



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
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**IKAIKA ANDERSON**

*Council Vice Chair*

*Councilmember, District 3*

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February 1, 2012

Rep. Joseph M. Souki, Chair  
House Committee on Transportation  
Hawaii State Capitol, Room 433

**RE: Testimony in Support of HB 2649**

I would like to offer testimony in support of HB 2649, Relating to the Statewide Traffic Code, as this measure would enable the counties to implement a vehicle boot program to ensure that motor vehicles whose owners have not fulfilled their financial obligations are not permitted to be operated on public roadways.

In 2008, in response to a request by the Honolulu City Council, the Honolulu Police Department studied the feasibility of implementing a "Smart Boot" program similar to those already in place in other municipalities.

The report found that as of 2008 the number of vehicles with three or more outstanding parking violations totaled 6,624 with a total of nearly \$1.5M in outstanding fines. Additionally, it is remarkable to note that the study also found that in 2007, of the 660,377 vehicles registered in Honolulu nearly 27,000 citations for lack of motor vehicle insurance were issued. The fines associated with these citations had a range of \$13.5M to \$40M—it is important to note that without a centralized insurance database, it would be very difficult for a "Smart Boot" to be used to address uninsured vehicles. The projected annual cost, to the City and County of Honolulu ("City"), for the implementation of boot program was approximately \$1M.

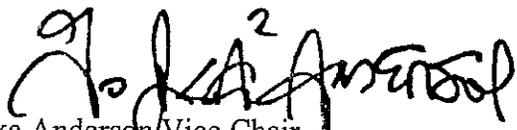
Without the approval of the legislature, the City would not be able to implement a "Smart Boot" program. Additionally, the relatively high cost of the program would require that the City share in the proceeds from fines collected to ensure that the program is sustainable. Based on the 2008 feasibility study it is clear that, at best, the program would be nearly revenue neutral. Although numerous efforts have been made by the State and counties to restrict drivers with outstanding financial obligations from using public roads, we are all aware that these current methods have limited success. I believe that a "Smart Boot" program would also

help to streamline the current process through which outstanding financial obligations are addressed, helping to reduce costs to our mutual taxpayers.

Under the current system the owner of a motor vehicle who has outstanding violations will have a "stopper" placed on the motor vehicle registered to them. At best, this program has the delinquent owner shuffle between Satellite City Hall and the Circuit Court which results in an increased workload for the clerks at the respective offices. At worst, this program simply creates an incentive for the delinquent party to not pay their registration fees and vehicle taxes.

I have already introduced legislation at the City Council in anticipation of your committee's favorable approval of this enabling legislation and it is my hope that by implementing this program a clear message can be conveyed that those who do not meet their financial obligations risk losing the use of their vehicles.

Mahalo,

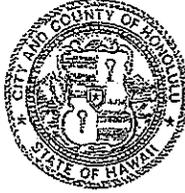
A handwritten signature in black ink, appearing to read "Ikaika Anderson". The signature is stylized with a large initial "I" and a superscript "2" above the "A".

Ikaika Anderson Vice Chair  
Councilmember, District 3  
Honolulu City & County of Honolulu

FOLIGE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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MOPI HANAKUHI  
KAYCP



BOISSE P. CORREA  
CHIEF

PAUL D. PUTZLU  
YARL A. BOOSEY  
DEPUTY CHIEFS

OUR REFERENCE TN-LC (264902)

December 1, 2008

RECEIVED

DEC 1 3 19 PM '08

CITY CLERK  
HONOLULU, HAWAII

The Honorable Todd Apo, Chair  
and Members  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Apo and Councilmembers:

This is in response to Resolution 08-112, CD1, Requesting a Study of the Feasibility of Instituting a "Smart Boot" Program in the City, submitted by Councilmember Charles Djou.

This study was prepared by the Honolulu Police Department with the cooperation of the City agencies and the private contractor, PayLock Inc.

The conclusion of this study finds that whichever method of booting is selected, the City and taxpayers will incur the burden of the cost. The focal point of this program is dependent on the existing laws and any amendments by the legislature. If the City is to undertake such a program, a share of the fines collected from outstanding parking fines should be retained by the City.

