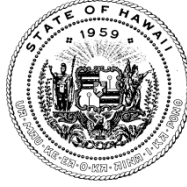


DAVID Y. IGE
GOVERNOR



LATE

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 15, 2022
3:15 P.M.
State Capitol, Teleconference

**S.B. 3165
RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN
INTOXICANT**

Senate Committee(s) on Transportation &
Public Safety, Intergovernmental, and Military Affairs

The Department of Transportation (DOT) **supports** S.B. 3165, relating to operating a vehicle under the influence of an intoxicant.

This bill proposes to:

1. Lengthen the driver's license revocation from one year to "no less than one year and no more than eighteen months," for first time offenders convicted of operating a vehicle under the influence of an intoxicant without an installed ignition interlock device.
2. Allow for a motion to be filed for early termination of applicable driver's license revocation if the person:
 - a. Was not sentenced to any additional mandatory revocation period pursuant to paragraphs (3) or (4).
 - b. Has installed and maintained an ignition interlock for any vehicle operated for a continuous period of six months, after which maintained the ignition interlock device for a continuous period of three months (90 days) without any violations-according to DOT Administrative rules, Chapter 19-147.
 - c. Has complied with all other sentencing requirements.

If enacted, this measure would permit the offender to file a motion for a reduced revocation period; however, the courts are not required to grant an early termination of the revocation period.

DOT proposes that the following recommendations be incorporated into Hawaii Revised Statutes 291E-61(b), which outlines compliance with an installed ignition interlock device.

Any person who is operating a vehicle equipped with an ignition interlock device:

1. Shall not allow any other person to blow into the ignition interlock device;
2. Shall not allow any other person to bypass and attempt to start a vehicle equipped with an ignition interlock device;
3. Shall not tamper with an ignition interlock device with the intent to render it inaccurate or inoperable;
4. Shall not obscure a camera lens associated within an ignition interlock device;
5. Shall be able to provide an accurate picture of themselves as the driver;
6. Should be able to provide for a breath alcohol of .02 or below for both starting and all rolling retests.

The DOT supports S.B. 3165 and requests your consideration for the proposed recommendations to the bill.

Thank you for the opportunity to provide testimony.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on
Transportation and Senate Committee on Public Safety,
Intergovernmental, & Military Affairs**

February 15, 2022

S.B. No. 3165: RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT

Chairs Lee and Nishihara, Vice Chairs Inouye and DeCoite, and Members of the Committees:

The Office of the Public Defender respectfully opposes S.B. No. 3165.

Revocation Period

We oppose the section of the measure that seeks to lengthen the driver’s license revocation period for first time offenders convicted of operating a vehicle under the influence of an intoxicant (OVUII) from twelve months to eighteen months. First, there does not appear to be any justification for the increase. A revocation period of one year is sufficient sanction for an individual who has committed a petty misdemeanor (in which the maximum jail time is five days in jail). Lengthening the revocation period will only exacerbate the problem of unlicensed drivers paying more fines. And in the case of those charged with violating HRS §291E-62, these individuals will be serving mandatory jail time *not* for driving while intoxicated but for simply driving without a valid license.

Those that are able to afford ignition interlock devices will still be able to drive to work and drop their children off at school during the revocation period. But for people struggling to make ends meet that cannot afford an ignition interlock device (or do not own their own vehicle), they will suffer the harsh penalty of being unable to drive for 18 months.

Clearly, this measure will disproportionately punish those who are economically disadvantaged. Admittedly, driving is not a right but a privilege. However, *the privilege to drive should not be available to only those who can afford to participate in the ignition interlock program and/or who own a car.*

Early Termination

Our office supports the intent of the provision, which allows the early termination of a driver's license revocation after nine months upon showing three consecutive months of ignition interlock use without any violations. However, this measure simply enhances the inequity of a penal scheme that is already unjust to the economically disadvantaged. As outlined above, the majority of individuals convicted of OVUII who do not install an ignition interlock and thus cannot take advantage of the early termination simply cannot afford to install one.

Under this measure, the license revocation for a person with financial means whose BAC was 0.14 and who was involved in a traffic collision can be reduced to nine months; meanwhile, the license revocation for an indigent person who had borrowed a vehicle, and who was pulled over for an expired safety check, and whose BAC was 0.08 will remain at eighteen months. Even though the affluent individual's conduct was far more egregious than the indigent person's, the affluent individual's license will be revoked for half the time period (nine months) than the indigent person's license (eighteen months).

