

DAVID Y. IGE
GOVERNOR



Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

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

March 21, 2016
10:15AM
State Capitol, Room 309

S.B. 2246
RELATING TO TESTING FOR INTOXICANTS

House Committee on Transportation

The Department of Transportation (DOT) **supports** S.B. 2246. This bill would repeal Section 291E-68, Hawaii Revised Statutes (HRS), relating to the refusal to submit to a breath, blood, or urine test for those arrested for operating a vehicle under the influence of an intoxicant (OVUII).

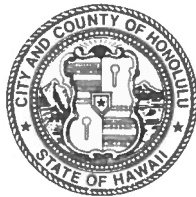
A recent Hawaii Supreme Court decision has determined that the refusal to submit to a test to determine alcohol concentration was not admissible under the implied consent law as it threatened the driver with the possibility of jail. By not repealing this law, it would jeopardize the prosecution of cases under the OVUII law.

The DOT urges your support in passing S.B. 2246 as it would continue to remove drunk drivers from our roads, thereby keeping Hawaii's residents and visitors safe.

Thank you for the opportunity to provide testimony.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR

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MARIE A. McCAULEY
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DEPUTY CHIEFS

OUR REFERENCE DI-GR

March 21, 2016

The Honorable Henry J. C. Aquino, Chair
and Members
Committee on Transportation
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

SUBJECT: Senate Bill No. 2246, Relating to Testing for Intoxicants

I am Darren Izumo, 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. 2246, Relating to Testing for Intoxicants.

As a result of the Hawaii Supreme Court State vs. Won decision, the HPD no longer charges arrestees with Hawaii Revised Statutes Section 291E-68, Refusal to submit to breath, blood, or urine test.

The HPD urges you to support Senate Bill No. 2246, Relating to Testing for Intoxicants.

Thank you for the opportunity to testify.

Sincerely,

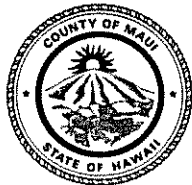
A handwritten signature in black ink, appearing to read "Darren Izumo", is written over a horizontal line.

DARREN IZUMO, Major
Traffic Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoaha", is written over a horizontal line.

LOUIS M. KEALOHA
Chief of Police



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAI'I 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD K. MINATOYA
Deputy Prosecuting Attorney
Supervisor - Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 2246 - RELATING TO TESTING FOR INTOXICANTS

March 18, 2016

The Honorable Henry J.C. Aquino
Chair
The Honorable Matthew S. LoPresti
Vice Chair
and Members
House Committee on Transportation

Chair Aquino, Vice Chair LoPresti and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui strongly supports SB 2246 this measure.

This bill seeks to repeal Hawaii Revised Statutes § 291E-68, which was passed pursuant to Act 166, Session Laws of Hawaii 2010. Under this statute, it is a petty misdemeanor for an individual to refuse to submit to a breath, blood, or urine test as required by HRS § 291E-15.

On November 25, 2015, the Hawai'i Supreme Court in State v. Yong Shik Won, 136 Hawai'i 292, 361 P.3d 1195, 2015 Haw. LEXIS 317 (2015), held as follows:

“HRS § 291E-68 elevates the danger of intoxicated driving to an importance beyond the signature significance of the warrant requirement of the United States and Hawai'i constitutions. The premise that the danger of intoxicated driving transcends the protection of the warrant requirement of the fourth amendment to the United States Constitution and article 1, section 7 of the Hawai'i Constitution is per se unreasonable and renders HRS § 291E-68 unconstitutional on its face.” (Emphasis added).

Thus, in light of the above pronouncement by the Hawai'i Supreme Court, there is no choice but to repeal HRS § 291E-68.

Accordingly, based upon the above considerations, the Department of the Prosecuting Attorney, County of Maui, requests that this measure be PASSED.

Thank you very much for the opportunity to testify.

lopresti2 - Jasmine

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 21, 2016 9:07 AM
To: TRNtestimony
Cc: victor.ramos@mpd.net
Subject: *Submitted testimony for SB2246 on Mar 21, 2016 10:15AM*

LATE

SB2246

Submitted on: 3/21/2016

Testimony for TRN on Mar 21, 2016 10:15AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	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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