



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
INSURANCE DIVISION  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ  
DIRECTOR

GORDON I. ITO  
INSURANCE COMMISSIONER

TO THE HOUSE COMMITTEE ON TRANSPORTATION

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Wednesday, February 1, 2012  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1878 – RELATING TO MOTOR VEHICLE  
INSURANCE.**

TO THE HONORABLE JOSEPH M. SOUKI, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),  
testifying on behalf of the Department of Commerce and Consumer Affairs  
("Department"). The Department opposes this bill.

The purpose of this bill is to allow driver exclusion endorsements to exclude  
specified persons from being covered under a motor vehicle insurance policy.

The Department has concerns that this bill would curtail the benefits of the broad  
coverage currently offered for Hawaii motor vehicle insurance policies. The underlying  
purpose of Hawaii's motor vehicle insurance law is to encourage participation of all of  
Hawaii's drivers, not to pick and choose which drivers to include or exclude. This bill  
would result in more uninsured drivers on the road or force excluded drivers into the  
joint underwriting plan.

We thank this Committee for the opportunity to present testimony on this matter.

## TESTIMONY OF ALISON POWERS

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HOUSE COMMITTEE ON TRANSPORTATION  
Representative Joseph M. Souki, Chair  
Representative Linda Ichiyama, Vice Chair

Wednesday, February 1, 2012  
9:00 a.m.

### **HB 1878**

Chair Souki, Vice Chair Ichiyama and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **submits comments** on HB 1878. The bill would add a new section to exclude certain operators from motor vehicle insurance policies. HIC is neutral on the issue of operator exclusions because it is optional to the insurer. However, if a law is passed, the language should be clear and workable. We have been working with State Farm Mutual Insurance Company on an amendment to this bill should the Legislature decide this concept should move forward. HIC and State Farm have agreed to the following amendments as outlined in the attached HB 1878, proposed HD1.

In addition to amending language in the operator exclusion sections of the bill, we believe it is important to clarify that insured operators who chose to reject uninsured motorist coverage should not be eligible for assigned claims benefits. This specific language is contained in Section 5 of the attached HB 1878, proposed HD1.

Thank you for the opportunity to testify.

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# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The purpose of this Act is to establish a named  
2 operator exclusion in the Hawaii motor vehicle insurance code.

3 SECTION 2. Chapter 431:10C, Hawaii Revised Statutes, is  
4 amended by adding a new section to part III to be appropriately  
5 designated and to read as follows:

6 "§431:10C- . Exclusion of designated operators. (a)  
7 An insurer shall have the right to exclude, cancel, or refuse to  
8 renew coverage under a motor vehicle insurance policy as to  
9 designated operators. Any such exclusion shall be acknowledged  
10 by the signature of all named insureds. Any acknowledgment by  
11 signature of the excluded operator shall constitute prima facie  
12 proof that the operator knew he or she was excluded from  
13 coverage under the motor vehicle insurance policy.

14 (b) In the event that a person operates a vehicle from  
15 which the person is excluded from insurance coverage pursuant to  
16 this section, and does not otherwise have applicable motor  
17 vehicle insurance coverage, and causes property damage or

1 accidental harm to another person, that excluded operator shall  
2 be deemed uninsured for purposes of this article.

3 (c) No motor vehicle policy premium shall be increased in  
4 any manner, whether by surcharge, loss of discount or any other  
5 underwriting factor, related to any claim by a person who  
6 sustains property damage or accidental harm resulting from a  
7 motor vehicle accident caused by an excluded operator; provided  
8 that this subsection shall not apply to any policy that provides  
9 coverage to an excluded operator, or to any policy that provides  
10 liability coverage to other persons or entities as a result of a  
11 claim involving the operation of any motor vehicle by the  
12 excluded operator.

13 (d) No person shall operate a motor vehicle that is  
14 insured by a policy from which the person is excluded from  
15 insurance coverage, unless the excluded operator is otherwise  
16 covered by an applicable motor vehicle insurance policy.

