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**THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-Second State Legislature
Regular Session of 2024
State of Hawai'i**

April 4, 2024

RE: H.B. 2526, H.D. 2, S.D.1; RELATING TO MOTOR VEHICLES.

Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) **supports** H.B. 2526, H.D. 2, S.D. 1.

This bill increases the statutory penalties for repeat offenders who drive without a license or while on a suspended license. Upon the third conviction within five years, the offense would become a Class C felony. Under the current law, a person can be convicted again and again for the same behavior while facing nothing but a misdemeanor.

Each conviction for unauthorized driving begins with a stop based on reasonable suspicion, usually for violating another traffic law. It also requires proof of the person’s license status on the date of the stop. And the prosecution must prove beyond reasonable doubt the motorist acted recklessly with respect to his or her license status. A third conviction therefore represents a pattern of continuing disregard for motor vehicle licensing laws.

A Class C felony carries a maximum term of five years in prison, which presents a substantial deterrent. However, grading this offense as a Class C felony upon a third conviction does not eliminate judicial discretion to impose an appropriate sentence. The bill prevents the court from discharging the case with a simple fine,¹ but does not require mandatory imprisonment. Courts will have the option to place repeat offenders on probation for up to four

¹ H.R.S. § 706-641(1) (West, Westlaw through Act 1 of the 2024 Regular Session) (“The court shall not sentence a defendant only to pay a fine, when any other disposition is authorized by law, except in misdemeanor or petty misdemeanor cases.”).

years.² This probationary term can be shortened if the judge believes it appropriate.³ Judicial supervision can better ensure compliance with the law and identify the individual reasons for chronic unauthorized driving.

This bill will contribute significantly to making our roads and highways safer.

Thank you for the opportunity to testify.

² *Id.* § 706-623(1)(b).

³ *Id.* § 706-623(1).

Re: HB 2526—
RELATING TO MOTOR VEHICLES
Hawaii State Capitol & Via Videoconference
April 4, 2024

Senators & Committee Members

My name is Chevylyn Saniatan and I am here to give my Testimony as a Mom
I support with amendment

If you want to name it after my daughter Sara Yara. Please take a hard look that it was an
unlicensed driver that was behind the wheel and should not be behind the wheel.

Last year on February 15, 2023, my daughter Sara Yara, was killed by a hit and run
unlicensed driver while walking to school. My daughter was in a marked crosswalk on
Kapiolani Boulevard. I was later informed that the person who was apprehended and was
currently awaiting trial on driving without a license. He had over 164 driving infractions
on his record, and was actually stopped and cited for driving without a valid driver's
license in the previous month. I just do not understand why this habitual criminal was
able and allowed to drive away after being previously cited for driving without a valid
license. With seeing that amount of citations on his recorded the vehicle should have been
taken away. The Bill that is being presented has a loopholes for someone to still be able
to get behind the wheel and drive off. I am asking that you would take a close look and
ask yourself if it was you family member this happened to what would you do to fix the
law, so no one has to go through what I had to go through.

On this bill that you are presenting still allow a person to drive off until he or she is
pulled over for the 3rd time when their vehicle is taken or towed away. Why do you not
see a problem with this on the 1st or 2nd time would still allow an unlicensed driver to get
into an accident. All I ask is that this unlicensed driver call someone with a license to
drive the vehicle home or get it towed. We just continue to allow this kind of behavior
and we wonder why? It is not a pressing matter to you folks because it has not happen to
you that you loss a love one. I ask for you to put yourself in my shoe and you have all the
power to make wrong a right what would you want to be done to make our roads safe.
Also if this vehicle belong to this unlicensed driver than it means he has no insurance, so
what will happen if he or she gets into an accident the victims pay for their own damages
and I don't think it is fair on the victims. I can no longer bring my daughter back, but
with consequences to an action of an unlicensed driver would make them think twice
before getting behind the wheel and we could save more lives.

This amendment to the Highway Safety provisions of Hawaii's law is being proposed to
rectify these gaps in enforcement and judicial proceeding by providing tangible
consequences for driving without a valid driver's license here in Hawaii. It is my hope
and prayer that these amendments will make a person at least think twice about driving a
motor vehicle on our roads without a valid driver's license. If the proposed amendments
saves one other person from being killed by an unlicensed driver, then my daughter will
not have died in vain and another mother will not have to go through what my family has
endured this past year. Thank you.

HB-2526-SD-1

Submitted on: 4/3/2024 2:32:43 PM

Testimony for JDC on 4/4/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kim Coco Iwamoto	Individual	Support	Written Testimony Only

Comments:

I am testifying in Support of HB2526 HD2 SD1 with Substantial Amendments.

It is my understanding that this bill was introduced in honor of Sara Yara who was killed while crossing the street in a marked crosswalk. If so, I urge this committee to refer to this bill as "Sara Yara's Law."

The news reported that the alleged driver of the vehicle that killed Sara Yara, was stopped and cited 12 times for driving without a license in the last five years; he was convicted for only six of those offense before the fatal incident.

Sara's mom has testified at numerous committee hearings on this bill that she wants simple changes to the law: require police to prohibit unlicensed drivers (versus driver's who are licensed but HDL not on them) from driving off from a stop when the officer confirmed that the driver is unlicensed. The car must be driven away from stop by a licensed driver, left on the side of the street if it is a safe location until a licensed driver can drive it away or it can be towed to a safe location. The car does not need to be impounded or even towed to the tow company's lot.

Sara's mom said this isn't about mandating minimum sentencing for unlicensed drivers or forcing large fines. She just wants to separate chronic unlicensed drivers from the cars they are driving.

The police should also call the owner of the car at the time of the stop and find out why they are allowing an unlicensed driver to drive their car and warn them of the risks they are taking.

On that note, upon conviction of driving while unlicensed, the judge shall order the owner of the car that was driven to sign a statement that affirms the following:

- The owner of the car knows the convicted driver does not have a license,
- If this driver drives the owner's car again, the owner understands they as the owner of the car may be subject to a fine,
- Upon a third conviction of guilt for driving while unlicensed by the same defendant driving this same car - the car will be subject to asset forfeiture;

- The owner of the car knows their insurance company will be notified by the court that owner has permitted an unlicensed driver to drive a vehicle covered by that insurance company and the insurance company may take affirmative steps to adjust coverage or premiums.

If the car is financed by a commercial lender, it may give that institution cause to repossess the car.

If the car is owned by another household member, the car owner may be motivated to get rid of the car by selling it or donating it. If they cannot stop their unlicensed household member from driving their car, the owner can report the car stolen by a household member.

Obviously cars reported stolen should not be seized by asset forfeiture.

The end result would be less unlicensed drivers driving on our roads.