



WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023

ON THE FOLLOWING MEASURE:

S.B. NO. 214, S.D. 1, RELATING TO PUBLIC TRANSIT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, February 23, 2023 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact David L. Williams,
Deputy Attorney General, at 586-1170)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General offers comments and suggests the following amendments to the bill to include amendments to section 711-1112, Hawaii Revised Statutes (HRS), for clarity and consistency.

This bill creates a new criminal offense of "Interference with the ***Operation*** of a Public Transit Vehicle" (italics and bold added for emphasis). However, section 711-1112, HRS, defines the offense of "Interference with the Operator of a Public Transit Vehicle" as follows:

[§711-1112] Interference with the operator of a public transit vehicle. (1) A person commits the offense of interference with the operator of a public transit vehicle if the person ***interferes with the operation of a public transit vehicle*** or lessens the ability of the operator to operate the public transit vehicle by:

- (a) Intentionally, knowingly, or recklessly causing bodily injury to the operator of the public transit vehicle; or
- (b) Threatening, by word or conduct, to cause bodily injury to the operator of the public transit vehicle with the intent to terrorize, or in reckless disregard of the risk of terrorizing the operator of the public transit vehicle.

(Italics and bold added). Using the phrase "interference with the operation of a public transit vehicle" for two different purposes in the two statutes will cause unnecessary confusion and potentially cause conflict between the two statutes.

One possible solution is to add to the bill, amendments to section 711-1112, HRS, that (1) remove the unnecessary elements of "interferes with the operation of a public transit vehicle" and (2) make the definition of "public transit vehicle" consistent in the proposed section 711- (2) and section 711-1112. To achieve this, we recommend inserting the following on page 2, line 14, as section 2 as follows:

SECTION 2: Section 711-1112, Hawaii Revised Statutes, is amended to read as follows:

[~~§~~711-1112~~]~~] **Interference with the operator of a public transit vehicle. (1) A person commits the offense of interference with the operator of a public transit vehicle if the person interferes with ~~the operation of a public transit vehicle~~, or lessens, the ability of the operator to operate the public transit vehicle by:**

- (a) Intentionally, knowingly, or recklessly causing bodily injury to the operator of the public transit vehicle; or
 - (b) Threatening, by word or conduct, to cause bodily injury to the operator of the public transit vehicle with the intent to terrorize, or in reckless disregard of the risk of terrorizing the operator of the public transit vehicle.
- (2) For the purposes of this section, "public transit vehicle" ~~is a~~ means:
- (a) Any public paratransit vehicle providing service to the disabled~~[, any]~~;
 - (b) Any transit vehicle used for the transportation of passengers in return for legally charged fees or fares, including any taxi; or
 - (c) Any transit vehicle owned or operated by a government entity, including any school bus~~[, or any taxi]~~.

Furthermore, we recommend amending the proposed section 711- (2), HRS, on page 1, line 12, through page 2, line 7, to mirror the suggested amendments to section 711-1112(2) above. To accommodate this change, sections 2, 3, and 4 of the bill will also need to be renumbered sections 3, 4, and 5 respectively.

Thank you for the opportunity to comment on this measure.

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 Judiciary

February 23, 2023

S.B. No. 214 SD1: RELATING TO PUBLIC TRANSIT

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Office of the Public Defender respectfully opposes S.B. No. 214 SD1.

We have serious concerns that the term “unreasonable interruption” is simply too vague and ambiguous as used in the following passage:

(l) A person commits the offense of interference with the operation a public transit vehicle if the person intentionally, knowingly, or recklessly causes . . . (b) The *unreasonable interruption* of a public transit system or service.

The term “unreasonable interruption” is unconstitutionally vague because the term lacks precision; it does not provide any standard for a citizen to determine what conduct is forbidden. What is unreasonable? What constitutes an interruption? The term “unreasonable interruption” is subject to *ad hoc*, inconsistent, and arbitrary enforcement by law enforcement, prosecutors, juries, and the courts. Therefore, as written, the law will result in many unintended consequences and arrests.

A passenger who holds open the door or prevents the door from closing so that other individuals may enter or exit the HART rail car will essentially be causing an interruption of the operation of the automated public transit vehicle. And when does the interruption becomes unreasonable? Ten seconds? Twenty seconds? Thirty seconds?

Indeed, as currently written, the bill subjects the Good Samaritan to be arrested and charged with a crime if they hold the door open for an elderly passenger and an officer determines that the delay was unreasonably lengthy. One must keep in mind that there will be passengers who have physical difficulties in entering or exiting rail cars; there will also be passengers (including tourists and immigrants unfamiliar with the English language) who may be confused as to whether one should exit the rail

car. Parents with young children or adults with elderly parents may need additional time to enter/exit the rail car. As HART will stop at the Daniel K. Inouye International Airport, passengers with luggage may need additional time to embark/disembark the rail car. Moreover, it is not inconceivable that one member of a party may reach the door of a rail car earlier than the rest of his/her party, and that member's instinct will be to hold the door until the rest of the party (which may include an elderly or disabled person) arrives.