17 (e) No owner of a motor vehicle insured by a policy that  
18 excludes a person from coverage shall permit the excluded  
19 operator to operate the insured motor vehicle, unless the  
20 excluded operator is otherwise covered by an applicable motor  
21 vehicle insurance policy."

1 SECTION 3. Section 431:10C-103, Hawaii Revised Statutes,  
2 is amended by amending the definition of "insured" to read as  
3 follows:

4 "Insured" means:

5 (1) The person identified by name as insured in a motor  
6 vehicle insurance policy complying with section 431:10C-301; and

7 (2) A person residing in the same household with a named  
8 insured, specifically:

9 (A) A spouse or reciprocal beneficiary or other  
10 relative of a named insured; and

11 (B) A minor in the custody of a named insured or  
12 of a relative residing in the same household  
13 with a named insured.

14 A person resides in the same household if the person  
15 usually makes the person's home in the same family unit, which  
16 may include reciprocal beneficiaries, even though the person  
17 temporarily lives elsewhere.

18 Notwithstanding paragraphs (2) (A) and (2) (B), "insured"  
19 shall not include operators who are named and excluded under a  
20 valid endorsement pursuant to section 431:10C- ."

21 SECTION 4. Section 431:10C-117, Hawaii Revised Statutes,  
22 is amended by amending subsection (a) to read as follows:

1           "(a) (1) Any person subject to this article in the  
2 capacity of the operator, owner, or registrant of a motor  
3 vehicle operated in this State, or registered in this State, who  
4 violates any applicable provision of this article, shall be  
5 subject to citation for the violation by any county police  
6 department in a form and manner approved by the traffic  
7 violations bureau of the district court of the first circuit;

8           (2) Notwithstanding any provision of the Hawaii Penal  
9 Code:

10           (A) Each violation shall be deemed a separate  
11 offense and shall be subject to a fine of  
12 not less than \$100 nor more than \$5,000  
13 which shall not be suspended except as  
14 provided in subparagraph (B); [~~and~~]

15           (B) If the person is convicted of not having had  
16 a motor vehicle insurance policy in effect  
17 at the time the citation was issued, the  
18 fine shall be \$500 for the first offense and  
19 a minimum of \$1,500 for each subsequent  
20 offense that occurs within a five-year  
21 period from any prior offense; provided that  
22 the judge:

1 (i) Shall have the discretion to suspend  
2 all or any portion of the fine if the  
3 defendant provides proof of having a  
4 current motor vehicle insurance policy;  
5 provided further that upon the  
6 defendant's request, the judge may  
7 grant community service in lieu of the  
8 fine, of not less than seventy-five  
9 hours and not more than one hundred  
10 hours for the first offense, and not  
11 less than two hundred hours nor more  
12 than two hundred seventy-five hours for  
13 the second offense; and

14 (ii) May grant community service in lieu of  
15 the fine for subsequent offenses at the  
16 judge's discretion;

17 (C) If the person is convicted of operating a  
18 motor vehicle from which the person was  
19 excluded from insurance coverage pursuant to  
20 section 431:10C- , the fine shall be a  
21 minimum of \$500 up to \$3,000 for the first  
22 offense and a minimum of \$1,500 for each

1                   subsequent offense that occurs within a five  
2                   year period from any prior offense; and  
3           (D) If the person is convicted of being an owner  
4                   who has permitted an excluded person to  
5                   operate a motor vehicle in violation of  
6                   section 431:10C- , the fine shall be a  
7                   minimum of \$500 up to \$3,000 for the first  
8                   offense and a minimum of \$1,500 for each  
9                   subsequent offense that occurs within a five  
10                   year period from any prior offense;

11           (3) With the exception of a conviction under paragraph  
12 (2) (D) of this section, the court [H]in addition to the fine in  
13 paragraph (2), [the court] shall either:

