

STAND. COM. REP. NO.

1778

Honolulu, Hawaii

, 2021

MAR 24

RE: S.B. No. 412

H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred S.B. No. 412 entitled:

"A BILL FOR AN ACT RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT,"

begs leave to report as follows:

The purpose of this measure is to exclude the offense of habitually operating a vehicle under the influence of an intoxicant from qualifying for deferred acceptance of a guilty plea or nolo contendere plea.

Your Committee received testimony in support of this measure from the Office of the Prosecuting Attorney of the County of Kaua'i, Office of the Prosecuting Attorney of the County of Hawaii, Honolulu Police Department, and County of Hawai'i Police Department. Your Committee received comments on this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu and Department of the Prosecuting Attorney of the County of Maui.

Your Committee finds that a person is a habitual operator of a vehicle while under the influence of an intoxicant if the person was convicted two or more times for offenses of operating a vehicle under the influence, or one or more times for habitually operating a vehicle under the influence. Your Committee therefore

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finds that because of the repeat nature of the offense and the potential for serious harm to others, offenders should not be eligible for deferred pleas.

Your Committee has amended this measure by:

- (1) Clarifying the implied consent law to make an exception for giving a breath, blood, or urine test pursuant to a search warrant or any other basis permissible under the Constitution of the State of Hawaii and state law;
- (2) Changing the effective date to July 1, 3021, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 412, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 412, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: SB 412	Committee Referral: JHA, FIN	Date: 3-16-21		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.				✓
5. LoPRESTI, Matthew S.	✓			
6. LOWEN, Nicole E.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.	✓			
10. TODD, Chris	✓			
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
TOTAL (12)	11	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: 0.8em;">committee acronym(s)</div>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				