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**TESTIMONY IN SUPPORT OF
SB611 – RELATING TO USE OF INTOXICANTS WHILE OPERATING A VEHICLE**

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

Senate Committee on Judiciary and Labor
March 3, 2015, 9:15 a.m., Conference Room 016

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, **STRONGLY SUPPORTS SB611 – Relating to Use of Intoxicants While Operating a Vehicle.** The Bill addresses various loopholes within the existing statutes pertaining to the IIP and Driver License issuing statutes.

Under existing law, a driver whose license expires prior to the end of a revocation period cannot take steps to relicense until after the license expires, which results in various unintended consequences. More importantly, this Bill provides that a motorist operating a vehicle with an IIP will have to have a valid State-issued photo ID. The current IIP does not bear sufficient indicia to ensure that its holder and the person operating the vehicle are actually the same person.

Accordingly, we are in **STRONG SUPPORT** of SB611. We request that your Committee **PASS** the Bill.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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March 3, 2015

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members
Committee on Judiciary and Labor
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

SUBJECT: Senate Bill No. 611, Relating to Use of Intoxicants While Operating a Vehicle

I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu. The HPD supports the passage of Senate Bill No. 611, Relating to Use of Intoxicants While Operating a Vehicle.

Currently, a driver whose license is revoked for Operating a Vehicle Under the Influence of an Intoxicant (OVUI) cannot begin the relicensing process until the end of his or her revocation period. In order to be relicensed, drivers must take the written examination, obtain an instructional permit, and schedule a road test, all of which may take several months before being fully licensed. In the interim, drivers with an ignition interlock device who could drive unsupervised during their revocation period must then have a licensed driver with them while they wait for full licensure.

Allowing drivers with a valid ignition interlock permit the opportunity to complete their written and road tests prior to the end of their revocation period would create an additional incentive to install an ignition interlock device, leading to safer roadways. In addition, allowing responsible drivers to be fully relicensed immediately following their revocation period provides them with the opportunity to continue driving legally.

Currently, drivers who have a valid ignition interlock permit are not required to show any form of photo identification when stopped by law enforcement. Requiring drivers to have a valid State of Hawaii identification card allows law enforcement officers statewide the ability to positively identify drivers with ignition interlock permits and verify his or her license and permit status.

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members
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Hawaii Revised Statutes (HRS) Section 291E-62 makes it illegal for a driver whose license is revoked for OVUII to intentionally or knowingly operate a vehicle while his or her license remains suspended or revoked. This law creates a greater burden of proof on the prosecution in these cases, requiring the State to prove that the driver knew his or her license was revoked at the time of the alleged offense. Evidence to prove the driver's knowledge of his or her license status is nearly impossible to admit into evidence at trial.

Allowing prosecutors to admit a Notice of Administrative Revocation (NOAR), which is issued by a law enforcement officer to almost all persons arrested for OVUII, in lieu of having to prove that a driver knew his or her license was revoked is significantly more in keeping with the intent of HRS Section 291E-62.

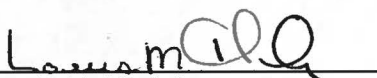
The HPD urges you to support Senate Bill No. 611, Relating to Use of Intoxicants While Operating a Vehicle.

Thank you for the opportunity to testify.

Sincerely,


Calvin Tong, Major
Traffic Division

APPROVED:


Louis M. Kealoha
Chief of Police



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March 3, 2015

To: Senator Gilbert S.C. Keith-Agaran, Chair — Senate Committee on
Judiciary and Labor; Senator Maile S.L. Shimabukuro, Vice Chair, and
members of the Committee

From: Arkie Koehl/Carol McNamee—Co-chairmen, Public Policy Committee -
MADD Hawaii

Re: Senate Bill 611 – Relating to Use of Intoxicants while Operating a Vehicle

I am Carol McNamee, offering testimony on behalf of the Hawaii Chapter of Mothers Against Drunk Driving in support of Senate Bill 611. This measure amends provisions in the statutes relating to the use of an Ignition Interlock device and the permit which enables drivers to legally drive an ignition interlock equipped vehicle on Hawaii roads.

This bill covers three issues:

The statutes (HRS 291 E 45, 291 E 61) state that a person whose license has been revoked for OVUII is eligible to reapply for a driver's license at the end of the official revocation period if he or she has complied with various requirements. However, at least in Honolulu County, there seems to be a long waiting period before a person can actually take the necessary written and road test to be considered for a new license. This wait period can be weeks or even months. Meanwhile, although a compliant person's license no longer remains revoked during the waiting period and he or she may or may not have uninstalled the ignition interlock device, the person does not have a physical license to drive. The ignition interlock permit expires the day the revocation ends. This results in an unexpected period of time when the person has done everything right but still cannot legally drive until he or she receives the regular legal drivers licensee.

SB 611 would allow a person with a valid interlock permit and an installed interlock device to take required tests to apply for a new license 30 days (or less) before the end of the revocation period so that the new license can be issued much closer to the actual termination of the revocation period. The person would then have a valid driver's license much closer to the date the ignition interlock permit automatically expires. This ability to apply for a license a month earlier for interlock users would more than likely help encourage drivers to keep the interlock installed in their vehicles for the full revocation period rather than uninstalling the device early. MADD believes it is important for interlock users keep the device on their vehicle for the full time period. We suspect that the individuals uninstalling the interlock are the riskier revoked drivers.

The second issue included in SB 611 relates to enforcement of the requirement for using an interlock device by all individuals who wish to legally drive after their license has been revoked for OVUII. Enforcement has been difficult because the current Ignition Interlock permit is a plain piece of unlaminated paper that does not include any photo to identify the holder of the permit. This situation creates several problems for police including reducing their capability for arresting those who may be violating provisions of the interlock law...such as driving a non-interlocked vehicle.

To increase the ability of law enforcement to correctly identify a person presenting an interlock permit, this bill would require a driver to have a Hawaii State ID card in the vehicle along with an Ignition Interlock permit whenever the person is operating a vehicle.

The third issue relates to a person receiving “notice” that his or her driver’s license is officially revoked after an arrest for OVUII. After that official date, the arrested person cannot legally drive a vehicle on Hawaii roads unless the vehicle is interlock-equipped.

National statistics indicate that 50 to 75% of people whose license has been revoked will choose to chance driving anyway, without a valid license. They may reduce their time on the road, but nonetheless, they are driving illegally and posing a risk to innocent people on our roads and highways.

When apprehended by law enforcement, some of these individuals driving illegally and facing arrest for 291 E62 (*Operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant*) are professing that they did not know their temporary permit (issued for 30 days for those driving under the influence of alcohol or 45 days for those driving under the influence of other drugs) was not still valid. They say they had no knowledge that they were no longer able to drive legally. (*To clarify, this permit is different from the Ignition Interlock permit.*)

SB 611 would make it clear that the “NOTICE OF ADMINISTRATIVE REVOCATION” (NOAR), given to the “respondent” at the time of arrest, serves as legal notice since it clearly states the number of days for which the temporary permit is valid. This clarification will aid law enforcement officers with their ability to arrest drivers who are illegally on our roads after their licenses have been revoked for OVUII.

MADD believes that all three provisions of this bill are important to improve the efficiency and effectiveness of our current OVUII statutes which will ultimately reduce alcohol related crashes. We encourage the committee to pass SB611. Thank you for this opportunity to testify.

(Note: This testimony includes clarifications of previous testimony presented in TRA Committee. Primarily no need for interlock, and therefore no additional monetary cost to offender during waiting period for receipt of new regular license.)

