



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

S.B. NO. 2897, S.D. 2, H.D. 1, RELATING TO HIGHWAY SAFETY.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, March 18, 2010 **TIME:** 2:50 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Mark K. Miyahira, Deputy Attorney General

Chair Karamatsu and Members of the Committee:

The Department of the Attorney General supports this bill, but recommends the following technical amendment.

The purpose of this bill is to enact the recommendations of the Ignition Interlock Implementation Task Force established under Act 171, Sessions Laws of Hawaii 2008.

We previously recommended to the House Transportation Committee that section 7 of this bill be amended to delete the current language in section 291E-5, Hawaii Revised Statutes, and replace it with the following language:

§291E-5 Ignition interlock user affordability. The director of transportation shall contract with the selected interlock vendor to provide partial financial relief on the installation and the periodic calibration charges to offenders who apply for such assistance and who are recipients, at the time of license revocation or suspension, of either food stamps under the Supplemental Nutrition Assistance Program, or free services under the Older Americans Act or Developmentally Disabled Act.

This proposed amendment reflects the consensus of the Ignition Interlock Legislative Task Force and was submitted as one of its recommendations because it provides a guideline for determining

which offenders qualify for financial assistance in paying for the installation and maintenance of the ignition interlock device.

House Draft 1 amended section 291E-5 with the proposed amendment but did not clarify that the "director" in this instance refers to the director of transportation." Because section 291E-1, Hawaii Revised Statutes, already defines "director" to mean the Administrative Director of the Courts, it is necessary that section 7 be amended to clarify that the "director" is the "director of transportation".

We respectfully request that this bill be passed with the recommended amendment.



The Judiciary, State of Hawaii

Testimony to the House Committee on Judiciary

The Honorable Jon Riki Karamatsu, Chair

The Honorable Ken Ito, Vice Chair

Thursday, March 18, 2010, 2:50 p.m.

State Capitol, Conference Room 325

by

Ronald Sakata

Chief Adjudicator

Administrative Driver's License Revocation Office (ADLRO)

Bill No. and Title: Senate Bill No. 2897, S.D. 2, H.D. 1, Relating to Highway Safety

Purpose: Enacts the recommendations of the Ignition Interlock Implementation Task Force made pursuant to Act 171, Session Laws of Hawaii 2008.

Judiciary's Position:

The Judiciary has been actively involved with the proceedings and deliberations of the ignition interlock implementation task force on an advisory basis. Accordingly, although we take no position on the intent of this measure, we have made our advice and concerns well known throughout the numerous meetings of the task force at-large and in the various subcommittees.

Chief among those concerns is the impact on the Judiciary's already thinly-stretched budgetary and personnel resources. In particular, ADLRO may eventually be required to conduct hearings regarding ignition interlock issues arising after the initial revocation hearings which are held in the ordinary course of our responsibilities. That impact, as of yet, cannot be accurately determined, but any additional hearings at this point will be of consequence to our current case and hearing load.

Thank you for the opportunity to testify on this measure.



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary
March 18, 2010 2:50 p.m.**

S.B. No. 2897, SD2: RELATING TO HIGHWAY SAFETY

Chair Karamatsu and Members of the Committee:

The Office of the Public Defender supports this measure, with one exception: the criminalization of refusing a breath alcohol test.

We continue to oppose the criminalizing of refusals (refusing to be tested for breath or blood alcohol content) and allowing refusals as evidence in an OVUII trial. There are many reasons why an arrestee may not be able to consent to a breath alcohol test at the police station. Arrestees are not allowed to consult with an attorney prior to taking the breath alcohol test. The test subject may be frightened and confused, and not understand the lengthy and complicated implied consent form. Some arrestees do not have a strong enough lung capacity to effectively complete the breath alcohol test. Furthermore, classifying a refusal as a petty misdemeanor could result in an increased caseload for probation officers assigned to the District Court Division.

We believe that doubling the license revocation for refusals (as proposed by the task force) and an SR-22 violation are sufficient deterrents to discourage refusals. Thank you for the opportunity to provide input on this measure.



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

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

IN REPLY REFER TO:

March 18, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 2897 SD 2, HD 1

COMMITTEE ON JUDICIARY

On behalf of the Hawaii Ignition Interlock Implementation Task Force, the Department supports and strongly recommends the passage of Senate Bill 2897 SD 2, HD1 with the proposed amendments. This measure incorporates the recommendations from the Task Force, which was established by Act 171 of the 2008 Legislative Session. Strong interlock bills are being adopted by more states across the country and it is important to know that Senator Frank Lautenberg has introduced the DDROP Act in Congress. This measure requires all states to adopt mandatory ignition interlock laws for all offenders or be sanctioned by loss of a percentage of their highway construction funds.

