



Statement of

National Transportation Safety Board

Before the

Committee on Transportation
Hawaii Senate

— *On* —

Senate Bill 754
Relating to Operating a Vehicle While Intoxicated

Honolulu, HI • February 9, 2021



An Independent Federal Agency

The National Transportation Safety Board (NTSB) is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline. We determine the probable cause of each accident we investigate and make safety recommendations aimed at preventing future accidents and crashes. The recommendations that arise from our investigations and safety studies are our most important product.

We appreciate the opportunity to submit this written statement in support of Senate Bill 754, legislation to strengthen impaired driving laws in the state of Hawaii by lowering the legal blood alcohol concentration (BAC) threshold from 0.08 percent to 0.05 percent when operating a vehicle. We have long recommended that states take this action. In 2018, Utah became the first state to do so, and we hope to see others follow Utah’s lead.

The Alcohol-Highway Safety Problem

Nearly 95 percent of all transportation-related deaths each year result from highway crashes. According to the National Highway Traffic Safety Administration (NHTSA), in 2018, 29 percent of those highway deaths (10,511 of 36,560) involved drivers impaired by alcohol. For almost 20 years, the proportion of highway deaths nationwide involving an alcohol-impaired driver has remained virtually unchanged, at nearly one-third. According to a NHTSA report, in 2010 (the most recent year for which cost data is available), alcohol-involved crashes resulted in \$44 billion in economic costs and \$201 billion in comprehensive costs to society.¹

Crashes involving alcohol-impaired drivers continue to claim thousands of lives each year. An average of one alcohol-impaired-driving fatality occurred every 50 minutes in the United States in 2018; in Hawaii, 2018 saw 117 highway-related fatalities, more than a third of which involved a driver who had consumed alcohol and had a BAC of 0.01 percent or higher. We believe that new countermeasures to address alcohol-impaired driving, as well as renewed emphasis on the issue at the federal, state, and local levels, are necessary to reach zero traffic deaths.

In 2019, Hawaii passed a law requiring the state department of transportation and all county transportation departments to adopt “Vision Zero” traffic policies. Hawaii is among the first states in the nation to consider legislation to lower the legal BAC level to 0.05 percent, which would save more lives and strengthen the safety of all residents of and visitors to this great state.

The NTSB and Alcohol-Impaired Driving

In 2012, we re-examined the impaired-driving problem, which led to our 2013 report, *Reaching Zero—Actions to Eliminate Alcohol-Impaired Driving*.² This report recommends

¹ Blincoe, L.J., Miller, T.R., Zaloshnja, E., & Lawrence, B.A. (2015, May). The economic and societal impact of motor vehicle crashes, 2010. (Revised) Washington, DC: National Highway Traffic Safety Administration. Report No. DOT HS 812 013. <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812013>.

² National Transportation Safety Board. 2013. *Reaching Zero: Actions to Eliminate Alcohol-Impaired Driving*. Safety Report NTSB/SR-13/01. Washington, DC: NTSB., <https://www.nts.gov/safety/safety-studies/Documents/SR1301.pdf>.

stronger laws, swifter enforcement, and expanded use of technology. The safety recommendations resulting from this report—if implemented—will move us toward the goal of ending all alcohol-impaired driving.

In the *Reaching Zero* report, we sought to identify the most effective, scientifically based actions needed to reach zero crashes associated with alcohol-impaired driving. Strong evidence from several sources showed that lower BAC limits reduced impaired-driving behavior and crashes at all levels of impairment. It was clear that changing legal BAC limits from 0.08 percent to 0.05 percent or lower would save many lives and prevent injuries caused by alcohol-impaired driving. This conclusion led us to recommend that all 50 states, the Commonwealth of Puerto Rico, and the District of Columbia establish a per-se BAC limit of 0.05 percent or lower for all drivers who are not already required to adhere to lower BAC limits.³

Blood Alcohol Concentration and Driving

Beginning in 2004, all states had a per-se BAC limit of 0.08 percent for noncommercial drivers age 21 and over. Many people believe that if a driver's BAC is under 0.08 percent, the driver is safe to drive; however, in reality, impairment begins well before a person's BAC reaches that level. Research shows that, in drivers with BACs of 0.05 percent to 0.079 percent, the risk of being in a single-vehicle fatal crash is at least seven times higher than for drivers with no alcohol in their system.

Alcohol depresses the central nervous system and affects cognitive performance, mood, and behavior. The negative effects of alcohol on driving-related skills, such as divided attention, vigilance, tracking, perception, and reaction time are present with BAC levels as low as 0.01 percent. Alcohol's effects become more severe as more of it is consumed. Beyond impairing driving-related performance and increasing crash risk, alcohol use is also associated with reduced seat belt use, which increases injury severity in the case of a crash.

To reduce alcohol-related crashes, many countries in Europe have established a legal BAC limit of 0.05 percent, and the benefits of the lower limit are well documented. Currently, more than 100 countries have BAC limits set at 0.05 percent or lower. It is time for our nation to adopt this standard that could result in an estimated 11 percent decline in fatal alcohol-related crashes and save at least 1,700 lives annually in the United States.

Some critics of lowering the legal BAC limit argue that, because most alcohol-related crashes do not involve drivers with BACs at the so-called “lower” end of the scale, such drivers are not worth worrying about. Yet, a recent study found that states with more restrictive alcohol policies have reduced the odds of motor vehicle crashes at all BAC levels, including low levels, compared to states with weaker policies.⁴ Lowering the legal BAC limit changes behavior at all BAC levels by reducing driving after drinking, so it effectively prevents driving even at higher

³ Per se BAC laws establish the BAC level at which it is illegal per se (in itself) for a driver to operate a vehicle, regardless of the driver's apparent condition or actions.

⁴ Lira, M.C., Sarda, V., Heeren, T.C., Miller, M., & Naimi, T.S. (2020). Alcohol Policies and Motor Vehicle Crash Deaths Involving Blood Alcohol Concentrations Below 0.08%, *American Journal of Preventive Medicine*, 000(000), 1-8. <https://www.ajpmonline.org/action/showPdf?pii=S0749-3797%2820%2930040-4>

BAC levels.⁵ It follows that reducing the legal per-se BAC limit could have a broad deterrent effect, reducing the risk of injuries and fatalities from crashes associated with impaired driving.