For these reasons, we suggest that the measure be amended to allow early termination for all individuals who have not violated the terms of the revocation after six months.

Thank you for the opportunity to comment on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM
PROSECUTING ATTORNEY

THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY



**THE HONORABLE CHRIS LEE, CHAIR
SENATE COMMITTEE ON TRANSPORTATION**

**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

**Thirty-first State Legislature
Regular Session of 2022
State of Hawai'i**

February 15, 2022

RE: S.B. 3165; RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT.

Chair Lee, Chair Nishihara, Vice Chair Inouye, Vice Chair DeCoite, members of the Senate Committee on Transportation, and members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **support** of S.B. 3165, with a **suggested amendment**.

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 S.B. 3165 is consistent with the working group's recommendations, and thanks both Committees for their 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 on page 6, lines 17-19. Currently, the Department of Transportation does not have any formal rules that define this 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 S.B. 2133, between**

page 2, line 10, and page 3, line 6, could be inserted as a starting-point for further discussion.¹

With regards to that specific language, the Department notes that it may be overly restrictive to include “failing to provide a [single] rolling retest” (S.B. 2133, page 3, line 3) as a violation, without any chance of rectification as in the subsections above that (S.B. 2133, page 2, line 11, through page 3, line 2). Also, S.B. 2133, page 3, lines 5-6, is quite subjective and would be a potential source of litigation.

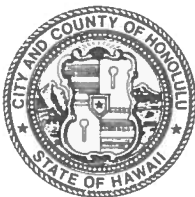
To the extent Ignition Interlock devices have been shown to prevent alcohol-impaired drivers from operating a vehicle, the Department believes that Hawaii’s roads would be safer if a higher percentage of offenders—particularly anyone whose driver’s license is presently revoked due to OVUII—actually installed 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 S.B. 3165, with the suggested amendment. Thank you for the opportunity to testify on this matter.

¹ S.B. 2133 (2022), available online at: https://www.capitol.hawaii.gov/session2022/Bills/SB2133_.pdf; last accessed February 14,2022.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.gov



RICK BLANGIARDI
MAYOR

RADE K. VANIC
INTERIM CHIEF

OUR REFERENCE JS-TK

February 15, 2022

The Honorable Chris Lee, Chair
and Members
Committee on Transportation
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: Senate Bill No. 3165, Relating to Operating a Vehicle Under the Influence of an Intoxicant

I am James Slayter, Acting Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 3165, Relating to Operating a Vehicle Under the Influence of an Intoxicant.

The HPD supports the proposal that would 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. The proposal also allows early termination of a driver's license revocation after nine months upon showing three consecutive months of ignition interlock use without any violations.


Impaired driving is a serious problem that we must address to keep our roadways safe. Any measure that can help deter impaired driving from occurring or reoccurring should be considered.

The Honorable Chris Lee, Chair
and Members
February 15, 2022
Page 2


The HPD urges you to support Senate Bill No. 3165, Relating to Operating a Vehicle Under the Influence of an Intoxicant.

Thank you for the opportunity to testify.

Sincerely,

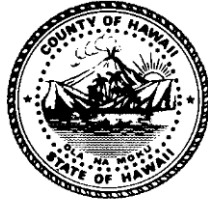

James Slayter, Acting Major
Traffic Division

APPROVED:



Rade K. Vanic
Interim Chief of Police

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
(808) 935-3311 • Fax (808) 961-2389

February 14, 2022

Senator Chris Lee
Chairperson and Committee Members
Committee on Transportation
Senator Clarence K. Nishihara
Chairperson and Committee Members
Committee on Public Safety, Intergovernmental and Military Affairs
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: SENATE BILL 3165, RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT
HEARING DATE: February 15, 2022
TIME: 03:15 pm

Dear Senator Lee and Senator Nishihara:

The Hawai'i Police Department **supports** Senate Bill 3165, 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 Senate Bill 3165.

Sincerely,

A handwritten signature in black ink that reads "Paul K. Ferreira".