- 14           (A) Suspend the driver's license of the driver  
15                   or of the registered owner for:  
16                   (i) Three months for the first conviction;  
17                               and  
18                   (ii) One year for any subsequent offense  
19                               within a five-year period from a  
20                               previous offense;

21                   provided that the driver or the registered  
22                   owner shall not be required to obtain proof

1 of financial responsibility pursuant to  
2 section 287-20; or

3 (B) Require the driver or the registered owner  
4 to keep a nonrefundable motor vehicle  
5 insurance policy in force for six months;

6 (4) Any person cited under this section shall have an  
7 opportunity to present a good faith defense, including but not  
8 limited to lack of knowledge or proof of insurance. The general  
9 penalty provision of this section shall not apply to:

10 (A) Any operator of a motor vehicle owned by  
11 another person if the operator's own  
12 insurance covers such driving;

13 (B) Any operator of a motor vehicle owned by  
14 that person's employer during the normal  
15 scope of that person's employment; or

16 (C) Any operator of a borrowed motor vehicle if  
17 the operator holds a reasonable belief that  
18 the subject vehicle is insured;

19 (5) In the case of multiple convictions for driving  
20 without a valid motor vehicle insurance policy within a five-  
21 year period from any prior offense, the court, in addition to  
22 any other penalty, shall impose the following penalties:

- 1 (A) Imprisonment of not more than thirty days;
- 2 (B) Suspension or revocation of the motor
- 3 vehicle registration plates of the vehicle
- 4 involved;
- 5 (C) Impoundment, or impoundment and sale, of the
- 6 motor vehicle for the costs of storage and
- 7 other charges incident to seizure of the
- 8 vehicle, or any other cost involved pursuant
- 9 to section 431:10C-301; or
- 10 (D) Any combination of those penalties; and
- 11 (6) Any violation as provided in subsection (a) (2) (B)
- 12 shall not be deemed to be a traffic infraction as defined by
- 13 chapter 291D."

14 SECTION 5. Section 431:10C-408, Hawaii Revised Statutes,  
15 is amended by amending subsections (a) and (b) to read as  
16 follows:

17 "(a) Each person sustaining accidental harm, or such  
18 person's legal representative, may, except as provided in  
19 subsection (b), obtain the motor vehicle insurance benefits  
20 through the plan whenever:

1 (1) No liability or uninsured motorist insurance benefits  
2 under motor vehicle insurance policies are applicable  
3 to the accidental harm;

4 (2) No such insurance benefits applicable to the  
5 accidental harm can be identified; or

6 (3) The only identifiable insurance benefits under motor  
7 vehicle insurance policies applicable to the  
8 accidental harm will not be paid in full because of  
9 financial inability of one or more self-insurers or  
10 insurers to fulfill their obligations.

11 Notwithstanding the foregoing, a named insured who has  
12 rejected in writing the offer of uninsured motorist coverage  
13 under a motor vehicle insurance policy shall not be entitled to  
14 the rights of claim and action against the insurer, assigned  
15 under section 431:10C-403, with reference to the mandatory  
16 bodily injury liability policy for accidental harm."

17 "(b) A person, or such person's legal representative,  
18 shall be disqualified from receiving benefits through the plan  
19 if:

20 (1) Such person is disqualified for criminal conduct under  
21 section 431:10C-305(d) from receiving the motor  
22 vehicle insurance benefits; or

1 (2) Such person was:

2 (A) The owner or registrant of the motor vehicle at  
3 the time of the motor vehicle's involvement in  
4 the accident out of which such person's  
5 accidental harm arose;

6 (B) The operator or any passenger of such a vehicle at  
7 such time with reason to believe that such  
8 vehicle was an uninsured motor vehicle; or

9 (C) The operator of a motor vehicle from which the  
10 person was excluded from insurance coverage under  
11 section 431:10C- at the time of the motor  
12 vehicle's involvement in the accident out of  
13 which such excluded operator's accidental harm  
14 arose.

15 SECTION 6. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun, before its effective date.

18 SECTION 7. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect upon its approval.  
21

22

**HOUSE COMMITTEE ON  
TRANSPORTATION**

February 1, 2012

House Bill 1878 Relating to Motor Vehicle Insurance

Chair Souki and members of the House Committee on Transportation, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm supports House Bill 1878 with additional amendments which have been crafted with the assistance of the Hawaii Insurers Council. A copy of which is attached.

Hawaii insurance laws do not provide the option of excluding drivers from a household. For example, if one driver in a household of six insured drivers is convicted of operating a vehicle under the influence of an intoxicant, the insurance for that household would be increased because of that one driver. In other states that allow Driver Exclusion agreements, State Farm has been able to minimize the impact on the remaining household drivers by allowing the named driver to be excluded from the other policies. As a result of Hawaii's insurance laws, insureds are faced with two choices: retain the household with an adverse driver or cancel the entire household and seek other insurance. This problem is magnified when considering Hawaii's multigenerational housing characteristics. The household members with acceptable risk profiles are faced with the additional time and expense necessary to transfer insurance to a company willing to insure high-risk individuals; since they are insuring in a pool with higher risk characteristics, they may be unable to find affordable insurance.

We respectfully ask for your support and approval of the proposed HD 1. Thank you for the opportunity to present this testimony.

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6           "§431:10C-           . Exclusion of designated operators. (a)  
7 An insurer shall have the right to exclude, cancel, or refuse to  
8 renew coverage under a motor vehicle insurance policy as to  
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10 by the signature of all named insureds. Any acknowledgment by  
11 signature of the excluded operator shall constitute prima facie  
12 proof that the operator knew he or she was excluded from  
13 coverage under the motor vehicle insurance policy.

14           (b) In the event that a person operates a vehicle from  
15 which the person is excluded from insurance coverage pursuant to  
16 this section, and does not otherwise have applicable motor  
17 vehicle insurance coverage, and causes property damage or

1 accidental harm to another person, that excluded operator shall  
2 be deemed uninsured for purposes of this article.

3 (c) No motor vehicle policy premium shall be increased in  
4 any manner, whether by surcharge, loss of discount or any other  
5 underwriting factor, related to any claim by a person who  
6 sustains property damage or accidental harm resulting from a  
7 motor vehicle accident caused by an excluded operator; provided  
8 that this subsection shall not apply to any policy that does  
9 provide coverage to an excluded operator, or to any policy that  
10 provides liability coverage to other persons or entities as a  
11 result of a claim involving the operation of any motor vehicle  
12 by the excluded operator.

13 (d) No person shall operate a motor vehicle that is  
14 insured by a policy from which the person is excluded from  
15 insurance coverage, unless the excluded operator is otherwise  
16 covered by an applicable motor vehicle insurance policy.

17 (e) No owner of a motor vehicle insured by a policy that  
18 excludes a person from coverage shall permit the excluded  
19 operator to operate the insured motor vehicle, unless the  
20 excluded operator is otherwise covered by an applicable motor  
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4 (2) A person residing in the same household with a named  
5 insured, specifically:

6 (A) A spouse or reciprocal beneficiary or other  
7 relative of a named insured; and

8 (B) A minor in the custody of a named insured or  
9 of a relative residing in the same household  
10 with a named insured.

11 A person resides in the same household if the person  
12 usually makes the person's home in the same family unit, which  
13 may include reciprocal beneficiaries, even though the person  
14 temporarily lives elsewhere.

15 Notwithstanding paragraphs (2) (A) and (2) (B), "insured"  
16 shall not include operators who are named and excluded under a  
17 valid endorsement pursuant to section 431:10C- ."