National and international traffic safety and public health organizations, including the American Medical Association; the World Health Organization; the World Medical Association; the Association for the Advancement of Automotive Medicine; the National Academies of Science, Engineering, and Medicine; Advocates for Highway and Auto Safety; and Mothers Against Drunk Driving have advocated setting BAC limits at 0.05 percent or lower. When Utah became the first state to lower its legal BAC limit from 0.08 percent to 0.05 percent, the state saw a nearly 44 percent decrease in alcohol-related crashes, and 70 percent decrease in fatalities between the first quarter of 2018 and the same time period in 2019.

Conclusion

Based on the nation's lack of progress toward reducing alcohol-impaired driving fatalities over the last two decades, it is clear that more can—and should—be done to prevent these tragedies. The evidence is clear: limiting the legal BAC limit to 0.05 percent or lower can reduce traffic fatalities. Accordingly, we strongly support legislation that will promptly lower the legal BAC limit to 0.05 percent across the United States. Addressing impaired driving on America's roads requires a bold step, and we applaud the Hawaii State Legislature for being one of the first to consider this important legislation. The citizens of Hawaii will benefit from your life-saving action. We hope Hawaii will help lead this effort and serve as a model for states to follow.

###

⁵ NTSB .05 BAC Safety Briefing Facts, March 2019, <https://ntsb.gov/safety/Documents/SafetyBriefing-March2019.pdf>



Subject: **Support SB754**

Dear Chair Lee, Vice Chair Inouye, and members of the Senate Committee on Transportation,

My name is Kari Benes, and I am the chair of the Hawaii Strategic Highway Safety Plan (SHSP) asking for your support of SB754. This measure aligns with the SHSP’s life-saving priorities in the updated 2019-2024 plan. Lowering the blood alcohol threshold to .05 reduces the risk of an impaired driver being on our roadways. Countries like Sweden and the Netherlands, which have also adopted successful vision zero policies, have demonstrated crash reductions by lowering their BAC per se limit.

Impairment by BAC and drinks (CDC and NHTSA/USDOT)

.02 BAC*	<i>About 2 alcoholic drinks**</i>	Decline in visual functions (rapid tracking of moving target) Decline in ability to perform two tasks at same time
.05 BAC*	<i>About 3 alcoholic drinks**</i>	Reduced coordination Reduced ability to track moving objects Difficulty steering Reduced response to emergency driving situations
.08 BAC*	<i>About 4 alcoholic drinks**</i>	Reduced ability to concentrate Short-term memory loss Difficulty controlling speed Reduced information processing capability Impaired perception

**Blood Alcohol Concentration measurement. **The number of drinks represents the approximate amount of alcohol that a 160-pound man would need to drink in one hour to reach the listed BAC in each category.*

NIH/NIAAA reported that a review of 112 studies concluded that certain skills required to operate motorized vehicles become impaired at modest departures from zero BAC. At 0.05 percent BAC, most studies reported significant impairment (NIH/NIAAA Alcohol Alert, 2001).

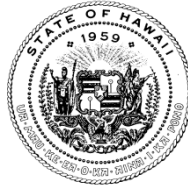
The Hawaii Strategic Highway Safety Plan's vision is that all of Hawaii's road users arrive safely at their destinations. You can help us achieve our goal of reducing yearly fatalities by supporting this measure.

To view the Strategic Highway Safety Plan, please visit <https://hidot.hawaii.gov/highways/shsp/>

Strategic Highway Safety Plan Mission

Save lives and reduce injuries on Hawaii's roadways through strategic partnerships and implementation of the Strategic Highway Safety Plan.

¹ [05BAC-Safety-Briefing-Facts.pdf \(ntsb.gov\)](#)



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

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

February 9, 2021
3:05 P.M.
State Capitol, Teleconference

S.B. 754
RELATING TO OPERATING A VEHICLE WHILE INTOXICATED

Senate Committee on Transportation

The Department of Transportation (DOT) **supports** S.B. 754 relating to operating a vehicle while intoxicated. This bill will lower the per se blood alcohol concentration (BAC) threshold for the offense of operating a vehicle while under the influence of an intoxicant from .08 to .05 BAC.

Out of concern for Hawaii's increasing number of traffic fatalities involving alcohol and drugs, the DOT's Hawaii Drug and Alcohol Intoxicated Driving (DAID) Working Group (comprised of county police and prosecutors, MADD, Hawaii State Department of Health, etc.), is recommending reducing the current per se .08 BAC law. The DAID believes that we can reduce the number of senseless motor vehicle fatalities by removing more impaired drivers from our roadways.

During 2015-2019, 30,150 drivers were arrested for Operating a Vehicle Under the Influence of an Intoxicant (OVUII). Of the number of drivers arrested, 5,195 drivers tested between .000 - .079 BAC, which represented 1.72 percent of the total number of breath and blood tests given to those arrested. In 2018 and 2019, there were five (5) fatal crashes that involved drivers having a .05-.07 BAC that took the lives of five people.

Studies show that lowering BAC levels will also change the behavior of those driving after drinking. Studies have also shown that a BAC of .02 can affect the driving-related performance, which concluded that the magnitude of the impairment increased with the increasing BAC. Organizations such as the American Medical Association, National Transportation Safety Board, National Academy of Science, Engineering and Medicine, World Health Organization, and the National Safety Council have also recommended that a .05 BAC be instituted to reduce the number of traffic fatalities in the nation.

Although Utah legislators, who passed a .05 law in 2018, were concerned that the Standardized Field Sobriety Test (SFST) could not detect BACs below the current .08 standard, they were assured that enforcing the law would remain the same, by using

reasonable and probable cause to stop suspected impaired drivers based on their driving performance. Additionally, the observations and driver's performance on the SFST would be taken in totality, as it is currently done.

The DOT urges you to pass S.B. 754 as it would reduce the number of traffic fatalities caused by drivers under the influence of alcohol and drugs. Additionally, this bill will help Hawaii reach our Vision Zero goal to eliminate all motor vehicle fatalities.

Thank you for the opportunity to provide testimony.

STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

Testimony of the Office of the Public Defender, State of Hawaii
to the Senate Committee on Transportation

February 9, 2021

S.B. No. 754: RELATING TO THE USE OF INTOXICANTS WHILE
OPERATING A VEHICLE

Chair Lee, Vice Chair Inouye, and Members of the Committee:

The Office of the Public Defender respectfully opposes S.B. No. 754.

