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TESTIMONY BY:

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

February 25, 2022
9:45 A.M.
State Capitol, Teleconference

S.B. 2118
RELATING TO TRAFFIC VIOLATION

Senate Committee on Judiciary

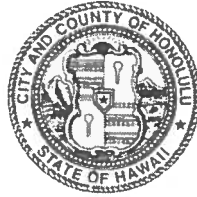
The Department of Transportation (DOT) **supports** S.B. 2118, which requires the driver of a moped to be in immediate possession of a valid driver's license or instruction permit at all times.

The DOT supports any and all efforts to reduce moped and scooter fatalities and injuries on Hawaii's roadways. In 2021, there were 11 moped/scooter fatalities in Hawaii. This bill will make it easier for law enforcement to determine who has a driver's license/permit and those who are driving illegally.

Thank you for the opportunity to provide testimony.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR

RADE K. VANIC
INTERIM CHIEF

OUR REFERENCE **BO-BO**

February 25, 2022

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 2118, Relating to Traffic Violations

I am Bradon Ogata, Captain of the Legislative Liaison Office of the Honolulu Police Department (HPD), City and County of Honolulu.

The Honolulu Police Department supports the passage of Senate Bill No. 2118, Relating to Traffic Violations.


The purpose of this bill is to clarify the language of Section 291C-194 of the Hawaii Revised Statutes (HRS) to make it clear that this law applies to the requirement to physically possess and present a driver's license upon demand when operating a moped. The clarification is necessary to better differentiate this section from HRS Section 286-102, Licensing, which requires that a person operating a moped be duly licensed by the examiner of drivers.

The HPD supports the passage of Senate Bill No. 2118, Relating to Traffic Violations.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,



Rade K. Vanic
Interim Chief of Police


Bradon Ogata, Captain
Legislative Liaison Office



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

February 23, 2022

ONLINE/FAX: 808-586-6131; 808-587-7220

The Honorable Karl Rhoads
Chair
The Honorable Jarrett Keohokalole
Vice-Chair
Senate Committee on Judiciary
Hawaii State Capitol, Rooms 204, 205
415 South Beretania Street
Honolulu, HI 96813

Re: **SB2118-Relating to Traffic Violations**

Dear Chair Rhoads, Vice-Chair Keohokalole, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers ("SHOPO") and write to you on behalf of our Union to express our strong **support** for SB2118. The bill will amend HRS §291C-194 and require a moped operator to have "immediate possession of a valid driver's license or instruction permit at all times."

We believe this amendment will eliminate any perceived ambiguity relating to the circumstances requiring a moped operator to have a driver's license in their actual possession while traveling on our public roadways. This bill will also assist our officers in their ability to accurately identify a driver who is stopped for a traffic violation in order to issue the appropriate written citation. In conducting patrol duties, our officers are involved in numerous traffic stops for various traffic infractions. Without observing an operator's driver's license and photograph, it is difficult for our officers to verify if the operator is really who they claim to be or is simply using a false name or alias. What often happens is the operator claims to have a valid driver's license but provides the officer with another person's name and personal information. The officer will run a license check in the computer system to confirm if there is a valid license under the name and personal information provided by the operator. However, if the operator gave a false name or false personal information, the system may confirm a valid driver's license but it would not be for the operator who gave the misleading information. The false information will also prevent the officer from running a valid warrant check on the driver. In our experience, drivers who do not have a valid driver's license often have outstanding arrest warrants and this holds true whether the person is operating a motor vehicle or a moped.

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The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice-Chair
Senate Committee on Judiciary
February 23, 2022
Re: SB2118-Relating to Traffic Violations
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The proposed amendment to HRS §291C-194 will greatly aid and enhance our officers' ability to perform their duties, accurately identify a moped operator who is stopped for a traffic violation, and hopefully provide the proper deterrent for those who may refuse to properly identify themselves.

We thank you for allowing us to be heard on this very important issue and we hope your committee will unanimously support SB2118.

Respectfully submitted,

ROBERT "BOBBY" CAVACO
SHOPO President

SB-2118

Submitted on: 2/24/2022 3:10:20 AM

Testimony for JDC on 2/25/2022 9:45:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gregory Timme	Individual	Support	No

Comments:

I support this Bill. All parties operating on City, County, and State roadways should be in possession of a valid Driver's License or Instruction Permit. This bill limits the confusion associated with current laws.

SB-2118

Submitted on: 2/24/2022 9:03:58 AM

Testimony for JDC on 2/25/2022 9:45:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Blake	Individual	Support	No

Comments:

Aloha,

I support Senate Bill 2118 that will amend HRS 291C-194 to clarify that moped operators need to be in physical possession of a driver's license card. If the moped operator is unlicensed, the operator should be charged with a Driving Without License violation. Mopeds are classified as vehicles and the operators need to be accountable.

Thank you

SB-2118

Submitted on: 2/24/2022 12:53:48 PM

Testimony for JDC on 2/25/2022 9:45:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lucius Crabbe	Individual	Support	No

Comments:

I support Senate Bill 2118 because Law Enforcement Officers need to have clarification to the current traffic violation section used to cite violating motorist. In this case this is important when the Officer has determined the moped operator has a valid driver's license, but is "not in possession" of the valid driver's license the Officer can issue a citation for "not having possession", if the Officer has determined the operator is unlicensed the Officer could issue a citation or arrest the moped operator for the traffic crime of Driving Without Valid Driver's License. For these reasons, I support Senate Bill 2118. Thank You.

LATE

TO: Senator Karl Rhoads

Chair, Senate Judiciary Committee

Senator Jarrett Keohokalole

Vice Chair, Senate Judiciary Committee

SUBJECT: S.B. 2118 – RELATING TO TRAFFIC VIOLATIONS

HEARING: February 25, 2022, 9:45 am Via Videoconference, State Capitol

POSITION: In opposition to the passing of S.B. 2118.

Aloha All,

My name is Jor-El Isaac. I am a full-time student in the University of Hawai'i at Monoa Bachelors of Social Work program. I am writing in opposition for the following reasons:

- 1) Section 291C-194, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows: "§291C-194 Driver's license possession; required. (a) No person shall drive a moped unless the person is in immediate possession of a valid driver's license or instruction permit at all times."

The right to travel is a "Liberty" of which citizens cannot be deprived without due process of law under the Fifth Amendment and Section 1 of the Fourteenth Amendment "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

- 2) According to Bouvier's Law Dictionary, 1856 – A "driver must possess reasonable skills and be of good habits for the journey, because should an accident or injury occur; both the "Driver" and his "Employers" will be responsible. This would indicate that the driver is conducting commerce rather acting as a traveler on a journey.
- 3) U.S. Supreme Court case Reno v. Condon decided on 12 January 2012 states "The activity licensed by state DMVs and in connection with individuals must submit personal information to the DMV (the operations of motor vehicles) is itself integrally related to interstate commerce.
- 4) Shuttlesworth v. Birmingham AL (1962) "If the state does convert your right into a privilege and issues a license and a fee for it. You can ignore the license and a fee and engage the right with full impunity".

Need of a Driver's license is a colorable action. A license is required only when conducting commerce. When a Citizen on the street cannot claim ignorance of the law there is no

judicial immunity. Therefore, this bill should be considered Unconstitutional as it violates the rights of Natural Citizens.

Mahalo,

Jor-El Isaac