



Testimony by:
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IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

April 4, 2016
9:05 a.m.
State Capitol, Room 211

H.B. 1747, H.D. 1, S.D. 1
RELATING TO MOTOR VEHICLES

Senate Committee on Ways and Means

The Department of Transportation (DOT) **supports** H.B. 1747, H.D. 1, S.D. 1. This bill authorizes a police officer to tow a motor vehicle when the operator is arrested or cited for various traffic offenses, including driving under the influence of an intoxicant (OVUII).

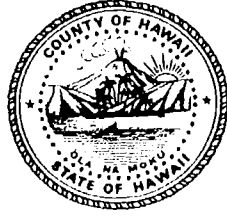
Motor vehicle fatalities involving alcohol continues to be a problem in Hawaii. Police continue to arrest drivers who drink and drive in order to save lives. This bill would allow vehicles to be towed and stored under certain situations. The towing charges and storage charges would be the responsibility of the registered owners or lien holders of the vehicles. These costs, which would be borne by registered owners, would serve as a deterrent to those registered owners who do not seriously consider who they permit to drive their vehicles.

The DOT urges your support in passing H.B. 1747, H.D. 1, S.D. 1 as it will serve as a deterrent to the registered owners of vehicles who permit other drivers the use of their vehicles and are arrested for OVUII. We recommend that the effective date be upon approval.

Thank you for the opportunity to provide testimony.

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 1747, HD1, SD1
WITH RECOMMENDED CHANGES

A BILL FOR AN ACT RELATING TO MOTOR VEHICLES

COMMITTEE ON JUDICIARY AND LABOR

Sen. Gilbert S.C. Keith-Agaran, Chair
Sen. Maile S.L. Shimabukuro, Vice Chair

Tuesday, April 5, 2016, 9:05 am
State Capitol, Senate Conference Room 016

Honorable Chair Keith-Agaran, Honorable Vice-Chair Shimabukuro, and Members of the Committee Judiciary and Labor, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 1747, HD1, SD1, with recommended changes noted below.

This measure authorizes a police officer to cause to be towed a motor vehicle if the operator is arrested or cited for various traffic offenses, including Driving Under the Influence of an Intoxicant.

We support this bill, as it is in line with "Aliyah's Law," which helped to significantly reduce traffic fatalities in Hawai'i County; however, paragraph (4) should be deleted in its entirety, as this section is unnecessary and confuses the purpose of the caretaking exception. There are certain interactions between police officers and citizens that do not require legal justification, as local police officers are charged with community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to violation of any criminal statute

The Community Caretaking exception is an exception to the warrant requirements under the 4th and 14th Amendments to the U.S. Constitution. This language comes from case law – Cady v. Dombrowski, 413 U.S. 433 (1973).

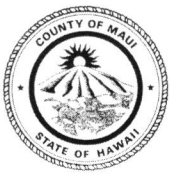
We recommend the following changes, as this language is ambiguous and could make the statute void:

~~(4) The motor vehicle is engaged in community caretaking at the time of the encounter.~~

~~As used in this paragraph, "community caretaking" means any situation in which a law~~

~~enforcement officer is using the vehicle for a consensual police-citizen encounter that is unrelated to the investigation or detection of any criminal activity.~~

The Office of the Prosecuting Attorney, County of Hawai'i supports the passage of House Bill No. 1747, HD1, SD1, with the proposed changes. Thank you for the opportunity to testify on this matter.



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

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TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

April 1, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
and Members of the Committee on Judiciary and Labor

The Senate
State Capitol
Honolulu, Hawaii 96813

**RE: House Bill No. 1747 SD1
RELATING TO MOTOR VEHICLES**

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

The Maui Police Department **STRONGLY OPPOSES** the current draft of H.B. No. 1747 SD1.

This bill places an undue burden on officers to show cause that an arrested intoxicated driver will return to their vehicle and drive. This may possibly happen, but is an unpredictable event that cannot be foreseen. This version of House Bill No. 1747 is a complete change of the original version which the Maui Police Department supported.

The Maui Police Department asks that you oppose H.B. No. 1747 SD1 and restore it to its original version.

Thank you for the opportunity to testify.

Sincerely,

TIVOLI S. FAAUMU
Chief of Police

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB2204 on Apr 4, 2016 09:15AM*
Date: Friday, April 01, 2016 3:11:00 PM

HB2204

Submitted on: 4/1/2016

Testimony for JDL/WAM on Apr 4, 2016 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Shintani	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1747 on Apr 5, 2016 09:05AM
Date: Friday, April 01, 2016 10:47:53 AM

HB1747

Submitted on: 4/1/2016

Testimony for JDL on Apr 5, 2016 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Oppose	No

Comments: I strongly oppose this version of the bill. Towing a vehicle if the officer can predict that the driver will retrieve his vehicle, is unrealistic. The original version was much more realistic.

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