

STAND. COM. REP. NO.

1669

Honolulu, Hawaii

APR 05 2007

RE: H.B. No. 356
H.D. 2
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 356, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CHILD ENDANGERMENT,"

begs leave to report as follows:

The purpose of this measure is to protect children by making it a traffic violation to leave a child unsupervised in a motor vehicle.

Specifically, this bill prohibits leaving a child under the age of nine in a motor vehicle unless supervised by an adult or a minor who is at least fifteen years of age. It also requires the examiner of drivers to test the license applicants' knowledge of the new traffic violation. Rental car companies would also be required to notify lessees of the motor vehicle laws regarding leaving a child unsupervised in a motor vehicle.

Your Committee received testimony in support of this measure from the Department of Human Services, the Honolulu Police Department, the Hawaii Family Forum and the Roman Catholic Church in the State of Hawaii, Kids and Cars, and the Healthy Mothers, Healthy Babies Coalition of Hawaii. The State Public Defender opposed the bill.

Your Committee finds that leaving a child alone in a motor vehicle poses substantial risk of injury or death from suffocation in a hot parked vehicle or of kidnapping in the course of motor

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vehicle theft. Although parents mean well, the seemingly innocuous practice of leaving a child in a motor vehicle, even what may be thought of at the outset as being "momentarily", to buy groceries or perform other errands can have disastrous consequences.

Your Committee further finds that, under section 709-904(2), Hawaii Revised Statutes, a person may be prosecuted for the misdemeanor offense of endangering the welfare of a minor in the second degree only if the person knowingly endangered the minor's physical or mental welfare by leaving the minor in the vehicle. The requirement for a knowing state of mind makes it difficult for the prosecution to prove a case against the driver.

This bill attempts to ease prosecution of these cases by making the driver strictly liable for leaving the child unattended in the car. However, making the driver strictly liable in all circumstances ignores the fact that there are some situations, for example, briefly leaving an eight-year-old child in a car with a fourteen-year-old high school freshman sibling, that do not warrant the sanction of even a traffic violation.

Accordingly, your Committee has amended this measure to require the prosecution to prove that the act of leaving a child unattended in a motor vehicle was done recklessly. Your Committee believes that this will ensure that only conduct that warrants the condemnation of conviction will be punished under the new law. Your Committee has also amended the bill by changing the effective date to July 1, 2070, to facilitate further discussion of this difficult issue.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 356, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 356, H.D. 2, S.D. 1.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,




CLAYTON HEE, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 356, HD2	TIA, JDL	3/30/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
KOKUBUN, Russell S. (VC)				✓
INOUYE, Lorraine R.	✓			
NISHIHARA, Clarence K.	✓			
GABBARD, Mike	✓			
TOTAL	4			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink		
File with Committee Report	Clerk's Office	Drafting Agency		

*Only one measure per Record of Votes