Due to the State's existing economic crisis, concessions have been made to the ignition interlock program to prevent any major expenditure of state funds at this time. We see these changes as temporary, and look forward to implementing an interlock program as originally envisioned by the Task Force in better economic times.

The Task Force recommends that the following amendments be included in SB 2897 SD 2, HD1:

- Amend Section 7, page 15, line 18 to insert "of transportation" to then read director of transportation. This will distinguish between the administrative director of the courts as defined in §291E-1.

A strong ignition interlock system will prevent unnecessary alcohol-related crashes and reduce fatalities in the state. The Task Force believes that the provisions in this bill and the proposed recommendation is necessary for the implementation of the ignition interlock program and strongly recommends the passage of SB 2897 SD 2, HD1.

**WRITTEN
ONLY**

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee on Judiciary

SB 2897 SD-2, HD-1 RELATING TO HIGHWAY SAFETY

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 18, 2010

1 **Department's Position:** The Department of Health supports SB 2897 SD-2, HD-1. Ignition interlocks
2 are an effective way of increasing the safety of all road users by mechanically preventing convicted
3 drunk drivers from operating a vehicle with alcohol in their system.

4 **Fiscal Implications:** None

5 **Purpose and Justification:** SB 2897 SD-2, HD-1 addresses the key recommendations that were made
6 by the Ignition Interlock Task Force, which was established after the legislature passed Act 171 in 2008.
7 Recommendations from the Ignition Interlock Task Force include creating interlock laws with
8 mandatory sentencing for all convicted impaired driving offenders, establishing penalties for tampering
9 and circumvention of interlock devices, and stricter laws and increased enforcement to deter those who
10 would try to avoid installation.

11 Alcohol related traffic fatalities remain tragically high in Hawaii; in 2008, 43 percent (46 drivers
12 out of 107) of all drivers involved in traffic fatalities tested positive for alcohol. Among drivers
13 involved in fatal crashes, those who tested positive for alcohol were at least 3 times (6% vs. 2%) more
14 likely than other drivers to have had a previous conviction for DUI (Fatal Analysis Reporting System,
15 National Highway Traffic Safety Administration - NHTSA). There is an annual average of 5,500 DUI

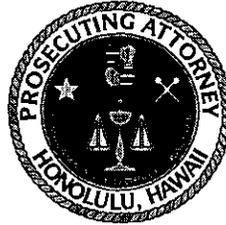
1 arrests in Hawaii. Based on a study conducted in 2005 by the City and County of Honolulu, over one
2 fourth (28%) of DUI arrestees have been previously arrested for a DUI. NHTSA and the Centers for
3 Disease Control and Prevention (CDC) conclude, when installed and in use, ignition interlocks are
4 effective for reducing alcohol related arrests and crashes.

5 Thank you for the opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 768-7400

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE JON RIKI KARAMATSU, CHAIR
HOUSE JUDICIARY COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2010
State of Hawai'i

March 18, 2010

RE: S.B. 2897, S.D. 2, H.D. 1; RELATING TO HIGHWAY SAFETY.

Chair Karamatsu and members of the House Judiciary Committee, Department of the Prosecuting Attorney submits the following testimony in support of S.B. 2897, S.D. 2, H.D. 1 with some suggested amendments.

The purpose of this bill is to fine tune the statutory framework for the imposition of an ignition interlock device upon vehicles owned or driven by person arrested for impaired driving. To this end, the legislature established a task force which was mandated to review this issue and to make recommendations for the implementation of an ignition interlock program. A wide range of stakeholders were included in the task force including our department, which was given the opportunity to participate in and give input to the task force over the last two years. This bill is the product of the work of the task force's effort to flesh out the framework of the ignition interlock program. In particular, this bill eliminates the use of probation for repeated intoxicated drivers and substitutes less intensive supervision by proofs of compliances due to concerns about the cost and availability of probation resources.

We are in strong support of the use of ignition interlock devices which prevent a person from operating a vehicle when the person has measurable amounts of alcohol in their system. While community education, increased enforcement and stiffer sanctions for impaired driving

have made some impact, Hawaii still has an unacceptably high number of alcohol related fatal crashes. We believe that technologies which would prevent people from driving drunk need to be examined and tried in order to reduce traffic fatalities.

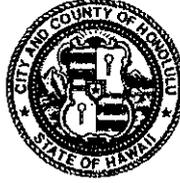
Although we did not agree with all the task force recommendations, we do understand that this bill and effort were intended to be the product of consensus whenever possible. Because all the task force stakeholders have different perspectives and because there are resource limitations that affect what is currently possible, we are fully cognizant that compromises were necessary in order to forge an ignition interlock program which was acceptable and workable for all the task force stakeholders. Thus, we do support the passage of S.B. 2897, SD. 2, H.D. 1. However, we hope that certain changes, such as probation for second and third drunk drivers can be implemented when more state resources are available.