Should you have any questions, please have a member of your staff contact Major Thomas Nitta of the Traffic Division at 529-3105.

Sincerely,

Boisse P. Correa  
Chief of Police

Enclosure

APPROVED:

Wayne M. Hashiro, P.E.  
Managing Director

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CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
"SMART BOOT" STUDY

CITY COUNCIL RESOLUTION 08-112, CD1

On June 4, 2008, the City Council of the City and County of Honolulu adopted Resolution 08-112, CD1, REQUESTING A STUDY OF THE FEASIBILITY OF INSTITUTING A "SMART BOOT" PROGRAM IN THE CITY.

PURPOSE

The purpose of Resolution 08-112, CD1 is to investigate the "Denver Smart Boot" program and determine the feasibility of implementing a similar program in the City and County of Honolulu. The "Denver Smart Boot" is a name given to a device which is clamped onto both the inside and outside of a wheel rim on a motor vehicle and tightened with a bolt and extending about 18 inches to cover the hubcap to prevent the car owner from gaining access to the lug nuts and removing the wheel. The newer model can be released by pushing a combination of buttons on the device.

PROGRAM

A typical "Denver Smart Boot" program involves identifying motor vehicles that have three parking citations that were not paid for 90 days or more. When the vehicle is located, the boot is placed on one of the vehicle's tires/rim that prohibits the vehicle from being driven off. The boot would only be removed if the driver pays the fines for all of the outstanding parking citations. As part of the release of the boot, the driver would also be required to pay a fee for removal of the boot.

METHODOLOGY OF THE STUDY

The approach to this study examines:

- Identifying the agencies that are involved in a "Smart Boot" program.
- Identifying the laws that authorize or prohibit the city from instituting a program.
- Obtaining information, operations, and costs from other cities that have the "Smart Boot" program for outstanding parking violations.
- Obtaining the cost should the City and County of Honolulu implement this program.

Cities with a Smart Boot Program

Contact was made with PayLock Inc. regarding "Smart Boot" programs in cities they contracted to be researched. The following cities were given to me to contact:

- Fredericksburg, Virginia
- Prince George's County, Maryland

- Richmond, Virginia
- Denver, Colorado
- New Orleans, Louisiana
- Syracuse, New York

The directors of the program were asked to complete a set of questions to help with this research. The questions were:

- When was the boot program started in your city?
- Did any laws have to be changed or added?
- Where do the fines for the delinquent citations go?
- Where do the fees for the boot release go?
- What is the charge for the boot if not returned? Who does the chasing for the boot?
- In the contract, what does PayLock provide?
- Who is the boot program assigned to, what agency?
- What does the City provide and the number of people?
- What is the expense to the City?

Attached is a matrix of the cities and questions and the answers received. In almost all programs, PayLock Inc. furnishes the boots, 24/7 call-in services, mobile license plate recognition camera and software, and management of outstanding citations. The City furnishes the vans used for the booting and cameras and the booting staff that ranges from 1 to 6 people. In all cases, the fines from the delinquent citations are paid and entered into the City General Funds. Both PayLock Inc. and the City divide the booting release fees.

### Identifying Agencies

There was no discussion as to which city agency would be responsible for the operation of the program. Whoever is assigned to operate this program will be responsible for the operation or outsourcing to a private company.

There are a number of companies nationwide that partner with enforcement agencies for conventional booting programs. However, PayLock Inc. is the only company that has a pattern for the "Smart Boot" that is self-releasing. Most cities found it effective to subcontract most of the process of booting vehicles to a private contractor and the City (in this case, the State of Hawaii) receives not only the citation fees, but also an administrative fee. Should Honolulu choose to subcontract the entire process to PayLock Inc., there would be no out-of-pocket expense to the City. The outsourcing to a private company may give rise to union issues on the part of employees and their job description.

