

STAND. COM. REP. NO. 3228

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 1928
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1928 entitled:

"A BILL FOR AN ACT RELATING TO TESTING FOR INTOXICANTS,"

begs leave to report as follows:

The purpose and intent of this measure is to repeal section
291E-68, Hawaii Revised Statutes, which makes refusal to submit to
a breath, blood, or urine test a petty misdemeanor.

Your Committee received testimony in support of this measure
from the Department of the Prosecuting Attorney of the County of
Maui. Testimony in opposition to this measure was submitted by
Mothers Against Drunk Driving Hawaii.

Your Committee finds that the criminalization of the refusal
to submit to a chemical test is causing serious problems with the
prosecution of individuals arrested for operating a vehicle under
the influence of an intoxicant. Several cases in Maui county have
been dismissed because of purported constitutional violations
relating to the potential for criminal penalties associated with a
defendant's refusal to submit to a chemical test. In lieu
thereof, your Committee finds existing law requiring license
revocation in an administrative license revocation proceeding to
be an adequate penalty.

Your Committee recognizes the concerns raised by Mothers
Against Drunk Driving Hawaii that repealing the law that makes
refusal to submit to a breath, blood, or urine test a petty



misdeemeanor fails to provide an adequate deterrent or criminal consequence for intoxicated drivers. In balancing these concerns against the constitutional considerations raised by the Department of the Prosecuting Attorney of the County of Maui, your Committee urges Mothers Against Drunk Driving Hawaii to develop language that provides sufficient penalties for and deterrents against drunk driving while observing a defendant's constitutional rights.

Accordingly, your Committee has amended this measure by changing the effective date from upon approval to July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1928, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1928, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB1928	Committee Referral: TIA, JDL	Date: 3/29/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
SLOM, Sam				✓
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes