



The Judiciary, State of Hawai'i

Testimony to the House Committee on Transportation

Representative Henry J.C. Aquino, Chair

Representative Sean Quinlan, Vice Chair

Wednesday, February 8, 2017, 9:00 a.m.

State Capitol, Conference Room 423

by

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Bill No. and Title: House Bill No. 1257, Relating to Driving While Intoxicated.

Purpose: Allows permits that authorize the defendant to operate an employer's vehicle during the period of license revocation to be supported by the employer's sworn statement attesting to the period of the specified assigned hours of work that the defendant will drive the vehicle for purposes of employment.

Judiciary's Position:

The Judiciary takes no position on the merits of House Bill No. 1257; however, as currently constructed, the language of the proposed statutory revision only addresses employee driver's permits (EDP) issued by the courts in Hawai'i Revised Statutes (HRS) 291E-61(e). The proposal does not address EDP issued by the Administrative Driver's License Revocation Office (ADLRO) in HRS 291E-44.5(d). The language of HRS 291E-61(e) and HRS 291E-44.5(d) should be consistent, since both statutes address the same EDP, only issued by different components of the Judiciary.

There are two discrepancies that may need to be addressed. First, there is already a minor discrepancy in the current language of these statutes, in that HRS 291E-61(e)(3) only allows the employer to identify a specific vehicle for the EDP, whereas HRS 291E-44.5(d)(2) enables the employer to identify a specific vehicle or vehicles for the EDP. If read literally, this could be interpreted to mean that the courts can only issue an EDP for a single vehicle, but the ADLRO can issue an EDP covering multiple vehicles. This discrepancy could be addressed in HB 1257,



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and the language of HRS 291E-61(e)(3) and HRS 291E-44.5(d)(2) can be made consistent. Second, it is not clear precisely what is meant by adding the language “or the period of the specified assigned hours of work” to HRS 291E-61(3) in HB 1257. Does that mean the employer may specify a period of assigned work hours in excess of 12 hours per day for the EDP?

If the intent of the Legislature is to allow issuance of EDP that authorize periods of driving in excess of 12 hours per day, then this should be express in both HRS 291E-61(e) and HRS 291E-44.5(d). The words “not to exceed twelve hours per day” can be deleted from both statutes to make this clear.

Alternatively, if the intent of the Legislature is to limit the authorized period of driving to a maximum of 12 hours per day, then this can be clarified by stating: “or the period of the specified assigned hours of work, not to exceed twelve hours per day, that the defendant will drive...” This language would be in both HRS 291E-61(e)(3) and HRS 291E-44.5(d)(2).

Providing data to assist the Legislature as it debates this proposal, the ADLRO only received a total of 182 EDP applications in calendar year 2016. This represents less than 3.5% of all OVUII arrests reported to ADLRO for driver’s license revocation in calendar year 2016. Of the 182 EDP applications received, a total of 136 EDP were issued. This represents about a 75% EDP approval rate. If the 12-hour daily limitation is eliminated for EDP, then ADLRO could reasonably anticipate receiving more EDP applications and issuing more EDP, although it is difficult to predict how many more EDP will result.

Finally, if any legislative changes are enacted into law regarding EDP and HRS 291E-44.5, ADLRO requests a delayed effective date of at least six months. This is requested in order to implement the necessary changes to various ADLRO forms, databases and processes/procedures.

Thank you for the opportunity to provide testimony on this bill.