



TESTIMONY BY:
EDWIN H. SNIFFEN
DIRECTOR
KA LUNA HO'OKELE

Deputy Directors
Nā Hope Luna Ho'okele
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 6, 2024
10:00 a.m.
State Capitol, Room 312

H.B. 1562
RELATING TO DRIVING WITHOUT A LICENSE

House Committee on Transportation

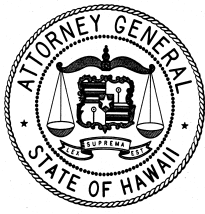
The Hawaii Department of Transportation (HDOT) **supports** H.B. 1562, which adds confiscation of a vehicle as a maximum penalty on a third conviction for operating a motor vehicle without a license within a five-year period. Provides that if the defendant is not the registered owner of the vehicle used to commit the third offense, the owner of the vehicle shall be responsible for certain costs and fines.

The HDOT supports this legislation which seeks to enhance penalties for those who continue to drive without having a license or driving with an expired, suspended, revoked or cancelled license. Our data shows that non-compliant drivers make up a large percentage of drivers involved in fatal crashes.

Non-Compliant Drivers/Total Drivers in Fatal Crashes:

2020 - 24/114 = 21.1% with 4 "unknowns" resulting in 24 fatalities
2021 - 42/127 = 33.1% with 3 "unknowns" resulting in 42 fatalities
2022 - 36/165 = 21.8% with 0 "unknowns" resulting in 38 fatalities
2023 - 35/116 = 30.2% with 4 "unknowns" resulting in 39 fatalities

Thank you for the opportunity to provide testimony.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 1562, RELATING TO DRIVING WITHOUT A LICENSE.

BEFORE THE:

HOUSE COMMITTEE ON TRANSPORTATION

DATE: Tuesday, February 6, 2024 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 312 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Ruth Oh, Deputy Attorney General

Chair Todd and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments.

This bill adds as a possible penalty the forfeiture of the vehicle owned and used in the commission of certain offenses, including driving while license is suspended or revoked, by a defendant who receives a third conviction for the same offense within a five-year period. The bill also requires the owner of the vehicle to be responsible for certain costs and fines if the defendant is not the registered owner.

Section 1 of the bill amends section 286-136(b), on page 1, lines 12-17, to require:

[If the defendant is not the registered owner of the vehicle used in the commission of the third offense, the listed owner of the vehicle shall file a petition to the court explaining why the owner allowed the unlicensed driver to operate the vehicle and pay all storage fees, court costs, and fines. [Emphases added.]

The Department has concerns about the wording above.

First, the proposed requirement appears to conflict with section 712A-5(2)(b), HRS, which permits exemption from forfeiture when the property was used "without the knowledge and consent of that owner" (emphasis added).

Second, the wording " the listed owner of the vehicle shall file a petition to the court explaining why the owner allowed the unlicensed driver to operate the vehicle" on

page 1, lines 14-15, presumes that the non-defendant vehicle owner knew and allowed a repeat offender to use the vehicle, which may or may not be true, and could be subject to challenge for potentially violating the vehicle owner's constitutional rights to not self-incriminate, or the owner's constitutional rights to due process.

Third, the requirement for the non-defendant owner of the vehicle to pay all storage fees, court costs, and fines on page 1, lines 16-17, in addition to the forfeiture of the vehicle may be found "excessive." The forfeiture is found "excessive" if it is "grossly disproportionate to the nature and severity of the owner's conduct." Section 712A-5.5, HRS. The blanket requirement for any non-defendant owner to be responsible for costs and fees without examining the facts of the case may be subject to challenge as being excessive.

To address the above concerns, the Department suggests deleting the wording on page 1, lines 12-17, so that the new subsection (b) reads:

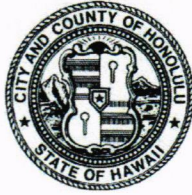
(b) Any person who is convicted of violating section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be subject to a minimum fine of \$500 and a maximum fine of \$1,000, or imprisoned no more than one year, or both, if the person has two or more prior convictions for the same offense in the preceding five-year period[-]; provided that upon a third conviction for the same offense within five years, the vehicle owned and used by the defendant in the commission of the third offense may be ordered by the court to be subject to forfeiture under chapter 712A.

The deletion of the current proposed wording at page on page 1, lines 12-17, will not defeat the purpose of the bill to enhance penalties for third-time offenders, and the reference to chapter 712A will ensure that the established procedures are available to provide opportunities for all interested parties to be heard before the property is forfeited.

Thank you for the opportunity to testify.

POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU
801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: honolulu.police.org

RICK BLANGIARDI
MAYOR
MEIA



ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **ST-TK**

February 6, 2024

The Honorable Chris Todd, Chair
and Members
Committee on Transportation
House of Representatives
415 South Beretania Street, Room 312
Honolulu, Hawaii 96813

Dear Chair Todd and Members:

SUBJECT: House Bill No. 1562, Relating to Driving Without a License

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


The HPD appreciates the intent of House Bill No. 1562, Relating to Driving Without a License, which adds confiscation of a vehicle as a maximum penalty, but has the following concerns.

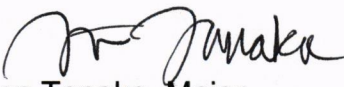
The HPD understands the intent of the bill, however, we are concerned with who will be responsible for the towing and storage fees and where these seized vehicles would be stored as we already have storage space issues.

The HPD appreciates the committee's consideration of our concerns regarding House Bill No. 1562, Relating to Driving Without a License. Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Stason Tanaka, Major
Traffic Division

HB-1562

Submitted on: 2/2/2024 2:16:57 PM

Testimony for TRN on 2/6/2024 10:00:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Victor K. Ramos | Individual | Support | Written Testimony Only |

Comments:

I support the passage of this bill.

HB-1562

Submitted on: 2/4/2024 1:41:13 PM

Testimony for TRN on 2/6/2024 10:00:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Yvonne Alvarado | Individual | Oppose | Written Testimony Only |

Comments:

I Yvonne Alvarado Oppose Bill HB1562

CURRENT ENFORCEMENT & JUDICIAL GAP

DAY 1

Driving
without license



DAY 2

Police pull over
& ticket



DAY 3 to DAY 59

The gap to drive without license
KILLED SARA YARA

DAY 60

Court Hearing



DAY 61

Fine or Jailed



**HOW TO CLOSE THE GAP AND PREVENT SIMILAR
HIT AND RUN THAT KILLED SARA YARA?**

SOLUTION: START WITH ENFORCEMENT TOW THE CAR IMMEDIATELY

DAY 1

Driving
without license



DAY 2

Police pull over
& ticket & tow car



**NO ACCESS TO CAR &
REDUCE PUBLIC DANGER**



DAY 60

Court Hearing



DAY 61

Fine or Jailed



**THE GAP IS CLOSED BY
TOWING THE CAR BY POLICE IMMEDIATELY**

DRAFT BILL INTENTIONS

The people of Hawaii finds that the hit-and-run accident on February 15, 2023, resulting in the tragic death of 16-year-old Sara Yara as she crossed Kapiolani Boulevard highlights a dire need for more stringent measures against unlicensed driving.

The current legal framework under Section 286-136, Hawaii Revised Statutes, provides opportunities for **unlicensed drivers to continue operating vehicles on public roads**, thus presenting an ongoing risk to community safety.

The existing penalty structure is reliant on **judicial discretion and the overwhelmed court system's** capacity to expediently adjudicate cases. This creates a perilous interim where habitual offenders may continue to drive without a license, potentially leading to more fatalities similar to that of Sara Yara.

This amendment aims to **rectify these gaps in enforcement and judicial proceedings**, ensuring immediate and tangible consequences for driving without a license, holding the vehicle's owner accountable, and **enhancing public safety**.

DRAFT BILL

FIRST OFFENSE

Chapter 286, Hawaii Revised Statutes, is amended by adding three new sections to part I to be appropriately designated and to read as follows:

Except as provided in subsections (b) and (c), any person who violates sections 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall:

- a) Have their vehicle promptly impounded by the enforcement officer immediately; and**
- b) Be prohibited from reclaiming the vehicle until all fines and fees are settled;**
- c) Reclamation of the vehicle allowed only by the registered owner**

DRAFT BILL

SECOND OFFENSE

Upon second offense under Section 286-136 within a three-year period, the registered owner of the implicated vehicle must complete and sign a liability acknowledgment form as a prerequisite for reclaiming the vehicle from the towing agency. The acknowledgment form will contain solemn affirmations of the following statements:

- 1. The owner acknowledges that the defendant has operated the vehicle registered in their name without the owner's authorization.**
- 2. The owner understands that the defendant does not possess a valid license to operate vehicles.**
- 3. The owner accepts the duty to inform law enforcement immediately should they become aware of the defendant using the vehicle without permission and/or license.**
- 4. The owner is aware that any offenses occurring while the defendant operates the vehicle without the owner's permission may result in personal liability for the owner.**

This acknowledgment form shall be preserved within a centralized database to be accessed by the Department of Motor Vehicles (DMV), law enforcement agencies, and the judicial system to ensure coordinated enforcement and tracking of offenses.

DRAFT BILL

THIRD OFFENSE

In the event of a third offense under Section 286-136 within a five-year period:

- 1. The vehicle involved shall be impounded immediately at the site of the violation,**
- 2. Subject to immediate asset forfeiture.**
- 3. If the vehicle is subject to an outstanding car loan, the enforcing agency is tasked with notifying the corresponding financial institution or car dealer for retrieval of the vehicle.**

The intent of these provisions is to provide clear, actionable measures for the containment of repeat offenses and an elevation of the legal consequences related to the unlicensed operation of vehicles, thereby promoting public safety, and deterring negligent ownership practices.

HB-1562

Submitted on: 2/5/2024 1:57:29 PM

Testimony for TRN on 2/6/2024 10:00:00 AM

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

Comments:

Aloha Chair Todd, Vice Chair Kila, and Committee Members,

I Support HB 1562 that would impose stricter penalties for operating a vehicle without a license.