In support of identifying the vehicles that have three or more outstanding parking violations that are more than 90 days overdue, the Judiciary's Justice Information Management System (JIMS) must be the conduit. This system must not only identify

these vehicles, but must be able to develop a program to automatically update the information on a daily basis. The program must first be able to identify all unpaid parking citations for more than 90 days, then identify these unpaid citations by their license plate numbers, and select the same license plates with three or more outstanding violations. However, there may be situations that will meet the criteria, but may have different registered owners. Based on these criteria, JIMS recognized that there were 6,624 vehicles with a total of \$1.5 million in outstanding parking citations. This equated to \$246 per vehicle. A breakdown of the vehicles showed that there was 1 vehicle having 90 outstanding citations, 25 vehicles with 50 to 90 citations, 643 vehicles with 10 to 49 citations, 1,725 vehicles with 5 to 9 citations, and 4,231 vehicles with 3 to 4 citations.

Section 291D-6, Hawaii Revised Statutes (HRS), requires that the registered owner must respond to the notice of the traffic infraction within 21 days from the date the notice was issued. Failure to pay will result in a default judgment by the courts. When a default judgment is ruled by the court, in accordance with section 291D-7(e), HRS, a notice of default will be sent informing them that the payment must be made within 30 days. After 30 days of the default judgment, if no payment was received, section 291D-10(b), HRS, the courts will prevent the renewal or transfer of their motor vehicle registration. After 90 days from the issuance of the citation, the citation will be sent to a collection agency to recover the monetary amount due on the citation(s). This operation must be kept separate from the "Smart Boot" operation even though it will be a double entry into the system. This could be an issue with the Judiciary or the collection agency as they receive an amount on what they collect.

#### Affected Laws

HRS laws that may affect the institution of this program were researched. These pertained to parking and the procedures for disposing of a citation. The research was limited to Chapters 291C, Statewide Traffic Code, and 291D, Adjudication of Traffic Infractions. This did not include other laws or rules that may also affect the operation and institution of the "Smart Boot" program, e.g., Hawaii Supreme Court rules. The research of other laws, which may apply to the operation and institution, is beyond the scope and capability of this study. It is suggested that this be deferred to the City Corporation Counsel to research. The following laws apply:

**§291C-111 Noncompliance with stopping, standing, or parking requirements.** (a) With respect to highways under their respective jurisdictions, the director of transportation is authorized to and the counties by ordinance may prohibit or restrict the stopping, standing, or parking of vehicles where the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would interfere unduly with the free movement of traffic; provided that the violation of any law or any ordinance, regardless of whether established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles shall constitute a traffic infraction. The counties shall not provide any other penalty, civil or criminal, or any other charge, in the form of rental or otherwise, in place of or in addition to the fine to be imposed by the district court for any violation of any ordinance prohibiting or restricting the stopping, standing, or parking of vehicles.

Section 291C-111, Hawaii Revised Statutes, prohibits the counties to provide for any other penalties (civil or criminal) or other charges. By instituting the "Smart Boot" program, the counties will be imposing other penalties or charges to the owners who fail to pay for their parking violation, which is contrary to section 291C-111, HRS.

**§291C-171 Disposition of fines and forfeitures.** (a) All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of the state traffic laws and all assessments collected relating to the commission of traffic infractions shall be paid to the director of finance of the State.

This reaffirms that all fines collected is paid to the State and becomes their property. This would prohibit the counties from any fine sharing collected from the "Smart Boot."

[§291C-171.5] **Collection of fines and costs.** (a) Unless discharged by payment or service of imprisonment in default of a fine, a fine may be collected in the same manner as a judgment in a civil action.  
 (b) Costs may be collected in the same manner as a judgment in a civil action, but shall not be deemed part of the penalty, and no person shall be imprisoned under this section in default of payment of costs.  
 (c) The state attorney general may institute proceedings to collect the fine, and costs, including interest and attorney's fees, as a civil judgment in the court of appropriate jurisdiction.

This is the authority for the collection of outstanding fines by a collection agency for these citations. All monetary assessments are the property of the State and are therefore kept by the State. Should the City enact a "Smart Boot" law, all fees resulting from the "Smart Boot" will be turned over to the State unless the law or the proceedings of the attorney general are changed.

**§291D-10 Restriction on driver's license and motor vehicle registration.** (b) In all cases where the registered owner of a motor vehicle to which a notice of traffic infraction has been issued fails to pay the total amount of fines, fees, surcharges, costs, or monetary assessments that have been ordered, the court shall cause an entry to be made in the motor vehicle's record so as to prevent issuance or renewal of the motor vehicle's certificate of registration and transfer of title to the motor vehicle until the outstanding amount is paid or the notice of traffic infraction is otherwise disposed of pursuant to this chapter;

This section prevents registering a motor vehicle if any citation issued to a person or vehicle is not paid. In order to remove the restriction, the owner, in the case of the parking citation, must pay for any outstanding citations and obtain a clearance from the courts before a vehicle can be registered.

Notwithstanding any other applicable laws that may preclude the counties from establishing a "Smart Boot" program to the contrary, the City's Corporation Counsel must examine these laws. Recommended legislation to amend these laws should be made prior to the implementation of the "Smart Boot."

### Information, Operations, and Costs

This study referred to PayLock Inc. of New Jersey for information regarding the "Smart Boot" program in various cities they service may be obtained on their web site at <http://paylock.com>. PayLock Inc. is a progressive company that offers a complete arsenal of parking enforcement products and services. It provides solutions that produce immediate results without the risk of large upfront investments. Its services are based on contingency fees and generally have no out-of-pocket expenses to its customers.

It was noted that each city had their own legal problems with existing laws and their own way to operate the program. Where laws were amended, PayLock Inc. helped in testifying and in educating those who did not understand the changes. Their standard contract usually includes furnishing the vehicle boots and the Mobile License Plate Recognition (MLPR) system. The company will also provide for clearing the outstanding fines by providing a toll-free telephone number for the owners to call and pay for the outstanding fines and booting fees. In other words, PayLock Inc. would take payment of the outstanding fines over the phone that would also include the payment for the pass code on the boot for the operator to remove the boot. The vehicle's operator would be required to take the boot to a location designated in the city within a certain time limit or be faced with additional cost in late fees. PayLock Inc. will arrange to enter the payment for the outstanding citations and have it removed from the delinquent list to preclude any double charges. Their contractual fees based on this service may range from \$85 to \$150 per booted vehicle, which is based on the number of vehicles in violation. The negotiation of the contract would involve a study of the city or state's outstanding violations and geographical environment before assessing the cost.

It should be noted that PayLock Inc.'s standard contract does not include the personnel resources that would do the locating, identifying, booting, receiving the boot back, or any other local service that may be required. However, should the City contract PayLock Inc. to provide the personnel for these duties, they will hire the required personnel, but will raise the contract fees per vehicle.

The following is reflective of PayLock Inc.'s operations in the various cities and the city's charges for the boot:

City	Boot Fee
Pittsburgh, PA	\$300
San Francisco, CA	\$205
Houston, TX	\$200
Hoboken, NJ	\$150
Los Angeles, CA	\$150
Fredericksburg, VA	\$150
Jersey City, NJ	\$135
Thornton, CO	\$130
Montgomery County, MD	\$115
Wilmington, DE	\$100
Dallas, TX	\$100
Philadelphia, PA	\$100
Hagerstown, MD	\$100
Orlando, FL	\$100
Baltimore, MD	\$100
Prince George's County, MD	\$100
Norwalk, CT	\$85
Washington, DC	\$75
New Orleans, LA	\$75
Chicago, IL	\$60
Richmond, VA	\$60
Boston, MA	\$56
Denver, CO	\$50
Detroit, MI	\$50
St. Louis, MO	\$50
Syracuse, NY	\$50

Should the City take over the entire operation of the "Smart Boot" program, the cost to the City would include the purchase of office space, computers and software, van(s), MLPR system and cameras, dedicated phones, smart boots, and personnel. The initial cost for the implementation of this operation would be a minimum of:

