

Honolulu, Hawaii

APR 08 2016

RE: H.B. No. 1747
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1747, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MOTOR VEHICLES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize a police officer citing or arresting a driver for certain traffic violations to have the motor vehicle that the driver was operating at the time of the citation or arrest towed to a private tow yard and impounded at the registered owner's expense;
- (2) Provide exceptions for a vehicle to not be towed or impounded under certain circumstances;
- (3) Specify that no county police department or police officer shall be responsible for the protection of a motor vehicle left on any public way or private property after the operator of the motor vehicle has been arrested for certain traffic violations; and
- (4) Provide notice and administrative hearing requirements for the lien holder or registered owner to recover possession of the impounded motor vehicle or demand an administrative hearing to contest the basis given for the impoundment of the motor vehicle.



Your Committee received testimony in support of this measure from the Department of Transportation; Office of the Prosecuting Attorney, County of Hawai'i; and one individual. Your Committee received testimony in opposition to this measure from the Police Department, County of Maui; and one individual.

Your Committee finds that numerous drivers are cited each year for violations such as operating a vehicle without a license, operating a vehicle with a suspended or revoked license, and operating a vehicle under the influence of an intoxicant. Unfortunately, many of these drivers continue to operate their motor vehicles immediately after receiving these citations. By allowing police officers to tow and impound a motor vehicle if the operator of that motor vehicle is arrested or cited for certain serious traffic offenses, this measure acts as a deterrent to these types of activities and makes Hawaii's roadways safer.

Your Committee notes the concerns raised in testimony submitted by the Office of the Prosecuting Attorney of the County of Hawaii that the exception to towing or impounding for a motor vehicle that is engaged in community caretaking at the time of the encounter is ambiguous and could cause the statute to be void. The Office testified that there are certain interactions between police officers and citizens that do not require legal justification because local police officers are charged with community caretaking functions that are totally separate from the detection, investigation, or acquisition of evidence relating to violation of any criminal statute. The community caretaking exception is an exception to the warrant requirements under the United States Constitution, which is cited under Cady v. Dombrowski, 413 U.S. 433 (1973). Your Committee believes the exception for a motor vehicle that is engaged in community caretaking at the time of the encounter merits further discussion as this measure moves through the legislative process.

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. 1747, H.D. 1, S.D. 1, and recommends that it pass Third Reading.



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




GILBERT S.C. KEITH-AGARAN, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB1747 HDI SDI	TRE/PSM, JDL	4/6/16		
<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 checked="" type="checkbox"/> Pass, unamended 2312	<input type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	/			
KAHELE, Kaiali'i	/			
KIM, Donna Mercado	/			
THIELEN, Laura H.				/
SLOM, Sam				/
TOTAL	5			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted				
<input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes