



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary
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By

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HB 1767 HD1 – RELATED TO MOTOR VEHICLES

Chair Nishimoto, Vice Chair San Buenaventura, and members of the committee:

My name is Stephanie Nagata, Director of the Office of Maunakea Management. Thank you for this opportunity to testify on behalf of this bill.

The Office of Maunakea Management (OMKM) supports this bill. HB1767 HD1 provides OMKM with a tool for providing safer vehicle access to the higher elevations of Maunakea, and indirectly, a safer environment for those visiting and working on Maunakea.

The use of two-wheel drive vehicles poses not only safety concerns, but environmental, and maintenance issues. Drivers using vehicles engaged in low range, 4-wheel drive, have better handling and control of their vehicle on the steep, gravel road and reduce their need to use their breaks and avoid overheating and losing break control. The use of 4-wheel drive also lessens the wear-and-tear of the gravel portion of the road, thus reducing the frequency and costs associated with maintaining the road.

The vast improvements to the Daniel K. Inouye Highway, commonly known as Saddle Road, has been a godsend to the residents of Hawai'i Island. It is a much safer and easier road to drive and has reduced the commute time between Hilo and Kona, and vice versa. However, the improved Saddle Road has resulted in an increase in vehicular traffic to the mountain. Visitors renting cars are no longer prohibited from driving across the Saddle Road in their two-wheel drive vehicles.

Two-wheel drive vehicles are not designed for driving on steep, bedrock and gravel roads, or at high altitudes. It is not uncommon for the Maunakea rangers to come across two-wheel drive vehicles stopped alongside the road with their hoods up stalled from overheating or experiencing transmission problems. Rangers, in spite of instructing drivers to use low gear, continue to witness cars with their break lights on as they start and continue their descent down from the summit. Not only is there concern for the driver and their passengers, but there is concern about potential harm to others should a car lose the use of their breaks and hit bystanders or another vehicle.

Similar to the increase in vehicular traffic, so has the frequency of unpermitted tours to Maunakea. The University took over the responsibility of managing commercial tour operators after it was transferred by the Board of Land and Natural Resources. It is essential that commercial tour operators are regulated to ensure the safety of visitors and protection of the resources. Permitted operators must meet stringent conditions, including 1) giving their passengers background on the cultural and environmental significance of Maunakea; 2) carrying minimum liability insurance coverage; 3) indemnifying the State and University; 4) understanding the health hazards associated with visiting high elevations; 5) outfitting their vans with first aid equipment and oxygen; 6) requiring drivers' certification in administering first aid; and 7) conducting their own stargazing away from the crowded Visitor Information Station. Additionally, tour operators pay a per passenger fee that is applied directly to the management of the mountain, including helping to cover some of the operating expenses of the Visitor Information Station.

Non permitted operators add to the impact to the mountain and the addition of their passengers intensifies the already congested situation at the Visitor Information Station. Drivers may not be trained in rendering first aid or understand the health hazards associated with visiting high elevations. Additionally, unlike permitted tour operators, unpermitted operators are not obligated to indemnify OMKM, UH or the State, including but not limited to, suits, liabilities, losses, damages, costs, etc., arising, for example, from injury, cause of death, or damage to property losses. OMKM has sent letters to unpermitted operators citing the number of times they were observed conducting tours on UH's managed lands without a permit from the University, but they continue to run their tours. This bill will help to curtail unpermitted tour activities to the summit of Maunakea.

OMKM appreciates the support this bill provides by enhancing safer travel to Maunakea. For consistency with related HRS chapters, we would like to suggest some edits to the draft bill which is attached for your review. Mostly, these changes reflect language from HRS 271 Motor Carrier Law, and HRS 291, Statewide Traffic Code.

Thank you again for this opportunity to testify on HB 1767 HD1.