18 SECTION 4. Section 431:10C-117, Hawaii Revised Statutes,  
19 is amended by amending subsection (a) to read as follows:

20 "(a) (1) Any person subject to this article in the  
21 capacity of the operator, owner, or registrant of a motor  
22 vehicle operated in this State, or registered in this State, who  
23 violates any applicable provision of this article, shall be  
24 subject to citation for the violation by any county police

1 department in a form and manner approved by the traffic  
2 violations bureau of the district court of the first circuit;

3 (2) Notwithstanding any provision of the Hawaii Penal  
4 Code:

5 (A) Each violation shall be deemed a separate  
6 offense and shall be subject to a fine of  
7 not less than \$100 nor more than \$5,000  
8 which shall not be suspended except as  
9 provided in subparagraph (B); [~~and~~]

10 (B) If the person is convicted of not having had  
11 a motor vehicle insurance policy in effect  
12 at the time the citation was issued, the  
13 fine shall be \$500 for the first offense and  
14 a minimum of \$1,500 for each subsequent  
15 offense that occurs within a five-year  
16 period from any prior offense; provided that  
17 the judge:

18 (i) Shall have the discretion to suspend  
19 all or any portion of the fine if the  
20 defendant provides proof of having a  
21 current motor vehicle insurance policy;  
22 provided further that upon the  
23 defendant's request, the judge may  
24 grant community service in lieu of the

1 fine, of not less than seventy-five  
2 hours and not more than one hundred  
3 hours for the first offense, and not  
4 less than two hundred hours nor more  
5 than two hundred seventy-five hours for  
6 the second offense; and

7 (ii) May grant community service in lieu of  
8 the fine for subsequent offenses at the  
9 judge's discretion;

10 (C) If the person is convicted of operating a  
11 motor vehicle from which the person was  
12 excluded from insurance coverage pursuant to  
13 section 431:10C- , the fine shall be a  
14 minimum of \$500 up to \$3,000 for the first  
15 offense and a minimum of \$1,500 for each  
16 subsequent offense that occurs within a five  
17 year period from any prior offense; and

18 (D) If the person is convicted of being an owner  
19 who has permitted an excluded person to  
20 operate a motor vehicle in violation of  
21 section 431:10C- , the fine shall be a  
22 minimum of \$500 up to \$3,000 for the first  
23 offense and a minimum of \$1,500 for each  
24 subsequent offense that occurs within a five

1                   year period from any prior offense;

2           (3) With the exception of a conviction under paragraph  
3 (2)(D) of this section, the court [~~it~~in addition to the fine in  
4 paragraph (2), [~~the court~~] shall either:

5                   (A) Suspend the driver's license of the driver  
6                   or of the registered owner for:

7                           (i) Three months for the first conviction;  
8   and

9                           (ii) One year for any subsequent offense  
10    within a five-year period from a  
11    previous offense;

12    provided that the driver or the registered  
13    owner shall not be required to obtain proof  
14    of financial responsibility pursuant to  
15    section 287-20; or

16                   (B) Require the driver or the registered owner  
17    to keep a nonrefundable motor vehicle  
18    insurance policy in force for six months;

19           (4) Any person cited under this section shall have an  
20 opportunity to present a good faith defense, including but not  
21 limited to lack of knowledge or proof of insurance. The general  
22 penalty provision of this section shall not apply to:

1 (A) Any operator of a motor vehicle owned by  
2 another person if the operator's own  
3 insurance covers such driving;

4 (B) Any operator of a motor vehicle owned by  
5 that person's employer during the normal  
6 scope of that person's employment; or

7 (C) Any operator of a borrowed motor vehicle if  
8 the operator holds a reasonable belief that  
9 the subject vehicle is insured;

10 (5) In the case of multiple convictions for driving  
11 without a valid motor vehicle insurance policy within a five-  
12 year period from any prior offense, the court, in addition to  
13 any other penalty, shall impose the following penalties:

14 (A) Imprisonment of not more than thirty days;

15 (B) Suspension or revocation of the motor  
16 vehicle registration plates of the vehicle  
17 involved;

18 (C) Impoundment, or impoundment and sale, of the  
19 motor vehicle for the costs of storage and  
20 other charges incident to seizure of the  
21 vehicle, or any other cost involved pursuant  
22 to section 431:10C-301; or

23 (D) Any combination of those penalties; and

1           (6) Any violation as provided in subsection (a) (2) (B)  
2 shall not be deemed to be a traffic infraction as defined by  
3 chapter 291D."

4           SECTION 5. Section 431:10C-408, Hawaii Revised Statutes,  
5 is amended by amending subsections (a) and (b) to read as  
6 follows:

7           "(a) Each person sustaining accidental harm, or such  
8 person's legal representative, may, except as provided in  
9 subsection (b), obtain the motor vehicle insurance benefits  
10 through the plan whenever:

11           (1) No liability or uninsured motorist insurance benefits  
12 under motor vehicle insurance policies are applicable  
13 to the accidental harm;

14           (2) No such insurance benefits applicable to the  
15 accidental harm can be identified; or

16           (3) The only identifiable insurance benefits under motor  
17 vehicle insurance policies applicable to the  
18 accidental harm will not be paid in full because of  
19 financial inability of one or more self-insurers or  
20 insurers to fulfill their obligations.

21           Notwithstanding the foregoing, a named insured who has  
22 rejected in writing the offer of uninsured motorist coverage  
23 under a motor vehicle insurance policy shall not be entitled to  
24 the rights of claim and action against the insurer, assigned

1 under section 431:10C-403, with reference to the mandatory  
2 bodily injury liability policy for accidental harm."

3 " (b) A person, or such person's legal representative,  
4 shall be disqualified from receiving benefits through the plan  
5 if:

6 (1) Such person is disqualified for criminal conduct under  
7 section 431:10C-305(d) from receiving the motor  
8 vehicle insurance benefits; or

9 (2) Such person was:

10 (A) The owner or registrant of the motor vehicle at  
11 the time of the motor vehicle's involvement in  
12 the accident out of which such person's  
13 accidental harm arose;

14 (B) The operator or any passenger of such a vehicle at  
15 such time with reason to believe that such  
16 vehicle was an uninsured motor vehicle-; or

17 (C) The operator of a motor vehicle from which the  
18 person was excluded from insurance coverage under  
19 section 431:10C- at the time of the motor  
20 vehicle's involvement in the accident out of  
21 which such excluded operator's accidental harm  
22 arose.

1           SECTION 6. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun, before its effective date.

4           SECTION 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 8. This Act shall take effect upon its approval.

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ) REGARDING H.B. NO. 1878**

Date: Wednesday, February 1, 2012  
Time: 9:00 am

To: Chairman Joseph Souki and Members of the House Committee on Transportation:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) REGARDING H.B. No. 1878, relating to Motor Vehicle Insurance.

The prevailing practice among major automobile insurers is to base premiums upon all of the drivers in the household not just the named insured. This can cause considerable financial hardship to innocent family members if there are one or more irresponsible drivers in the household. Some innocent family members may find that they cannot afford the higher premiums and may be forced to drive uninsured. This bill seeks to afford relief in these situations by allowing insurers to exclude the irresponsible drivers from coverage which would allow them to offer lower premiums; and avoid paying benefits when an excluded driver "borrows" the car and gets into an accident.

HAJ is not unsympathetic to the plight of innocent family members caught in this situation. The reality of the situation, however, must be considered. These excluded drivers are going to continue to drive these cars, just as they do now, because they are, well, irresponsible. These are the same people who continue to drive with suspended or revoked licenses, drive uninsured, or have their cars registered in the names of family or friends because their own traffic records are so bad that they cannot buy their own insurance at rates they can afford. They will get into accidents. They will damage other

peoples' cars and injure innocent drivers, passengers and pedestrians. The insurance company will be off-the-hook and will walk away. Ultimately the innocent people they hit will be left holding the bag and will have to bear the entire financial losses caused by accidents with excluded drivers.