This measure proposes to reduce the OUVII threshold from 0.08% blood alcohol content (BAC) to 0.05% blood alcohol content. For reasons stated below, we oppose this measure.

A reduction of the alcohol impairment level to 0.05% BAC simply casts too wide a net and will result in criminalizing the behavior of normally responsible drinkers without having an impact on reducing alcohol related fatalities. There are many responsible drinkers who do not drink and drive, or who limit their alcohol consumption to one to two drinks over the course of a night. These are the kind of people who are law-abiding and follow the rules. A reduction of the BAC will result in some of these individuals being arrested for OVUII. Indeed, a female driver weighing a mere 100 pounds may reach a 0.05% BAC with only one alcoholic drink. See https://www.onhealth.com/content/1/alcohol_impairment_chart (last visited, February 7, 2021). These law-abiding people will be caught in this wide net. The individuals who drive drunk and seriously injure or kill innocent people are not this kind of people. The high-level BAC drivers are alcohol dependent and/or uncaring individuals. They do not have licenses and/or insurance. A reduction of the BAC or an increase in penalties will not stop these kinds of people from drinking and driving.

Another consequence of a reduction of the BAC will be increased court congestion. In order to deal with the backlog, you will need to add judges, prosecutors and public defenders. At our current staffing level, the earliest our Oahu Branch can schedule an appointment to meet our traffic and misdemeanor clients is 2 to 4 months. An increase in our OVUII caseload will require at least two more attorneys and another clerical position on O'ahu alone. There have always been high caseloads for our

OVUII calendars in District Court, but the backlog caused by the COVID-19 pandemic has increased the calendars several-fold. There have been some mornings where the deputy public defender and deputy prosecuting attorney have over 100 OVUII cases to deal with. These cases are all being continued once a month for Status or Pretrial Conference Hearings because we have not even attempted to restart OVUII trials in Honolulu District Court. With the number of cases already clogging the district courts, there will be more cases dismissed due to a Rule 48 of the Hawai'i Rules of Penal Procedure and/or constitutional speedy trial violation. The emphasis should be reducing traffic fatalities, not increasing court congestion.

Thank you for the opportunity to comment on S.B. No. 754.

Justin F. Kollar
Prosecuting Attorney



Rebecca Vogt Like
Second Deputy

Jennifer S. Winn
First Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

**THE HONORABLE CHRIS LEE, CHAIR
SENATE COMMITTEE ON TRANSPORTATION
THIRTY-FIRST STATE LEGISLATURE
Regular Session of 2021
State of Hawai'i**

February 9, 2021

RE: SB 754 RELATING TO OPERATING A VEHICLE WHILE INTOXICATED

Chair Lee, Vice Chair Inouye, and Members of the Senate Committee on Transportation:

The Office of the Prosecuting Attorney, County of Kaua'i SUPPORTS SB 754, lowering the threshold per se maximum blood alcohol concentration ("BAC") for the offense of operating a vehicle while under the influence of an intoxicant.

The bill amends the definition of "Under the Influence" in Section 291E-1 and 291E-61 from a maximum per se BAC of .08, to the lower maximum per se BAC of .05 grams of alcohol per 210 liters of breath or grams of alcohol per one hundred milliliters or cubic centimeters of blood. With this revision the statute will more accurately encompass unsafe levels of intoxication among drivers and allow for more efficient enforcement to prevent intoxicated driving.

This amendment reflects the growing consensus that unsafe intoxication occurs at BAC levels much lower than Hawaii's current per se limit. The National Transportation Safety Board recommends this BAC reduction for all states and has concluded that BAC levels as low as 0.01 have been associated with driving-related performance impairment and BAC levels as low as 0.05 have been associated with significantly increased risk of fatal crashes. The State of Utah has already implemented this lower BAC level, along with a plethora of other nations, including Argentina, Australia, Austria, Belgium, Finland, France, Germany, Greece, Hong Kong, Israel, Italy, South Africa, Spain, Switzerland, Thailand, Taiwan, and Turkey.

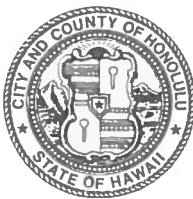
Accordingly, the Office of the Prosecuting Attorney, County of Kaua'i, requests that this measure be PASSED.

Thank you very much for the opportunity to testify.

An Equal Opportunity Employer

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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RICK BLANGIARDI
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
AARON TAKASAKI-YOUNG
DEPUTY CHIEFS

OUR REFERENCE CT-LC

February 9, 2021

The Honorable Chris Lee, Chair
and Members
Committee on Transportation
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 224
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: Senate Bill No. 754, Relating to Operating a Vehicle While Intoxicated

I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the proposal for lowering the blood alcohol concentration (BAC) in a person's breath or blood for the offense of Operating a Vehicle Under the Influence of an Intoxicant (OVUII).

In recent years, alcohol-impaired driving alone has been a factor in approximately 20 percent of all traffic fatalities and critical collisions on Oahu's roadways. Impaired driving is a serious problem that needs to be addressed. Research shows that critical driving skills are impaired at .05 BAC (.05 or more grams of alcohol per 100 milliliters or cubic centimeters of blood or .05 grams of alcohol per 210 liters of breath.) This level of impairment significantly increases the risk of senseless and preventable crashes that can take the life of an innocent commuter. Any measures that could stop these tragedies and keep impaired drivers off of our roads should be implemented.

The HPD strongly urges you to support Senate Bill No. 754, Relating to Operating a Vehicle While Intoxicated.

The Honorable Chris Lee, Chair
and Members
February 9, 2021
Page 2

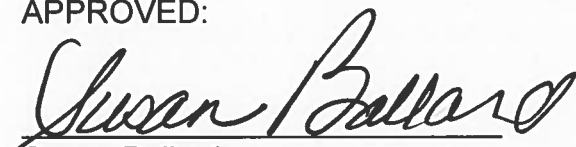
Thank you for the opportunity to testify.

Sincerely,



Calvin Tong, Major
Traffic Division

APPROVED:



Susan Ballard
Chief of Police



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

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TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

February 8, 2021

LATE

The Honorable Chris Lee, Chair
Senate Committee on Transportation
31st Hawaii State Legislature
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: SENATE BILL 754 RELATING TO OPERATING A VEHICLE WHILE INTOXICATED

Dear Chair Lee and Members of the Committee:

The Maui Police Department strongly SUPPORTS the passage of SB 754, lowering the threshold of maximum blood alcohol concentration (BAC) for the offense of Operation a Vehicle While Under the Influence of an Intoxicant.