1. Office space (recurring expense) - \$4,000 per month x 12	\$48,000
2. Telephone system (recurring expense) \$200 per month x 12	2,400
3. 3 office computers at \$1,500 each	4,500
4. 3 software for computers and licenses at \$1,500 each	4,500
5. 15 boots at \$500 each	7,500
6. 1 van	50,000
7. MLPR	50,000
8. 12 personnel to operate a 24/7 operation per year	864,000
<b>Approximate total for the first year</b>	<b>\$1,030,900</b>

**\*\*\*Additional costs to interface and program delinquent citations are not included. This cost would be at the expense of the JIMS.**

Should the City contract out to PayLock Inc expenses would be reduced accordingly:

1. Office space (recurring expense) - \$4,000 per month x 12	\$48,000
2. Telephone system (reoccurring expense) \$200 per month x 12	2,400
3. 12 personnel to operate a 24/7 operation per year	864,000
4. 1 vehicle van	50,000
<b>Approximate total cost for first year</b>	<b>\$964,400</b>

**\*\*\*Additional costs to interface and program delinquent citations are not included. This cost would be at the expense of the JIMS.**

#### UNINSURED VEHICLE DATABASE

The application of the "Smart Boot" program toward uninsured motor vehicles will be difficult to implement. In 2007, of the 660,377 vehicles that were registered in Honolulu, the police department issued more than 27,000 citations for having no motor vehicle insurance. The fines associated with this number of citations would be a minimum of \$13.5M and a maximum of \$40.5M. The National Insurance Crime Bureau was unable to locate any Canadian or state in the United States that used the "Smart Boot" for uninsured motor vehicles. No state could be located that had applied the "Smart Boot" to uninsured vehicles. The problem may have been a lack of or not having a national or local insurance database established. There have been numerous attempts to establish an insurance database in Hawaii during the legislative sessions. However, there has been much opposition by the insurance industry because of the cost in establishing such a database. For the lack of an insurance database, it would not be possible to apply the "Smart Boot" program against vehicles with no insurance.

## SUMMARY

The "Smart Boot" program is currently being used in several major cities in the United States. The program consists of identifying vehicles that have three or more outstanding parking citations and attaching a wheel boot to that vehicle if parked on a public roadway. To remove the boot, the operator must first call a toll-free phone number and pay for the outstanding parking citations and the fee for the boot. Once paid, should they choose to remove it themselves, a pass code will be given and the boot can be removed. However, the operator must return the boot to a specified location within a prescribed time or an additional late fee will be assessed. Should the operators choose not to remove the boot themselves, they may request that a representative from the company go out and remove it.

The cost to have the boot removed is dependent on the City. The fees may include the cost of a contractor or may include the contractor's price and an assessment by the City. In the prices submitted from PayLock Inc., the range of fees is from \$50 to \$300. If a \$50 fee is assessed, it may mean that the \$50 is what the contractor will receive and the City will be paid from the fine for the outstanding citations. The high fee may include an amount to the contractor and the City.

Because the City and County of Honolulu does not receive any fines from parking citations, it would have to assess a higher fee for the boot. However, should the section 291C-171.5, HRS be interpreted that the City cannot assess additional penalties on a citation, all monies from the boot fee will become the property of the State. All applicable State laws pertaining to the citation fees must be researched further and legislation must be considered to change the laws that will authorize the City to pass an ordinance for the "Smart Boot." Before the "Smart Boot" can be considered, the laws authorizing the City to implement it must first be enacted. Without the authority, all proceeds that might have gone to the City will go back to the State.