If, as a matter of public policy, insurers will be permitted to exclude these irresponsible drivers from coverage, then there should be access to the Joint Underwriting Plan (JUP) assigned risks program for all who are injured by excluded drivers. This will permit an equitable spreading of the risk among the entire driving population and not result in a random imposition of financial hardship on the victims of excluded drivers. We ask that lines 8 through 11 be deleted on page 9 to allow uniform application of JUP benefits to all persons harmed by excluded drivers. As currently drafted, this bill would not provide JUP benefits to someone who rejected optional uninsured motorist benefits on their own policy. Particularly in these difficult economic times, drivers should not be forced to pay extra for optional uninsured motorist benefits in order to protect themselves from excluded drivers. Rather, the damage done by excluded drivers should be spread fairly and evenly through the JUP assigned risks program to everyone. That way, everyone will pay a very small amount and no single person (including family members of the excluded driver) will suffer a large loss.

Thank you very much for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

## ichiyama1 - Curi

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2012 1:27 PM  
**To:** TRNtestimony  
**Cc:** crataj@namic.org  
**Subject:** Testimony for HB1878 on 2/1/2012 9:00:00 AM  
**Attachments:** HI HB 1878 Fact Sheet.docx

Testimony for TRN 2/1/2012 9:00:00 AM HB1878

Conference room: 309  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Christian Rataj  
Organization: NAMIC  
E-mail: [crataj@namic.org](mailto:crataj@namic.org)  
Submitted on: 1/31/2012

Comments:

**Please VOTE YES on pro-insurance consumer choice bill  
HB 1878, Excluded Driver Endorsement**

**What the bill is about:**

**HB 1878** will allow insurance companies the opportunity to offer to consumers a driver exclusion endorsement to enable a named insured to exclude specified persons from being covered under the insured's motor vehicle insurance policy. The proposed legislation also amends the law on fines and penalties for operating a motor vehicle without state required automobile insurance coverage.

**Reasons to support the bill:**

- HB 1878 is a *pro-consumer choice bill* that will allow a policyholder greater freedom to decide who should be covered under his/her automobile insurance policy and who should be excluded from his/her policy.
- The proposed legislation *will assist insurers in their underwriting efforts to provide consumers with automobile insurance rates that are commensurate with the policyholder's personal risk of loss exposure.* Current state law requires consumers to purchase an automobile insurance policy where they cannot exclude a high risk driver; thereby forcing the consumer to have to pay for a risk of loss exposure (the excluded driver) that they may not want to insurer; and
- The uninsured motorist fines and penalties provision in HB 1878 *may deter individuals from trying to "game the system" and hide their uninsured motorist status* from law enforcement by alleging that they are a permissive-use driver under another person's automobile insurance policyholder. HB 1878 will allow insurers and their policyholders to expressly exclude these driver's from coverage so that they will not be able to avoid prosecution for being an uninsured driver.

**PLEASE VOTE YES ON HB 1878, and protect automobile insurance consumer from having to pay the cost of having to provide automobile insurance for uninsured motorists!**

**Fact-sheet has been prepared and submitted by Christian Rataj of the National Association of Mutual Insurance Companies (NAMIC), in lieu of written testimony to the House Transportation Committee.** NAMIC is the largest and most diverse national property/casualty insurance trade and political advocacy association in the United States. Its 1,400 member companies write all lines of property/casualty insurance business and include small, single-state, regional, and national carriers accounting for 50 percent of the automobile/ homeowners market and 31 percent of the business insurance market. NAMIC has been advocating for a strong and vibrant insurance industry since its inception in 1895. NAMIC has 59 member insurance carriers doing business in the state of Hawaii, who write approximately 27% of the property/casualty insurance business in the state.