The bill as written will lower the current maximum BAC of .08 grams of alcohol per 210 liters of breath or grams of alcohol per 100 milliliters or cubic centimeters of blood to a maximum of .05 grams. This will more accurately encompass unsafe levels of intoxication of drivers and allow for more efficient enforcement and help prevent driving while intoxicated, thus making our roadways safer.

Studies have shown that unsafe intoxication occurs at BAC levels much lower than Hawaii's current limit. The National Transportation Safety Board recommends the reduction of BAC limits for all states.

Thank you very much for the opportunity to testify.

Sincerely,

TIVOLI S. FAAUMU
Chief of Police



Mothers Against Drunk Driving HAWAII
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Phone (808) 532-6232
Fax (808) 532-6004
hi.state@madd.org

February 9, 2021

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

From: Carol McNamee; Arkie Koehl, Public Policy Committee; Mothers Against
Drunk Driving (MADD) Hawaii

Re: Senate Bill 754 – RELATING TO OPERATING A VEHICLE WHILE
INTOXICATED

I am Carol McNamee, offering testimony on behalf of the *Hawaii Chapter of Mothers Against Drunk Driving* in strong support of Senate Bill 754 – relating to Operating a Vehicle While Intoxicated. This bill would change the legal alcohol limit for driving a vehicle on land or water from the existing .08 grams of alcohol per 100 milliliters of blood to .05 grams per 100 milliliters.

Alcohol-impaired driving is the leading killer on U.S. roadways. According to the National Highway Traffic Safety Administration (NHTSA), 12,389 people were killed in alcohol-impaired crashes in the United States in 2019. That same year there were 108 fatalities on Hawaii's roads and at least one third (36) percent were alcohol-related (NHTSA). These crashes cost Hawaii taxpayers over \$575 million annually.

According to the NTSB (National Transportation Safety Board) the risk of being in a fatal crash is at least seven times higher for drivers with a .05 - .079 BAC than for drivers with no alcohol in their system. At a .08 BAC, drivers could have a reduced ability to concentrate, short-term memory loss, difficulty in controlling speed, a reduced information processing capability, and impaired perception.

Currently, every state except Utah has an illegal BAC of .08. (Utah changed to a .05 in 2018). These .08 BAC laws have helped to save over 40,000 lives in the U.S. over the last 20 to 25 years. MADD believes that adopting a .05 BAC will help save even more lives – in fact, studies suggest over 1,700 lives could be saved each year if all states enacted a .05 BAC law. A meta-analysis of all studies on lowering the blood alcohol limit found that a .05 BAC level would reduce drunk driving deaths by 11.1 percent.

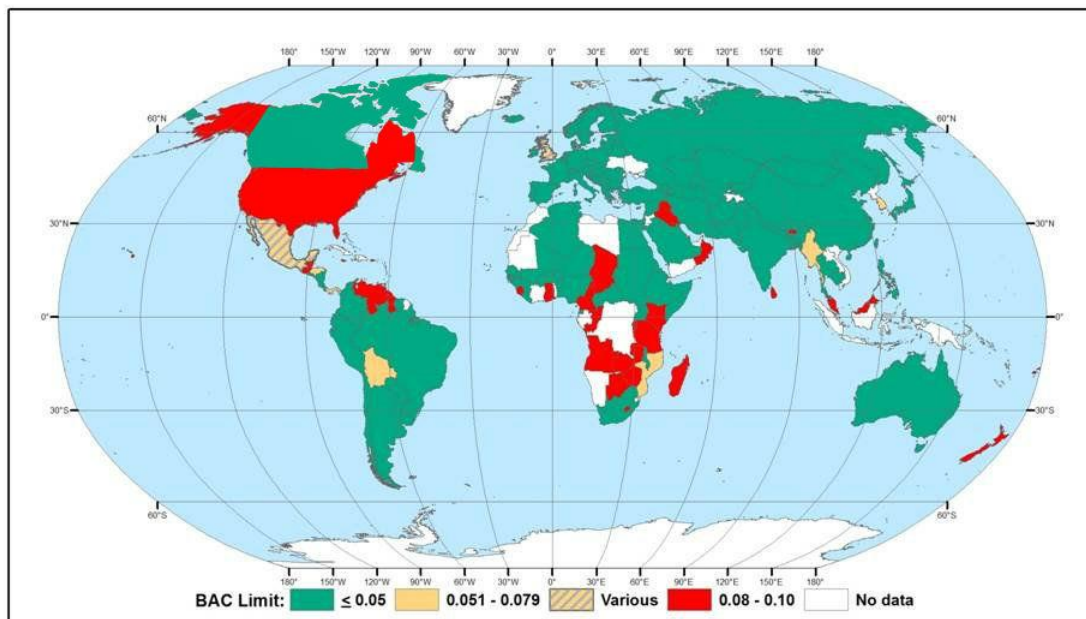
If Hawaii passes this measure, we will join the majority of industrialized countries having a .05 or lower limit for driving. The tourism industry may be concerned about the proposed reduction of the BAC in Hawaii but a large percentage of our foreign visitors may actually have come from a country where a .05 or lower BAC is the illegal level for driving. (See map attached below)

The goal of a .05 BAC is not to stop people age 21 and over from consuming alcohol, but to deter people from driving after drinking. According to the AAA Foundation, sixty-three percent of people surveyed already think .05 BAC should be the illegal level in the United States. A lower BAC should encourage more people to get serious about having a designated driver or taking a bus, cab, or ride-share to and from their destination if they plan to consume alcohol.

In 1995, Hawaii became one of the earliest states in the U.S. (13th) to reduce its illegal blood alcohol level for driving from .10 to .08. Our alcohol-related fatality rate improved considerably but it is still higher than most states. We see evidence of that in the terrible highway crash injuries and fatalities our local media report almost every week. A fatality is not just a word – it represents a life lost - from young children, to young adults, to our kapuna. The word means that a family has experienced overwhelming grief knowing life will never again be the same. Let Hawaii again be one of the first states to take the life-saving step of reducing its blood alcohol level for driving. This time, from .08 to .05.

MADD Hawaii strongly encourages this committee to pass SB 754.
Thank you for this opportunity to testify.

