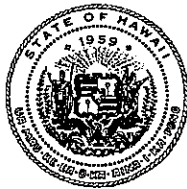


HB2020, HD2

LINDA LINGLE
GOVERNOR



BRENNON T. MORIOKA
INTERIM DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

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

IN REPLY REFER TO:

March 8, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 2020 HD 2

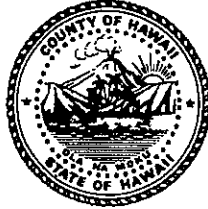
COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS

We support House Bill 2020 HD 2, because it will provide enforcement on private roadways, which will make them safer for the people who use them.

HB 2020 HD 2 expands the county enforcement of various motor vehicle and traffic laws on private streets and roads to include laws relating to county vehicular taxes, motor vehicle safety responsibility, traffic violations, use of intoxicants while operating a vehicle, odometers, and motor vehicle insurance.

Traffic crashes and fatalities occur upon private roadways which vehicles travel or those private roadways that are open for public use. The enforcement of traffic laws should apply to private roadways that are opened to the public to ensure everyone's safety.

William P. Kenoi
Mayor



William T. Takaba
Managing Director

Walter K.M. Lau
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 75-5722 Hanama Place, Suite 102 • Kailua-Kona, Hawai'i 96740
(808) 327-3602 • Fax (808) 326-5663

Honorable Kalani English, Chair
Senate Committee on Transportation, International
and Intergovernmental Affairs
415 South Beretania Street
Honolulu, Hawai'i 96813

TESTIMONY ON
H.B. 2020, H.D. 2 RELATING TO COUNTIES

March 8, 2010

Senate Committee on Transportation, International and
Intergovernmental Affairs
Hawai'i State Capitol, Room 224, 1:15 p.m.

Aloha, Chair English and Members of the Committee:

Thank you for this opportunity to strongly support H.B. 2020, H.D. 2, which expands the ability of the counties to enforce various motor vehicle and traffic laws on private streets and roads.

Currently the counties are only authorized to enforce on private streets and roads:

- Chapter 286, HRS, relating to highway safety (laws relating to safety inspection, vehicle registration driver licensing); and
- Chapter 291C, HRS, the Statewide Traffic Code (laws relating to accidents, traffic signs and signals, driving on roadways and highways, rights-of-way, pedestrians, stops, vehicle speed, unattended vehicles, etc.)

An officer that discovers violations of other laws, such as laws relating to reckless driving, driving without a license, and motor vehicle insurance, for example, is not authorized under the current law to enforce those laws on private streets and roads.

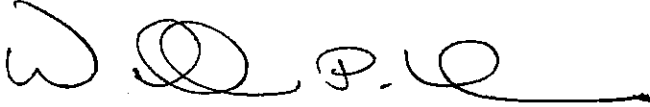
H.B. 2020, H.D. 2 authorizes the counties to enforce laws relating to:

- County vehicular tax (Chapter 249)
- Motor Vehicle Safety Responsibility Act (Chapter 287), requiring proof of satisfactory security in lieu of evidence of insurance;
- Traffic violations (Chapter 291), laws relating to reckless driving, consumption of liquor/open container, child car seats, driving without license, equipment violations;

- Use of intoxicants while operating a vehicle (Chapter 291)
- Odometers (Chapter 486, Part III)
- Motor vehicle insurance (Chapter 431, Article 10C).
- Motorcycle and motor scooter insurance (Chapter 431, Article 10G).

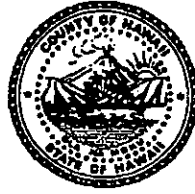
Mahalo for your consideration.

Aloha,

A handwritten signature in black ink, appearing to read 'W. P. Kenoi', with a long horizontal line extending to the right.

William P. Kenoi
MAYOR

William P. Kenoi
Mayor



Harry S. Kubojiri
Police Chief

Paul K. Ferreira
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawaii 96720-3998
(808) 935-3311 • Fax (808) 961-2389

March 5, 2010

Senator J. Kalani English
Chair and Members
Committee on Transportation, International and
Intergovernmental Affairs
State Capitol
415 South Beretania Street, Room 224
Honolulu, Hawai'i 96813

Re: House Bill 2020, HD2, Relating to Counties

Dear Senator English and Members:

The Hawai'i Police Department supports the amendments proposed to Sections 46-15.9 and 46-16 of the Hawai'i Revised Statutes. These amendments are intended to provide clarity in regards to enforceable traffic laws on private roadways which are open to the public and to extend certain traffic code provisions to these roads, thereby ensuring continued public safety on these roadways.

The Big Island of Hawai'i has hundreds of miles of private roadways which are open to the public. Numerous private subdivisions including, but not limited to, Hawaiian Paradise Park, Orchidland Estates, Hawaiian Acres, and Hawaiian Ocean View Estates are all subdivisions with privately maintained roadways which are open to the public. The main roads run for several miles, from the publicly maintained highway to the end of the subdivision.