PAUL K. FERREIRA
POLICE CHIEF

ADDRESS

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FAX

808-735-7989

EMAIL

bicycle@HBL.org

February 15, 2022

3:15pm

State Capitol Teleconference

SB 3165

Relating to Operating a Vehicle Under the Influence of an Intoxicant

SUPPORT

Senate Committee on Transportation

Aloha Chair Lee and Members of the Senate Transportation Committee,

The Hawaii Bicycling League supports Senate Bill 3165. On January 29th this year, a man was riding his electric bike on Front Street in Maui when he was struck by a drunk driver from behind and later died. The driver fled the scene. The operator of the Ford F150 truck was arrested for negligent homicide 1, driving with a suspended/revoked license, and habitually operating a vehicle under the influence. This tragic scenario happens all too often in Hawaii.

- Excessive alcohol use costs Hawai'i nearly **\$1 billion** per year ([reference](#)).
- IID laws mandating ignition interlock devices for ALL drunk driving offenders resulted in a **7% reduction in the number of drunk driving crashes involving a fatality** ([reference](#)).
- Laws mandating interlock devices for first-time offenders with a high BAC of .15 or more were associated with an **8% decrease in the number of fatal drunk driving accidents** ([reference](#)).

We must do more to protect our vulnerable road users who are doing the right thing by exercising and not contributing to air pollution.

Thank you for the opportunity to provide testimony.

Sincerely,

A handwritten signature in purple ink that reads "Janel Sterbentz".

Janel Sterbentz

Advocacy Team Leader



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February 15, 2022

To: Senator Chris Lee, Chair, Senator Lorraine Inouye, Vice-Chair, Senator Nishihara, Chair, Senator DeCoite, Vice-Chair, and members of the Committee on Transportation and Committee on Public Safety, Intergovernmental and Military Affairs

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

Re: Senate Bill 3165, Relating to Operating a Vehicle Under the Influence of an Intoxicant

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 SB3165 - 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 SB 2133.

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 SB 2133 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 SB 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.

Thank you for the opportunity to testify.



JoAnn Hamaji-Oto

Territory Operations Director-Hawaii

Office: 808-695-2416 Cell: 808-782-7723

[Jhamaji-oto@smartstartinc.com](mailto:jhamaji-oto@smartstartinc.com)

Setting the Standard in Alcohol Monitoring Technology™



Mothers Against Drunk Driving HAWAII
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Fax (808) 532-6004
hi.state@madd.org

February 15, 2022

To: Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair
Senate Committee on Transportation, and members of the Committee

Senator Clarence. K. Nishihara, Chair
Senator Lynn DeCoite, Vice Chair
Committee on Public Safety, Intergovernmental and Military Affairs, and
members of the Committee

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

Re: Senate Bill 3165- RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT

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 Senate Bill 3165.

MADD strongly supports this bill as it lengthens the driver's license revocation period for those convicted offenders who fail to install an ignition interlock device. At the same time, this bill rewards those offenders who install an ignition interlock device and abide by the guidelines without any violations.

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 Senate Bill 3165 and ask that this bill be passed.

Thank you for the opportunity to testify.

To: Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair
Senate Committee on Transportation, and Members of the Committee

Senator Clarence K. Nishihara, Chair
Senator Lynn Decoite, Vice Chair
Committee on Public Safety, Intergovernmental and Military Affairs,
and Members of the Committee

From: Theresa Paulette

Date: February 15, 2022

Re: Senate Bill 3165 – Relating to Operating a Vehicle Under the
Influence of An Intoxicant

I am Theresa Paulette speaking in strong support of Senate Bill 3165.

My 15 year old son, Brian Paulette, was killed 29 years ago in Kaneohe in a crash involving a 69 year old man who had been arrested 6x for driving under the influence. Over and over the drunk driver was arrested and charged, but that didn't stop him, he continued to drink and drive....and then he killed my son.

I, and all the victims I've spoken with, want to prevent this violent tragedy from happening to others. We must do all we can to stop impaired driving.

Ignition Interlocks are proven to stop impaired drivers from being able to start their vehicles and endanger the lives of others on the roadways.

I strongly support SB 3165 as it lengthens the driver's license revocation period for those first time convicted offenders who fail to install an Ignition Interlock device and also rewards those first time offenders who install the device and abide by the guidelines without any violations.

Thank you for the opportunity to testify.