BAC Limits World Wide





Date: February 8, 2021

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

Re: Strong Support of SB754, Relating to Operating a Vehicle While Intoxicated

Hrg: Friday 9th, February, 2021 at 3:05pm at Capitol Room 224

Position: Support

SparksInitiatives, a national alcohol policy technical assistance organization located in Hawaii, would like to provide testimony in **SUPPORT of SB754**, which would lower the threshold blood alcohol concentration for the offense of operating a vehicle while under the influence of an intoxicant.

1. Lowering the Blood Alcohol Concentration (BAC) to .05 will save lives

A comprehensive 2017 independent research study shows that from 1982 to 2014, in 50 States and DC, lowering BAC from .10 to .08 resulted in a 10.4% reduction in alcohol-related fatalities, with no change in alcohol consumption. This means that lowering the BAC to .08 in the U.S. has saved 1,736 lives annually. A total of 24,868 lives were saved between 1983 and 2014 due to lowering the BAC to .08. **It is estimated that a .05 or lower BAC would result in an 11.1% decline in fatal alcohol crashes** and save 1,790 lives annually in the United States^[1].

2. Approximately 90 countries have lower alcohol-related crash deaths than the United States due to .05 or lower BAC laws

Approximately 100 countries around the world have already adopted .05 or lower BAC laws. Due to these laws, these countries have significantly lower rates of alcohol-related crash death deaths^[2].

3. Lowering the BAC to .05 will NOT hurt local business

While countries that have passed .05 or lower BAC laws have lower rates of alcohol-related crash deaths, they have the same or higher rates of alcohol consumption when compared to the US^[3].

Hawai'i has the opportunity to help set a new BAC standard for our nation. This law would improve the overall health and wellness of our communities and ultimately save lives. We ask that you **pass SB754** forward, for the benefit of the people of Hawai'i.

Mahalo for your time and attention to this urgent matter.

Sincerely,
Michael Sparks
michael@sparksinitiatives.com

[1]

NORC: Fell JC & Scherer M, Effectiveness of .08 and .05 BAC Limits for Driving, 2017 (NIH Grant no. R21 AA022171-01).
<http://www.norc.org> (under "NORC Headlines").

[2]

Global Status Report on Road Safety 2018, World Health Organization, 2018.
https://www.who.int/violence_injury_prevention/road_safety_status/2018/en/

[3]

World Health Statistics 2019, World Health Organization, 2019. https://www.who.int/gho/publications/world_health_statistics/2019/en/



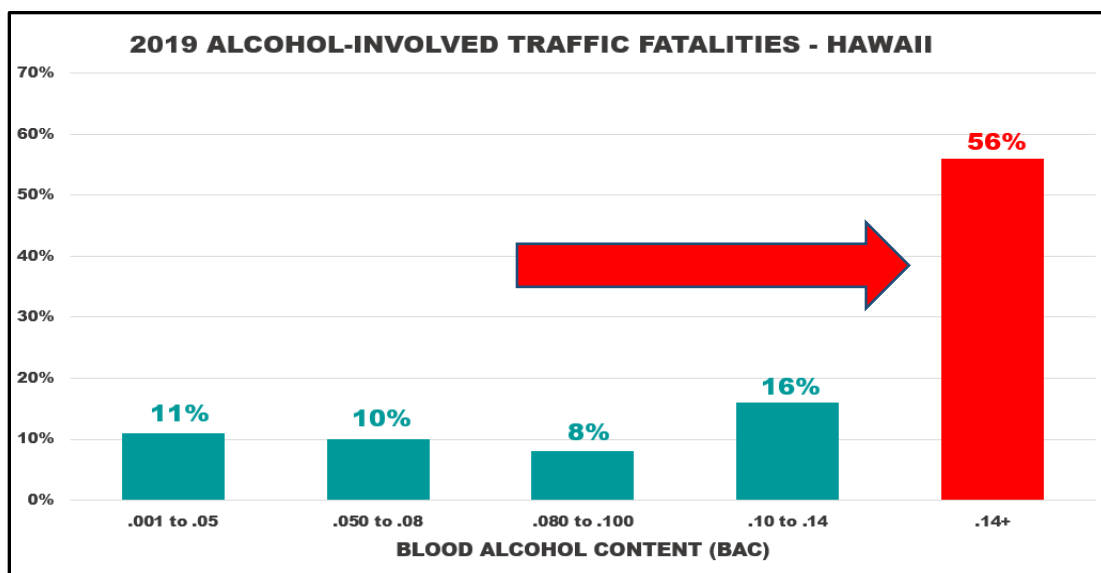
Sen. Chris Lee
Chairman
Senate Committee on Transportation
Hawaii State Senate

Sen. Lorraine R. Inouye
Vice Chairwoman
Senate Committee on Transportation
Hawaii State Senate

Senate Bill 754—which would lower the legal blood alcohol concentration (BAC) limit for driving by 40 percent from 0.08 to 0.05—is well intended, but a poorly targeted approach to improve traffic safety in Hawaii. New data from the federal government reveals drunk driving deaths are falling in the state. Watering down the definition of “drunk” will not build upon that progress. Public policy should instead follow the science.

An independent analysis of newly released government data by my organization finds that two-thirds of alcohol-related traffic fatalities in Hawaii involve someone with a BAC of 0.15 or above. That’s nearly double the BAC arrest level currently enforced. Additionally, the average BAC of a drunk driver involved in a fatal crash in the state is 0.18—nearly four-times the proposed 0.05 threshold. As with so many other products, there is a clear distinction between use and abuse.

Examine the below graph that illustrates where limited traffic safety resources and legislative efforts should be focused. (The figures indicate every case in which alcohol was present, not necessarily at fault.)





University research suggests having a conversation while driving is substantially more impairing than someone at the proposed 0.05 BAC limit—a finding supported by the modest proportion of accidents shown in the leftward bars. Even if alcohol was present in these instances, such a low amount is unlikely to be a major contributing factor. Some people can reach the 0.05 BAC threshold after consuming little more than one drink. Speeding or distracted driving is therefore more likely to blame.

Committee members should also consider the depressing effect a 0.05 law will have on restaurants. Hospitality businesses are already struggling to survive amid a lingering pandemic and making criminals out of moderate and responsible consumers will make recovery even more challenging. Adopting a 0.05 law would be a bad policy at any time, but should be a nonstarter under current weak business conditions.

