unauthorized driving or operation of motor vehicles.

Thank you for the opportunity to testify.