

Feb 8th 2024 Hearing for H.B 2526

Submitted By: Ward Village Moms

Dear Honorable Committee Members,

I am writing to express our support for the proposed legislation, with crucial amendments.

It is our wish that upon enactment, the bill be known as "Sara Yara's Law."

Our chief concern addresses the bill's proposed enhancements to the minimum penalties for infractions of sections 286-102, 286-122, 286-130, or 286-132. Despite these provisions, they are not sufficient deterrents. Unlicensed drivers, between the time of their offense and their court appearance, may continue to drive, posing a deadly risk to the public. This exact loophole facilitated the tragedy that took the life of Sara Yara. We must eliminate this gap by adopting effective strategies to prohibit unlicensed drivers from further endangering road users.

We acknowledge two undebatable truths:

1. Law enforcement is often the first to interact with an unlicensed driver, typically due to observable hazardous driving behavior.
2. Officers have the capability to immediately ascertain an individual's licensing status through their database.

Acknowledging this, it is imperative that once an unlicensed driver displaying dangerous behavior is apprehended by the police, they should be prevented from continuing to operate the vehicle.

Thus, our recommendation is clear:

Following each issued citation, mandatory protocol must dictate either the vehicle is operated by a licensed driver or towed to a secure location for retrieval. Such a mandate will enable law enforcement with the necessary authority to eliminate immediate threats to public safety.

Focusing solely on penalties for unlicensed and reckless drivers is not enough—they are not deterred by consequences after the fact. Preventing them from driving post-detainment or seizing their vehicle will instantly cut off their access to driving, significantly reducing potential harm.

Specific Amendment suggestions:

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) Upon detection of an unlicensed driver, law enforcement must promptly intervene to stop the individual from further vehicle operation
- b) Law enforcement officers should arrange tow of the vehicle to a safe place for later collection by a licensed driver
- c) Reclamation of the vehicle requires a licensed driver to settle any fees incurred by the tow company

(Please note that currently there are 48 active tow companies just on Oahu alone, there are more than enough contractors to be able to enforce this with the police. Vehicle storage and tow fees are not an issue as testified by HPD against HB 1562's hearing on Feb 6th 2024, as the tow fees will be responsible by the vehicle retrieval).

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.
5. 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.

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 above 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 car ownership practices.

In closing, I urge the esteemed members of this committee to address the critical delay between the act of violation and the ensuing conviction—a gap in our system that tragically culminated in the loss of Sara Yara's life. By empowering our law enforcement with the authority to close this gap during routine traffic stops, as detailed in my testimony, we can prevent future tragedies, especially given the judiciary's current inability to expedite such cases sufficiently to deter reckless driving by unlicensed individuals.

On behalf of the 300 mothers I represent from the Kakaako area, I appeal to your empathy and dedication to enhance this bill with robust enforcement provisions, safeguarding not only our children but yours as well. Each child is entitled to a safe route to and from school—a fundamental right that make sure they return home safe and alive. Your decision today holds the power to reshape lives and honor the spirit of collective responsibility. Let us work together in the best interest of our people—lets make this right, for Sara Yara and every child in Hawaii.

Mahalo nui loa,

Karen Cheung

Karen Cheung

Ward Village Moms

HB-2526

Submitted on: 2/6/2024 1:28:30 PM

Testimony for TRN on 2/8/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kim Coco Iwamoto	Individual	Support	Remotely Via Zoom

Comments:

Support with 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.

Police need to be able to distinguish whether a driver has a valid license, but not on them at the time of the stop, versus whether the driver is unlicensed and the citation needs to clearly state that distinction. This is not about charging people who forgot their driver's license in a different purse or pair pants, this is about protecting the public from people who may not know how to drive or who have been adjudicated unsafe to drive and had their licensed revoked and should not be driving.

When people flagrantly violate the law designed to increase safety for the community, it often demonstrate a level of unwillingness to take responsibility and modify their behavior. Because mandatory minimums are ineffective deterrents of behavior, we urge this committee to remove the mandatory minimum sentencing language and replace with the following provisions that directly narrow the opportunities for habitually driving while unlicensed and will result in safer streets for all of our keiki.

When an officer accesses the DMV database at a traffic stop and realizes the individual was never issued a driver's license or had their license revoked, the police officer should not let that driver get back in the car and drive away. The driver can either have another driver who is licensed drive the car away or have the car towed (not impounded) to a legal parking spot, until a licensed driver can drive the car to the car owner's home.

It is our understanding that this does not happen. To our surprise the police allow the unlicensed driver to get back in the car and drive off. The reason for this, we heard, is because there is no law that says otherwise and/or that the police think they need to impound the car as evidence and they do not have the physical space to store the car. Again the car just needs to be left in a safe, legal spot, not impounded unless the car itself is evidence to a separate crime.

Realtime records should be kept regarding ownership of a vehicle when the driver is determined to be unlicensed and cited, available to the police and the courts.

On 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:

- they know the driver does not have a license,
- if this driver drives their car again, the owner understands they 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;
- owner 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 institution, it will give that institution cause to repossess the car.

If the car is owned by another household member, the 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 subjected to asset forfeiture - that would be re-victimizing.

February 7, 2024

To whom it may concern,

I am writing in support of HB2526. Every year there seems to be more and more incidents where lives are negatively impacted due to a driver whose license should have been revoked yet all that driver received was a slap on the wrist and handed their license back to them....if they even had one at all. Whether it be drunk driving, speeding, or not following any traffic rules you were supposed to follow upon receiving your license, these people need to know that their choices will now have a different outcome than what they may have previously experienced. Tougher consequences may be exactly what is needed in order to curb this problem.

In Sara Yara's honor, I hope this bill passes.