We all want to save lives and I applaud the committee for investigating the topic. But lowering the legal BAC limit for driving will not improve road safety. Lawmakers should instead follow the science and pursue alternative strategies that target the real menace: high-BAC drunk drivers.

Thank you for reviewing my testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Berman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Berman
Executive Director
American Beverage Institute

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

Re: SB 754, Relating to Operating a Vehicle While Intoxicated

Hrg: Friday, February 9, 2021 at 3:05pm at State Capitol Room 224

Position: Support

Aloha Chair Lee, Vice Chair Inouye and members of the Senate Committee on Transportation. Thank you for the opportunity to submit written testimony on SB 754, Relating to Operating a Vehicle While Intoxicated. My name is Cynthia Okazaki, from Kaneohe and member of the Hawaii Alcohol Policy Alliance.

This bill which lowers the blood alcohol concentration to .05 will save lives by reducing fatal alcohol crashes based on research and will improve the overall health and wellness of our communities.

I urge you to pass this bill out of committee.

Cynthia Okazaki



LATE

Date: February 8, 2021

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

Re: Strong Support of SB754, Relating to Operating a Vehicle While Intoxicated

Hrg: Friday 9th, February, 2021 at 3:05pm at Capitol Room 224

Position: Support

The Hawai'i Alcohol Policy Alliance, which is fiscally managed by Hawai'i Public Health Institute, would like to provide testimony in **SUPPORT of SB754**, which would lower the threshold blood alcohol concentration for the offense of operating a vehicle while under the influence of an intoxicant.

1. Lowering the Blood Alcohol Concentration (BAC) to .05 will save lives

A comprehensive 2017 independent research study shows that from 1982 to 2014, in 50 States and DC, lowering BAC from .10 to .08 resulted in a 10.4% reduction in alcohol-related fatalities, with no change in alcohol consumption. This means that lowering the BAC to .08 in the U.S. has saved 1,736 lives annually. A total of 24,868 lives were saved between 1983 and 2014 due to lowering the BAC to .08. **It is estimated that a .05 or lower BAC would result in an 11.1% decline in fatal alcohol crashes** and save 1,790 lives annually in the United States^[1].

2. Approximately 90 countries have lower alcohol-related crash deaths than the United States due to .05 or lower BAC laws

Approximately 100 countries around the world have already adopted .05 or lower BAC laws. Due to these laws, these countries have significantly lower rates of alcohol-related crash death deaths^[2].

3. Lowering the BAC to .05 will NOT hurt local business



While countries that have passed .05 or lower BAC laws have lower rates of alcohol-related crash deaths, they have the same or higher rates of alcohol consumption when compared to the US^[3].

Hawai'i has the opportunity to help set a new BAC standard for our nation. This law would improve the overall health and wellness of our communities and ultimately save lives. We ask that you **pass SB754** forward, for the benefit of the people of Hawai'i.

Mahalo for your time and attention to this urgent matter.

Sincerely,
Richard Collins
rick@hiphi.org

[1] NORC: Fell JC & Scherer M, Effectiveness of .08 and .05 BAC Limits for Driving, 2017 (NIH Grant no. R21 AA022171-01).
<http://www.norc.org> (under "NORC Headlines").

[2] Global Status Report on Road Safety 2018, World Health Organization, 2018.
https://www.who.int/violence_injury_prevention/road_safety_status/2018/en/

[3] World Health Statistics 2019, World Health Organization, 2019. https://www.who.int/gho/publications/world_health_statistics/2019/en/



LATE

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Mahalo for your time and attention to this urgent matter.

Sincerely,
Chelsea Gonzales
chelsea@hiphi.org

[1] NORC: Fell JC & Scherer M, Effectiveness of .08 and .05 BAC Limits for Driving, 2017 (NIH Grant no. R21 AA022171-01).
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[2] Global Status Report on Road Safety 2018, World Health Organization, 2018.
https://www.who.int/violence_injury_prevention/road_safety_status/2018/en/

[3] World Health Statistics 2019, World Health Organization, 2019. https://www.who.int/gho/publications/world_health_statistics/2019/en/

February 9, 2021

The Honorable Chris Lee
Chair, Senate Committee on Transportation
415 South Beretania St. Rm 216
Honolulu, HI 96813

The Honorable Lorraine R. Inouye
Vice Chair, Senate Committee on Transportation
415 Beretania St. Rm 210
Honolulu, HI 96813

Dear Chair Lee and Vice-Chair Inouye:

On behalf of the National Safety Council (NSC), I am writing today to ask for your support of SB 754, and SB 634/HB 651, legislation that would lower the legal blood alcohol concentration (BAC) limit in Hawaii from .08 to .05. Lowering the legal BAC limit will save lives. The National Safety Council (NSC) is America's leading nonprofit safety advocate and has been for over 100 years. As a mission-based organization, we work to eliminate the leading causes of preventable death and injury, focusing our efforts on the workplace, roadway and impairment. We create a culture of safety to keep people safer in the workplace and beyond so they can live their fullest lives. Our more than 15,000 member companies represent employees at more than 50,000 U.S. worksites, including almost 150 in Hawaii.

The science is clear – impairment begins with the first drink. When behind the wheel, there is no safe level of impairment. Even one or two drinks can significantly impact a driver's concentration, ability to react and make decisions. In one survey, more than 1 in 8 drivers admitted to driving when close to or over the legal limit in the past year, despite believing that drunk driving poses a serious threat.¹ After two or three drinks, which corresponds to a BAC of .05 for most adults, drivers have a 40% higher crash risk than drivers who are sober.² By the time they reach .08, drivers are four times more likely to crash.³

Driving is one of the riskiest tasks all of us undertake on a daily basis. More than 36,000 people died in crashes on our nation's roads in 2019, including 108 people in Hawaii.⁴ In Hawaii, 32% of motor vehicle fatalities were alcohol-related (BAC \geq .08) in 2018.⁵ Alcohol continues to be involved in about 28% of all fatal crashes in America, and this percentage has not significantly fluctuated in more than a decade.⁶ We need new strategies to create a culture of change and new laws.

Utah already has implemented .05 BAC, and other states are considering similar legislation. Research shows that lowering the BAC limit from .08 to .05 reduces crash fatality risk by preventing not only low BAC drivers, but also high BAC drivers, from driving.⁷

¹ AAA Foundation for Traffic Safety. (2016). 2015 Traffic Safety Culture Index.

