



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 9, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 1052

COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS

Senate Bill 1052 proposes amendments to the current reckless driving law by clarifying penalties for first-time offenders and repeat offenders guilty of one or more traffic violations under the State's Traffic Code.

The Department supports this bill. Currently, the reckless driving law does not include graduated penalties for first-time or repeat offenders. The Department of Transportation believes that amending the reckless driving statutes to impose graduated penalties would enable the courts to adequately address this dangerous and habitual behavior of drivers that poses unnecessary risk to other roadway users. It will serve as a deterrent to those drivers who drive recklessly on the roadways.

Reckless drivers who do not follow the rules of the road endanger the safety of all roadway users, whether they're motorists, bicyclists or pedestrians. The National Highway Traffic Safety Administration (NHTSA) estimates that one-third of traffic crashes and two-thirds of resulting deaths can be attributed to reckless driving. The exact extent of the problem is difficult to measure due to the broad range of driver actions that places others in danger of death or injury.

According to Hawaii's Judicial Information Management System (JIMS), there were 972 and 963 reckless driving citations statewide in calendar years 2007 and 2008, respectively. During state fiscal year 2007-2008, there were 76 repeat offenders that violated the reckless driving law more than once within the same year.

In addition, the Fatality Analysis Reporting System (FARS) reports that, from calendar years 2005 through 2007 within the state of Hawaii, there were a total of 398 fatal motor vehicle crashes that resulted in 439 fatalities. Of the 398 fatal crashes, 133 or 33.4 percent involved drivers that exhibited characteristics of a reckless driver, such as driving too fast for conditions or in excess of posted speed limit or racing; failure to yield right of way; operating vehicle in erratic, reckless, careless or negligent manner; and failure to obey traffic signs, signals and resulted in 144 or 32.8 percent fatalities.



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Transportation, International and Intergovernmental Affairs

The Honorable J. Kalani English, Chair
The Honorable Mike Gabbard, Vice Chair
Monday, February 9, 2009, 1:35 p.m.
State Capitol, Conference Room 224

by
Janice Yamada
Adult Client Services Branch Administrator

Bill No. and Title: Senate Bill No. 1052, Relating to Highway Safety.

Purpose: This bill clarifies the penalties imposed for first-time offenders and repeat offenders guilty of reckless driving.

Judiciary's Position:

The Judiciary takes no position on Senate Bill No. 1052 which clarifies the penalties imposed for first-time offenders and repeat offenders guilty of reckless driving.

However, of concern to the Judiciary is that this measure would require a person committing the offense of reckless driving to be sentenced to a mandatory course of instruction for anger management or driver education training or both. During the past year, there were 966 new cases filed for Reckless Driving under Section 291-2 of the Hawaii Revised Statutes. If these cases had been referred to the Driver's Education Program there would have been a significant increase in the workload requiring additional resources in both personnel and driver education classes. In addition to this, the Driver's Education program currently does not have an anger management course and we would need to contract for this service at an additional cost to the Judiciary.

Thank you for the opportunity to testify on Senate Bill No. 1052.



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on
Transportation, International and Intergovernmental Affairs**

February 9, 2009, 1:35 p.m.

S.B. No. 1052: RELATING TO HIGHWAY SAFETY

Chair English and Members of the Committee:

This measure would create a mandatory, graduated sentencing scheme for the offense of reckless driving. The penalties, which include a mandatory thirty day suspension of driver's license, mirror that of the excessive speeding offense created by this legislature in 2006. The excessive speeding offense has been widely accepted as a failure by the prosecution, defense and the courts. It has failed to target the really dangerous drivers, and because of its overly penal sentencing provisions, resulted in congested court calendars. It is for the reasons cited above that the Office of the Public Defender opposes S. B. 1052.

The excessive speeding law (HRS §291C-105) was touted as a way to reduce dangerous driving habits and an easier way to prosecute drivers who race on our highways. The criminalized driving in excess of eighty (80) miles per hour, and thirty miles over any posted speed limit. Anyone convicted of this offense would not be allowed to enter a deferred acceptance of a guilty plea, and would have a criminal record. The mandatory license suspension also triggered the requirements of SR-22. Most drivers are caught in speed traps rather than observed driving errantly or racing. Our attorneys have reported that one hundred percent of their cases are the result of speed traps, and none from racing type offenses. Two years later, this law has single-handedly led to congested court calendars, and resulted in burned out prosecutors and public defenders. Private defense attorneys have been known to charge as much for excessive speeding cases as they do for OVUII cases, because OVUII cases are easier to defend. The reason for the court congestion is simple. The requirements of SR-22 and inability to enter a deferred acceptance of a guilty plea forces defendants to fight the charge rather than plead guilty to a crime, and suffer the consequences of SR-22. If the excessive speeding law was amended by decriminalizing first offenses, allowing deferred acceptance of guilty pleas and make an exemption from the requirements of SR-22 for first offenses, the court congestion would disappear, and most defendants would plead guilty at their first appearance. The message to those drivers would be just as effective as it is under the current law.

The problems we have faced with excessive speeding cases will be mirrored if this measure passes as written. While we are not suggesting that the offense of reckless

driving be decriminalized for first offenders, we recommend that this measure be amended to allow defendants to enter deferred acceptance of guilty pleas and/or be exempt from the requirements of SR-22 for a first offense.

We oppose the passage of S.B. No. 1052. Thank you for the opportunity to be heard on this matter.