HB 1767 SD1

A BILL FOR AN ACT

Suggested changes/additions are in red

RELATED TO MOTOR CARRIERS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new
2 section to part I to be appropriately designated and to read as follows:

3 "~~§46-~~ Enforcement of four-wheel drive vehicle use and ~~tour operator~~ motor
4 carrier, as defined in HRS 271-4, requirement; Waipio valley. Each county may confer
5 upon its employees or other individuals as it deems reasonable and necessary the power
6 to issue fines for the enforcement of section 291C- (a) and (b) and HRS 271-8 "

7 SECTION 2. Chapter 291C, Hawaii Revised Statutes, is amended by adding a
8 new section to part XII to be appropriately designated and to read as follows:

9 "~~§291C-~~ Mauna Kea and Waipio valley access; required four-wheel drive
10 vehicle use; tours. (a) No person shall drive any vehicle other than a low gear
11 range, four-wheel drive vehicle in the following areas: the connecting roadway
12 corridor between the Waipio valley lookout and the floor of Waipio valley; or the
13 roadway above Halepohaku. ~~The use of any vehicle for traversing the following~~
14 ~~roadways shall be prohibited:~~

1 ~~(1) The connecting roadway corridor between the Waipio valley lookout and~~
2 ~~the floor of Waipio valley; and~~

3 ~~(2) The connecting roadway corridor between Hale Pohaku and the Mauna Kea~~
4 ~~Science Reserve;~~

5 ~~provided that this subsection shall not apply to the use of a low gear four wheel drive~~
6 ~~vehicle, emergency vehicles when responding to an emergency, law enforcement vehicles~~
7 ~~when in the pursuit of an actual or suspected violator of the law, or upon leaving a~~
8 ~~location.~~

9 **Provided that any vehicle may be driven in these areas if:**

10 (1) It is in the process of executing a legal turn, the lane change, or
11 parking maneuver to exit the area;

12 (2) It is an authorized emergency vehicle performing the functions
13 under section 291C-26;

14 (3) It is an official federal, state, or county vehicle in the
15 performance of its actual duty;

16 (4) It is necessary to assist a stalled or broken vehicle;

17 (5) It is necessary to yield to an authorized emergency vehicle
18 pursuant to section 291C-65; or

19 (6) It is vehicle engaged in or in support of research and maintenance

1 activities; or vehicles authorized by the Federal, State or County; or

2 (7) It is otherwise provided by law.

3 (b) No individual or business shall transport another individual for a fee on the
4 following roadways absent a valid permit issued by the State to operate on these
5 corridors:

6 (1) Certificate issued by the State to operate on the connecting roadway
7 corridor between the Waipio valley lookout and the floor of Waipio valley; and

8 (2) Permit issued by the State to operate on the connecting roadway corridor
9 between above Hale Pohaku and the Mauna Kea Science Reserve.

10 (c) Violation of this section (a) or (b) shall subject the driver or owner or
11 leaseholder of the vehicle to a fine of up to \$250; violation of (b)(1) or (b)(2) shall
12 subject the driver or owner or leaseholder of the vehicle to a fine up to \$1,000 for each
13 offense and in the case of a continuing violation, not less than \$50 and not more than
14 \$500 for each additional day during which the failure or refusal continues.

15 For purposes of this section, an all-wheel drive vehicle shall not be considered to
16 be a low gear range, four-wheel drive vehicle."

17 SECTION 3. Chapter 304A, Hawaii Revised Statutes, is amended by adding a
18 new section to part IV, subpart O, to be appropriately designated and to read as follows:

19 "**§304A- Enforcement of four-wheel drive vehicle use and tour operator**
20 **motor carrier, as defined in HRS 271, requirement; Mauna Kea.** The University of
21 Hawaii may confer upon its employees or other individuals as it deems reasonable and

1 necessary the power to issue fines for the enforcement of section 291C- (a) and (b) and
2 (c) HRS 271-8."

3 SECTION 4. This Act does not affect rights and duties that matured, penalties
4 that were incurred, and proceedings that were begun before its effective date.

5 SECTION 5. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2018.

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INTRODUCED BY: _____

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2 **Report Title:**

3 Waipio Valley; Mauna Kea; Roadway; Four-Wheel Drive Vehicles; Rental Motor Vehicles;
4 Tour Operators

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6 **Description:**

7 Prohibits access to Mauna Kea Science Reserve and Waipio valley, except through the use of a
8 low-gear four-wheel drive vehicle. Requires tours of the Mauna Kea Science Reserve and
9 Waipio valley to obtain a certification for Hawaii's professional tour guides. Authorizes the
10 counties and UH to appointment individuals to enforce the restrictions.

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14 *The summary description of legislation appearing on this page is for informational purposes only and is*
15 *not legislation or evidence of legislative intent.*

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