² https://www.nsc.org/Portals/0/Documents/NSCDocuments_Corporate/Policy-Positions/Transportation/T-Low Alcohol Concentration Culture Change-130.pdf.

³ Blomberg RD, Peck RC, Moskowitz H, Burns M, Fiorentino D: The Long Beach/Fort Lauderdale relative risk study; J Safety Res 40:285; 2009.

⁴ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813060>

⁵ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812917>

⁶ NSC analysis of NHTSA FARS data.

⁷ <https://www.madd.org/wp-content/uploads/2019/03/05BACResearch.pdf>



This legislation will save lives and prevent injuries in Hawaii. NSC fully supports SB 754 and SB634/HB561, and we hope you will support them as well. Thank you for your consideration. If you have any questions or need more information, please contact Tara Leystra at tara.leystra@nsc.org or 202-445-3121.

Sincerely,

A handwritten signature in black ink that reads "Lorraine Martin". The signature is written in a cursive style.

Lorraine M. Martin
President and CEO

Copy: Senate Committee on Transportation

Erik K. Abe
55 South Kukui Street, #1606
Honolulu, Hawaii. 96813
Ph. (808) 537-3081. Cell: (808) 537-3081

TESTIMONY TO THE SENATE COMMITTEE ON TRANSPORTATION
TUESDAY, FEBRUARY 9, 2021; 3:00 P.M.
STATE CAPITOL, CONFERENCE ROOM 423
VIA VIDEOCONFERENCE

RE: SENATE BILL NO. 0754, RELATING TO OPERATING A VEHICLE WHILE INTOXICATED.

Chair Lee, Vice Chair Inouye, and Members of the Committee:

My name is Erik Abe, and I am the Public Affairs and Policy Director for the Hawaii Primary Care Association (HPCA). However, I am testifying today solely in my capacity as a concerned citizen, and my views expressed do not necessarily nor officially reflect those of the HPCA.

I **SUPPORT** the **INTENT** of Senate Bill No. 0754, RELATING TO OPERATING A VEHICLE WHILE INTOXICATED., and offer **PROPOSED AMENDMENTS** for your consideration.

As received by your Committee, this bill would reduce the threshold at which a person may be convicted of operating a vehicle under the influence of an intoxicant from .08 grams of alcohol per one hundred milliliters or cubic centimeters of blood to .05 grams.

By way of background, I was requested four years ago by a friend, Mr. Ron Shimabuku, to assist his family draft legislation before the Hawaii State Legislature to strengthen Hawaii's laws applicable to driving under the influence of an intoxicant (OVUII). At that time, Mr. Shimabuku informed me that his hanai brother, Kaulana Werner, was killed by an intoxicated driver in Nanakuli, Island of Oahu, and that his family wanted to change the laws to prevent similar situations from occurring in the future to ease the suffering of families of victims.

During our examination of Hawaii's OVUII Law, we spoke with numerous police officers from across the State, all of whom requested to share their views "off the record". We learned that on any given night, between 30 and 40 drivers are detained on suspicion of driving under the influence. This comes out to between 11,000 and 15,000 detentions per year. However, because of the time it takes to test the blood alcohol level of drivers, as well as the reluctance of

the City Prosecutor to prosecute these types of crimes, only 5,992 of the detained drivers were arrested last year.

At the point a police officer requests the suspect to submit to an alcohol level test, the suspect has the choice of either agreeing to or refusing to take the test. If the suspect chooses to take the test, the suspect is given the option of taking a breath test or a blood test. If the suspect chooses the blood test, it may take hours for the results to be determined because the suspect must be taken to an emergency room or another health facility to have the blood drawn and tested. The time it takes to have the blood drawn allows the suspect's body to metabolize the alcohol in it. As such, by the time the test results are found, the person's blood alcohol level may be considerably lower than it was at the time of the stop. And if the level is lower than .08, no violation would have taken place.

And even if the police officer obtains evidence that the suspect indeed had a blood level at or above .08, oftentimes, these cases are thrown out by the Office of the Prosecuting Attorney. For many of our front-line police officers, there is a perception that the Prosecutors look for any reason whatsoever to throw these types of cases out of court, either because of the complexity of obtaining a conviction, or the large amount of resources it takes to prosecute.

For front-line officers who risk their lives at night walking on busy streets to operate DUI checkpoints and confront sometimes agitated and impaired drivers, to have their work disregarded because the Prosecuting Attorney deems it wasteful to pursue these types of crimes is demoralizing to them and counter to the public policy that the OVUII Law was intended to serve.

In my opinion, the OVUII Law is fundamentally flawed because it rests on the premise that an individual is able to determine on his or her own whether he or she has reached a subjective level of intoxication (i.e., .08, .05, or any blood level). And every time someone dies from a drunk driver, it becomes evident to all that this public policy has failed.

This flaw, however, can be fixed if lawmakers mandate a "Zero Tolerance" policy. If a person wants the privilege of operating a vehicle in the State of Hawaii, the person must not have a measurable amount of alcohol in their blood while operating the vehicle at all times.

If the "Zero Tolerance" policy is applied to adults, law enforcement would only need to show that the offender had a measurable amount of alcohol in the person's blood. This would make enforcement much easier and serve as an even greater deterrent to operating a vehicle under the influence of an intoxicant. Also, if the individual refuses to take the test, the individual

will face an even longer license revocation period with the Administrative Driver's License Revocation Office.

The business community, and especially small businesses, will argue that the establishment of such a policy will have an enormous financial impact on their sales. As a whole, however, the establishment of a "Zero Tolerance" policy may cause other businesses to thrive -- taxi cabs, and Uber will find more people seeking their services; the visitor industry could use this as an opportunity to campaign for more Kamaaina to go to resort areas and party rather than risk driving impaired; these are just a few examples where change will force businesses to evolve to meet the newer demands of consumers.

Some will say that such an approach is too strict. But compare this approach to the laws of England, for example. There, a person needs only to show the intent to drive under the influence to be convicted of OVUII. A person walking from a pub with keys in hand was stopped by a police officer. The person was trying to get to his car to go home. The person was arrested and convicted, and the conviction was upheld by the courts.

Lastly, some will also say that if the law is too strict, people will merely ignore it and keep driving while intoxicated. That could be said for any law enacted because there will always be some who will refuse to obey the law. But if a "Zero Tolerance" policy gets the majority, or a few, or even a single intoxicated driver off the roads, then that would be one less potential victim who would otherwise die.