We would respectfully request two amendments to this bill. First, we would ask that the reference to HRS section 291E-41(d) be changed to 291E-41(g) on page 8 line 13. Secondly, we would recommend that the reference to the "director" on page 15 line 18 be changed to the "director of transportation." This change is necessary since 291E-1 defines the term "director" to mean the administrative director of the courts or the director of ADLRO and in 291E-5, the duties regarding contracting with ignition interlock vendors are intended to be done by the director of the state department of transportation not the administrative director of the courts or the director of ADLRO.

We respectfully request your favorable consideration of this bill with the proposed amendments and thank you for the opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



MUFI HANNEMANN
MAYOR

LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE TTN-LC

March 18, 2010

The Honorable Jon Riki Karamatsu, Chair
and Members
Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Karamatsu and Members:

Subject: Senate Bill No. 2897, S.D. 2, H.D. 1, Relating to Highway Safety

I am Major Thomas Nitta of the Traffic Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 2897, S.D. 2, H.D. 1, Relating to Highway Safety as it is the recommendations of the Interlock Implementation Task Force. The task force is composed of numerous stakeholders from our public streets and highways, from the state Department of Transportation, the Department of the Prosecuting Attorney, the Office of the Public Defender, the Hawaii State Judiciary, including administrative revocation, parole, driver's licensing and Mother's Against Drunk Driving.

We concur with the amendments submitted by the Department of the Prosecuting Attorney and the state Department of Transportation. These recommendations were discussed and it was the consensus of the task force that these recommendations be submitted for legislative action.

Thank you for this opportunity to testify.

Sincerely,

Handwritten signature of Thomas T. Nitta in black ink.

THOMAS T. NITTA, Major
Traffic Division

APPROVED:

Handwritten signature of Louis M. Kealoha in black ink.
LOUIS M. KEALOHA
Chief of Police

Serving and Protecting With Aloha



Mothers Against Drunk Driving HAWAII
700 Bishop Street, Suite 1111
Honolulu, HI 96813
Phone (808) 532-6232
Fax (808) 532-6004
www.maddhawaii.org

March 18, 2010

To: Representative Jon Riki Karamatsu, Chair – House Committee on Judiciary;
Representative Ken Ito, Vice Chair; and members of the committee

From: Arkie Koehl — Chairman, Operations Council, MADD Hawaii

Re: Senate Bill 2897 SD2, HD 1 – Relating to Highway Safety

I am Arkie Koehl, Chairman of the MADD Hawaii Council, testifying for MADD in strong support of SB 2897, SD2 – Relating to Highway Safety. This bill updates, amends and provides full statutory detail on the design and implementation of an ignition interlock system for the state of Hawaii, as required of the Ignition Interlock Task Force in Act 171 of the 2008 Legislative session and Act 88 of the 2009 session.

MADD Hawaii proposes that the following amendments be made to this bill:

- Page 8 line 13 should reference **291E-41(g)** not **291E-41(d)**.
- Page 15, line 18: Amend SECTION 7, Section 291E-5 by inserting the words, “*of Transportation*”:

§291E-5 Ignition Interlock User Affordability. The Director of Transportation shall contract with the selected interlock vendor ...

It is important to add the words “of Transportation” to distinguish between the “director” which is often defined in this bill as the Director of the Administrative Drivers’ License Revocation Office and the Director of the Dept. of Transportation who is tasked with some of the administrative oversight of the proposed interlock program.

In the Transportation Committee, amendments were made to this Senate measure to make important technical corrections and indicate the method of assisting indigent drivers.

Hawaii is just over 9 months away from giving “birth” to a new system that provides more safety to the public by keeping identified impaired drivers from driving after drinking while allowing these individuals to keep driving anywhere they need to go as long as they have an interlock device installed in their vehicles and are below a .02 blood alcohol concentration when they drive.

The Ignition Interlock Task Force has worked diligently for two years and in 2009 grappled with difficult decisions related to keeping the Interlock program viable while changing or deleting components which would have engendered costs to the state.

MADD, along with the Ignition Interlock Task Force as a whole, is disappointed that the state's budgetary crisis necessitates forgoing one of the key enforcement measures — probation for repeat offenders — and we share the expectation that future fiscal improvements will restore this important tool.

MADD encourages the passage of this measure to ensure the smooth implementation of Hawaii's Ignition Interlock system on January 1, 2011. Hawaii will be joining an increasing number of states with strong interlock statutes to reduce OVUII arrests, crashes, and fatalities.

Thank you for the opportunity to submit testimony in support of SB2897,SD2, HD 1.