	When was the boot program started?	Did laws have to be changed? *	Where do the fines for delinquent fines go?	Where do the fees for the boot release go?	What is the charge for the boot if not returned? Where does the money go?	What happens if the boot is not returned? Who does the chasing for the boot?	In a contract, what does PayLock provide?	Who is the boot program assigned to – what agency?	What does the City provide – no. of people?	What is the expense to the City?
Fredericksburg, Virginia	July 17, 2008	No laws were changed or added.	City General Fund.	No fees for the release of boot.	There is a charge of \$500 by PayLock. This is charged to credit card.	It is PayLocks responsibility. City will help any way they can.	PayLock provides: -Boots -Camera -Backroom operation 24/7	City Treasurers Office	1 vehicle and 1 driver.	1 vehicle and 1 driver.
Prince George's County, Maryland	January 7, 2008	Some of the laws already existed. New law for the boot was passed	County General Fund.	County General Fund.	There is a charge of \$500 by PayLock. This is charged to credit card.	PayLock handles all non-returned boots and related issues.	PayLock provides: -Boots -Camera -Backroom operation	Existing enforcement agency.	Two-member boot teams and vans	2 personnel and vehicle expenses.
Richmond, Virginia	January 1, 2006	Some of the laws already existed. New law for the boot was passed	City General Fund.	City General Fund.	There is a charge of \$500 by PayLock. This is charged to credit card.	\$500 is charged if boot not returned w/in 24 hours or if boot is damaged. PayLock is the owner of the boot and therefore would go after charges and City would help.	PayLock provides: -System -Equipment -24/7 Backroom operations The Booting Team is by Lanier Parking	Department of General Service – contracted to Lanier Parking.	Dept. of Finance accepts credit card and cash payments only. Staff of 5 handles parking issues and boot.	Boot van, maintenance and fuel. PayLock collects on a tiered system: 1. If PayLock collects between \$00 - \$99.99 City pays \$47.60, 2. If they collect between \$100 - \$249.99- City pays \$66.50.
Denver, Colorado	For more than 20 years ago.	Some of the laws already existed. New law for the boot was passed.	City General Funds.	Percentage goes to PayLock (\$45) and the rest to the City.	There is a charge of \$800 by PayLock. This is charged to credit card.	PayLock will charge your credit card \$800. It will be up to PayLock to pursue criminal actions since the equipment belongs to them.	PayLock furnishes: -70 boots -30% are big boots -Tech services -24/7 Phone Service for release of boots	Public Works	2 Vans 6 People 2 Cameras	Payment of the van and personnel and cameras (MLPR – Mobile License Plate Recognition \$40K per set, they have 2 sets)

	When was the boot program started?	Did laws have to be changed?	Where do the fines for delinquent fines go?	Where do the fees for the boot release go?	What is the charge for the boot if not returned? Where does the money go?	What happens if the boot is not returned? Who does the chasing for the boot?	In a contract, what does PayLock provide?	Who is the boot program assigned to – what agency?	What does the City provide – no. of people?	What is the expense to the City?
New Orleans, Louisiana	April 17, 2008	No new laws passed.	City General Funds	Set fee goes to PayLock and the rest goes to the city.	There is a \$25 a day late fee up to a max of \$500. If boot is lost or stolen, the City reimburses \$500 to PayLock for replacement.	The vehicle is marked for tow. Report is filed w/ police. The Parking Division and police will try to contact the owner. Police will go to individual's address and at request of PayLock will send letter to the owner.	PayLock provides: -Boots -2 License Plate Recognition system -Operates call center -Provide software that integrates a data exchange between their system and ACS -1 vehicle rovided by ACS and 1 by City of New Orleans	The Parking Division – Towing Unit.	Staffing for the Boot Patrol that consist of 4 officers and 1 Supervisor.	Personnel salaries and vehicle maintenance.
Syracuse, New York	January 1, 2008. City placed notices on vehicles beginning January 3, 2008 and first boot was applied on January 22, 2008.	Some of the laws already existed. New law for the boot was passed	City General Funds	Fees for release goes to PayLock.	There is a charge of \$500 by PayLock. This is charged to credit card.	This has never happened after 1,700 boots. If it is stolen, PayLock will charge the credit card the \$500.	PayLock provides: -Boots -Boot racks -Notices -Communications equipment -Hardware and software to police -24/7 call center -Payment processing and dispatch. -Pays all merchant fees.	Program under the Syracuse Police Department.	City provides: -Van -Manpower, 2 person teams in boot van on daily basis.	The program payroll hours and purchases and supply and maintenance for 1 Boot van.