

Honolulu, Hawaii

MAR 23 2018

RE: H.B. No. 2399
H.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Transportation and Energy, to which was referred H.B. No. 2399, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the definition of "drug" in chapter 291E, Hawaii Revised Statutes, to include any substance that can impair the ability of a person to operate a vehicle safely.

Your Committee received testimony in support of this measure from the Department of Transportation, Kauai County Office of the Prosecuting Attorney, Hawaii County Police Department, Maui County Department of the Prosecuting Attorney, MADD Hawaii, and one individual. Your Committee received testimony in opposition to this measure from the Office of the Public Defender and Drug Policy Forum of Hawaii.

Your Committee finds that offenders who are using new emerging drugs that have not been added to the controlled substance schedules, and therefore not legally defined as "drugs" under existing law, cannot be prosecuted under existing law as being under the influence of "drugs". Your Committee further finds that by expanding the definition of "drugs", law enforcement can prosecute offenders based on impairment, as opposed to relying on a controlled substance schedule that may not be updated. Your



Committee notes that in 2016, the number of highway deaths connected to the presence of drugs exceeded the number of alcohol-related fatalities.

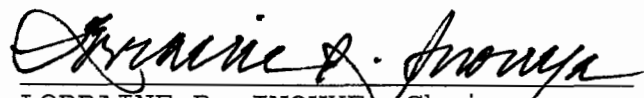
The Office of the Public Defender provided testimony expressing concern that this measure proposes a definition that is too vague and ambiguous. Your Committee also has concerns regarding drivers with a medical condition who refuse to take necessary medication, thereby becoming a danger to other drivers. Accordingly, your Committee has requested an opinion from the Department of the Attorney General on:

- (1) The ability to quickly and efficiently add new drugs to the controlled substance schedules or the feasibility of creating a new, more adaptable database to rely on for the definition of "drug" for offenses involving the use of an intoxicant while operating a motor vehicle; and
- (2) The liability of a driver with a medical condition who refuses to take necessary medication if such a driver is involved in a traffic accident;

and believes these issues, along with the pending opinion from the Attorney General, merit further discussion by your Committee on Judiciary.

As affirmed by the record of votes of the members of your Committee on Transportation and Energy that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2399, H.D. 1, and recommends that it pass Second Reading and be referred to your Committee on Judiciary.


Respectfully submitted on
behalf of the members of the
Committee on Transportation and
Energy,


LORRAINE R. INOUYE, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Transportation and Energy
TRE

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2399 HD1	TRE, JDL	3/14/2018		
<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
INOUE, Lorraine R. (C)	X			
ESPERO, Will (VC)		X		
ENGLISH, J. Kalani				X
HARIMOTO, Breene				X
SHIMABUKURO, Maile S.L.	X			
TOTAL	2	1		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