Recently, questions have been raised as to the legality of officers enforcing traffic laws on the roadways within these vast subdivisions, thus creating confusion for community members, subdivisions' land holders, and law enforcement.

The inability of law enforcement to enforce traffic laws on these roadways would present a public safety issue. This proposed amendment will be beneficial to the public interest as it clearly defines enforceable traffic code statutes and helps ensure continued public safety on these roadways.

Senator J. Kalani English
Chair and Members
Committee on Transportation, International and
Intergovernmental Affairs
Re: House Bill 2020, HD2, Relating to Counties
Page 2

The District Court of the Third Circuit has questioned whether traffic laws such as seatbelt and child restraint violations, DUI, no-fault insurance requirements and other traffic related statutes are enforceable on these roadways. If this amendment is not passed, it may deter enforcement on these roadways, thereby increasing the likelihood of unsafe roadways and becoming a risk to the general motoring public who make use of these roads on a daily basis.

For these reasons, we urge this committee to support this legislation. Thank you for allowing the Hawai'i Police Department to testify on H.B. No. 2020, HD2.

Sincerely,


HARRY S. KUBOJIRI
POLICE CHIEF

JAY T. KIMURA
PROSECUTING ATTORNEY

CHARLENE Y. IBOSHI
FIRST DEPUTY
PROSECUTING ATTORNEY



OFFICE OF THE PROSECUTING ATTORNEY

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**Testimony In Support of HB 2020, HD2
Relating to Counties**

Hearing before Senate Committee on Transportation, International and
Intergovernmental Affairs
March 8, 2010
1:15 p.m.
Conference Room 224

Submitted by Jay T. Kimura, Prosecuting Attorney

TO: Chair Senator J. Kalani English and Committee Members:

We support House Bill 2020, HD2.

The Office of the Prosecuting Attorney fully endorses the proposed amendment to the Hawai'i Revised Statutes. Over the years, the traffic laws have been placed in different chapters and subsections, or numbered differently. The amendment clarifies any existing statutory ambiguity regarding the authority of police officers to enforce traffic laws on roads in private subdivisions that are open to the public.

District Court judges have ruled consistently on the enforceability of traffic regulations on roadways in private subdivisions open to the public. The proposed amendments clarify the intent to allow enforcement of the most common traffic offenses to insure community safety and financial responsibility. The proposed amendment would make it clear the applicability of traffic regulatory enforcement on roads in subdivisions open to the public.

Given the volume of roadways in private subdivisions open to the public on the Island of Hawaii, public safety requires traffic enforcement on these roads. We, too, agree with Mayor Billy Kenoi's testimony that the "inability of law enforcement to enforce traffic laws on private roadways" open to the public increases the danger to the general public who use these roads on a daily basis.

Thank you for your consideration of recommendation to adopt this bill.

March 5, 2010

Senator J. Kalani English, Chair
Committee on Transportation, International and Intergovernmental Affairs
State Senate/State Capitol
415 So. Beretania St., Room 224
Honolulu HI 96813

RE: HB 2020, HD2

Dear Senator English, and Members,

Safety is a primary concern of all of us. For this reason I ask you to support this bill. I have lived in Hawaiian Ocean View Estates for over 30 years. When I first moved here, I thought I was in a traffic jam if I met another car at an intersection. Now, I slow down or stop at each intersection because I know that someone will come speeding through, whether or not there is a stop sign. Many selfish and arrogant drivers feel that because our roads are private, they don't have to observe traffic laws. What amazes me is that in the morning, one sees mothers or fathers speeding down the roads with a car full of children, to meet the school bus.

Our roads are privately owned and maintained, but have been open to the public for decades. We have a Road Maintenance Corporation which is responsible for maintaining our roads. Stop signs, identical to the ones used by the County of Hawaii, are installed at various intersections as described in the Hawaii County Code. Speed limit signs are posted throughout the community, only to be ignored.

In 1994 a close friend of mine, an extremely cautious driver, was killed by a driver who had a revoked driver's license, a stolen safety sticker, a forged insurance card, (all facts), and had shot up on drugs before and after the "accident" (hearsay). For months after this accident, I personally saw this individual driving a number of illegal vehicles. When this case went to court, the judge acquitted this person because of the "private" roads.

I don't want to go through the agony of seeing another friend killed.

I don't want to see persons responsible for the death of another go free because of loopholes in the law.

We have over 150 miles of roads in our rural subdivision. Our population grew by 125% in the 2000 census. It has now tripled since then, according to 2009 estimates.

For the sake of safety and public welfare, please support HB2020, HD2.

Thank you,

Beverly Byouk