Certainly, one would hope that the above individual would prevail at court if formally arrested and charged with this offense. However, because the offense is a misdemeanor, the individual will be arrested and booked. A citation to appear in court may not be an option. The individual will be required to remain in jail unless they post bail or is released by a judge; the individual will need to obtain the services of an attorney; and the individual will be subject to the inconvenience and stress of a pending criminal case.

Thank you for the opportunity to comment on S.B. No. 214 SD1.

DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

711 KAPIOLANI BOULEVARD, SUITE 1600
HONOLULU, HAWAII 96813
Phone: (808) 768-8305 • Fax: (808) 768-4730 • Internet: www.honolulu.gov

RICK BLANGIARDI
MAYOR



J. ROGER MORTON
DIRECTOR

JON Y. NOUCHI
DEPUTY DIRECTOR

TESTIMONY OF J. ROGER MORTON
DIRECTOR OF TRANSPORTATION SERVICES

BEFORE THE SENATE COMMITTEE ON
JUDICIARY

Thursday, February 23, 2023, 9:45 AM, Via Videoconference

TO: Senator Karl Rhoads, Chair, and Members of the Committee on Judiciary

RE: TESTIMONY IN SUPPORT OF SENATE BILL 214, SENATE DRAFT 1, RELATING
TO PUBLIC TRANSIT, WITH AMENDMENTS

The Department of Transportation Services (DTS) of the City and County of Honolulu (City) **strongly supports** Senate Bill 214, Senate Draft 1 (SB 214 SD1), relating to public transit, and offers some suggested amendments to make it more consistent with existing HRS § 711-1112, *Interference with the Operator of a Public Transit Vehicle*.

HRS § 711-1112 currently establishes the offense of Interference with the **Operator** of a Public Transit Vehicle, which involves conduct that injures or threatens the *operator* of a public transit vehicle. SB 214 SD1 would establish a new and distinct offense of Interference with the **Operation** of a Public Transit Vehicle, which is directed at conduct that impairs public transit vehicles or the transit system.

To clarify this distinction, DTS recommends that a new SECTION be added to SB 214 SD1 that amends § 711-1112, as follows:

§711-1112 Interference with the operator of a public transit vehicle. (1) A person commits the offense of interference with the operator of a public transit vehicle if the person [~~interferes with the operation of a public transit vehicle or lessens the ability of the operator to operate the public transit vehicle by~~]:

(a) Intentionally, knowingly, or recklessly [~~causing~~] causes bodily injury to the operator of the public transit vehicle; or

(b) [~~Threatening~~] Threatens, by word or conduct, to cause bodily injury to the operator of the public transit vehicle with the intent to terrorize, or in reckless disregard of the risk of terrorizing the operator of the public transit vehicle.

~~[(2) For the purposes of this section, "public transit vehicle" is a public paratransit vehicle providing service to the disabled, any transit vehicle used for the transportation of passengers in return for legally charged fees or fares, any school bus, or any taxi.]~~

(2) As used in this section, "public transit vehicle" includes:

(a) Any public paratransit vehicle providing service to the disabled;

(b) Any transit vehicle used for the transportation of passengers in return for legally charged fees or fares;

(c) Any transit vehicle owned or operated by a government entity;

(d) Any school bus; and

(e) Any taxi.

(3) Interference with the operator of a public transit vehicle is a class C felony.

DTS provides multimodal transit services including fixed route bus service and paratransit service for persons with disabilities who are unable to use fixed route service throughout Oahu, and within the coming year, automated elevated rail service will also be provided. DTS recognizes the importance of public transportation to the health and well-being of our residents and visitors, and to essential business and activities statewide. We are responsible for providing a safe and reliable transportation system. SB 214 SD1 will provide the counties with an important legal remedy to deter and respond to intentional, knowing, and reckless acts that undermine the safety, reliability, and efficiency of public transit. In particular, SB 214 SD1 will protect automated and driverless transit system operations that do not have an operator. Such systems are not covered by §711-1112, a gap created by advances in transportation technology.

Thank you for the opportunity to submit this testimony in support.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • TTY (808) 586-8162 • Fax (808) 586-8129

February 23, 2023

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY

Senate Bill 214 SD1 – Relating to Public Transit

The Disability and Communication Access Board (DCAB) supports Senate Bill 214 SD1 – Relating to Public Transit. This bill would establish the offense of interference with the operation of a public transit vehicle, including any public paratransit vehicle providing service to people with disabilities.

Many people with disabilities rely on accessible public transit to participate in education, employment, health care, housing, and community life. Damage to accessible public transit vehicles, including paratransit vehicles, may force transit agencies to take a vehicle out of service. This bill intends to protect the operation of public transit vehicles from intentional damage, which should help maintain public transit services for everyone, including people with disabilities.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

KIRBY L. SHAW
Executive Director