For these reasons, I respectfully request that the contents of this measure be deleted, and the substance of House Bill No. 1999, Regular Session of 2020, attached, a measure that would establish a "Zero Tolerance" policy for both minors and adults in the State of Hawaii, be inserted.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact me.

attachment.

A BILL FOR AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 291E-61, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) A person commits the offense of operating a vehicle
4 under the influence of an intoxicant if the person operates or
5 assumes actual physical control of a vehicle:

6 (1) [~~While under the influence of alcohol in an amount~~
7 ~~sufficient to impair the person's normal mental~~
8 ~~faculties or ability to care for the person and guard~~
9 ~~against casualty;] With a measurable amount of alcohol
10 in the person's breath or blood; provided that a law
11 enforcement officer may arrest a person under this
12 section when the officer has probable cause to believe
13 that the arrested person had been operating a vehicle
14 upon a public way, street, road, or highway, or on or
15 in the waters of the State, with a measurable amount
16 of alcohol in the person's breath or blood; or~~



- 1 (2) While under the influence of any drug that impairs the
2 person's ability to operate the vehicle in a careful
3 and prudent manner[+
4 ~~(3) With .08 or more grams of alcohol per two hundred ten~~
5 ~~liters of breath; or~~
6 ~~(4) With .08 or more grams of alcohol per one hundred~~
7 ~~milliliters or cubic centimeters of blood]."~~

8 SECTION 2. Section 291E-61.5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) A person commits the offense of habitually operating
11 a vehicle under the influence of an intoxicant if:

- 12 (1) The person is a habitual operator of a vehicle while
13 under the influence of an intoxicant; and
14 (2) The person operates or assumes actual physical control
15 of a vehicle:

16 (A) [~~While under the influence of alcohol in an~~
17 ~~amount sufficient to impair the person's normal~~
18 ~~mental faculties or ability to care for the~~
19 ~~person and guard against casualty;] With a
20 measurable amount of alcohol in the person's
21 breath or blood; provided that a law enforcement~~



1 officer may arrest a person under this section
2 when the officer has probable cause to believe
3 that the arrested person had been operating a
4 vehicle upon a public way, street, road, or
5 highway, or on or in the waters of the State,
6 with a measurable amount of alcohol in the
7 person's breath or blood; or

8 (B) While under the influence of any drug that
9 impairs the person's ability to operate the
10 vehicle in a careful and prudent manner[+

11 ~~(C) With .08 or more grams of alcohol per two hundred~~
12 ~~ten liters of breath; or~~

13 ~~(D) With .08 or more grams of alcohol per one hundred~~
14 ~~milliliters or cubic centimeters of blood]."~~

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



H.B. NO. 1999

1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY:

[Signature]
Hy. A. Ald
[Signature]
[Signature]
[Signature]
[Signature]
Mark Hill
[Signature]
[Signature]

JAN 17 2020



Report Title:

OVUII; Zero Tolerance; Any Measurable Amount of Alcohol

Description:

Changes the standard for the offenses of operating a vehicle under the influence of an intoxicant and habitually operating a vehicle under the influence of an intoxicant from .08 grams of alcohol per 210 liters of breath or 100 milliliters or cubic centimeters of blood to any measurable amount of alcohol in the person's breath or blood. Allows law enforcement officers to arrest a person if there is probable cause to believe that the person was operating a vehicle with a measurable amount of alcohol in the person's breath or blood.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



SB-754

Submitted on: 2/8/2021 1:56:38 PM

Testimony for TRS on 2/9/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Hankins	Individual	Support	No

Comments:

I strongly support this bill for one simple reason. It WILL SAVE LIVES. Our impaired driving problem is a huge problem statewide. On Maui alone we have had a 400% increase in habitual impaired driving. These are potential fatalities that police stopped by taking these drivers off the road. Lowering the legal limit to .05 will send a message that we as a state are serious in eliminating impaired driving from our roadways. Currently only Utah has a .05 legal limit and they have seen great success in reducing impaired driving crashes. Studies have shown that someone with a .05 BAC or greater IS impaired and should not be driving. Also most drivers are above .10 when arrested, however by the time police can get them to submit to a chemical test several hours may have passed and the impaired driver falls below .08, yet they are still impaired. I have attached information that states how .05 BAC has been recommended for states since 2013. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4448946/> Please support this bill, and give law enforcement another tool to help eradicate impaired driving in Hawaii.

LATE

SB-754

Submitted on: 2/8/2021 6:27:34 PM

Testimony for TRS on 2/9/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Oppose	No

Comments:

I STRONGLY OPPOSE THIS BILL.

Although is is an attempt to protect the public, there are fundamental issues with the bill.

1. Missing data to support lowering the efendant's blood or [~~08~~] .05 grams of alcohol per two hundred ten liters of defendant's breath will prevent DUIs.
2. Another issue is between 1 and 2. Number 1 presumes the defendent was not under the influence but then in #2 there is a "range factor" that eliminates that fact **may be considered with other competent evidence (WHAT evidence?)**in determining whether the defendant was under the influence of alcohol at the time of the alleged violation, **but shall not of itself give rise to any presumption."**

To me this is a form of entrapment, or another way for the State to increase revenue?

LATE

SB-754

Submitted on: 2/8/2021 7:05:41 PM

Testimony for TRS on 2/9/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ed	Individual	Support	No

Comments:

I fully support SB 754. I Recommend Zero Tolerance.

LATE

SB-754

Submitted on: 2/8/2021 7:12:12 PM

Testimony for TRS on 2/9/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Paulette Werner	Individual	Support	No

Comments:

In full support if this Bill SB754. *Recommend Zero Tolerance. Mahalo

LATE

SB-754

Submitted on: 2/9/2021 6:23:23 AM

Testimony for TRS on 2/9/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Shimabuku	Individual	Support	No

Comments:

I am writing in SUPPORT of this measure WITH AMENDMENTS. I believe that this is a good step in the right direction to minimizing drunk driving. As a concerned citizen and family of a loved one who lost their life to a drunk driver, I strongly believe we should aspire to implement a ZERO TOLERANCE policy for drinking and driving. Please consider adding language from House Bill No. 1999 from the Regular Session of 2020 into this proposal.

Respectfully,

Ron Shimabuku