

Honolulu, Hawaii  
March 24, 2016

RE: S.B. No. 2246

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred S.B. No. 2246 entitled:

"A BILL FOR AN ACT RELATING TO TESTING FOR INTOXICANTS,"

begs leave to report as follows:

The purpose of this measure is to address a recent Hawaii Supreme Court holding that criminal penalties for refusal to submit to testing for blood alcohol content are facially unconstitutional. Specifically, this measure repeals the statute providing that an individual suspected of Operating a Vehicle Under the Influence of an Intoxicant (OVUII) who refuses to submit to a breath, blood, or urine test is guilty of a petty misdemeanor.

The Department of Transportation, Department of the Prosecuting Attorney of the County of Maui, Honolulu Police Department, and a concerned individual testified in support of this measure.

Act 166, Session Laws of Hawaii 2010, was enacted to promote safety on Hawaii's roadways by adopting the recommendations of Hawaii's Ignition Interlock Implementation Task Force, which included establishing the offense of refusal to submit to a breath, blood, or urine test as a petty misdemeanor. However, on November 25, 2015, the Hawaii Supreme Court in *State v. Won*, 136 Haw. 292 (2015), found this penalty to be an unconstitutional violation of the warrant requirement of the Fourth Amendment of the United States Constitution and article 1, section 7 of the Constitution of the State of Hawaii. Since this Hawaii Supreme



Court ruling, a number of OVUII cases have been dismissed and police departments have discontinued charging individuals for refusing to submit to a blood, breath, or urine test. Your Committee finds that, as a result of the Hawaii Supreme Court ruling, the statutory penalty for refusal to submit to a blood, breath, or urine test must be repealed.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2246 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,

  
HENRY J.C. AQUINO, Chair



Record of Votes of the Committee on Transportation

Bill/Resolution No.: <b>SB 2246</b>	Committee Referral: <b>TRN, JUD</b>	Date: <b>3/21/16</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input 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)				
TRN Members	Ayes	Ayes (WR)	Nays	Excused
1. AQUINO, Henry J.C. (C)	X			
2. LoPRESTI, Matthew S. (VC)	X			
3. HAR, Sharon E.				X
4. ICHIYAMA, Linda	X			
5. JOHANSON, Aaron Ling	X			
6. KEOHOKALOLE, Jarrett	X			
7. NAKASHIMA, Mark M.				X
8. SAN BUENAVENTURA, Joy A.	X			
9. TAKAYAMA, Gregg	X			
10. TAKUMI, Roy M.	X			
11. YAMASHITA, Kyle T.	X			
12. TUPOLA, Andria P.L.	X			
<b>TOTAL (12)</b>	<b>10</b>			<b>2</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				