

HAWAII NEWS

Hawaii lawmaker seeks study on sliding-scale tickets

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Honolulu police officers pulled a car over for violations they observed at Pauahi and Bishop Streets. A leading lawmaker who deals with issues of crime and punishment in Hawaii wants to study the concept of “fair and proportional” fines, which means a schedule of fines for traffic or other violations that requires rich people to pay more than poor people.

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House Judiciary Committee Chairman Chris Lee said he doesn’t know of any U.S. jurisdiction where proportional fines have been adopted, but has proposed in [House Concurrent Resolution 218](#) that a task force of top lawmakers, prosecutors and other courts officials meet to consider the idea.

The resolution suggests that “while a fine for \$200 may serve as a meaningful deterrent to illegal behavior for an individual of average means, it may require a \$2,000 fine to serve as a meaningful deterrent to illegal behavior for a wealthy individual.”

Lawmakers have been considering various possible reforms to Hawaii’s pretrial system for alleged offenders based on a [report last year](#) by the Criminal Pretrial Task Force, including [a proposal](#) to require that law enforcement authorities take into account a person’s ability to pay when bail is set.

But Lee's resolution proposes that the courts might impose different penalties based on a defendant's ability to pay.

"I think it's definitely time to have a conversation about the way that penalties and fines are assessed," said Lee (D, Kailua-Lanikai- Waimanalo).

A \$200 fine for a speeding ticket may be a meaningful deterrent to an ordinary motorist, "but for someone who's driving a Ferrari down the road, that could mean nothing," he said. A new Ferrari costs hundreds of thousands of dollars.

"We want to make sure that there is parity and fair treatment between those people who can least afford to pay fines and penalties for (whom) the law provides a significant deterrent, and those people who have enormous amounts of wealth, for whom even a \$1,000 or \$2,000 ticket could mean nothing, and they can flagrantly break the law with virtually zero real consequence," he said.

He contends the current system of fines is discriminatory because it treats lower-income people much more harshly "in real terms" than rich people, and growing income inequality is exacerbating the flaws in the current system.

Apart from traffic violations, Lee said the "proportional" system of fines might apply to other kinds of infractions such as violations of hunting laws. "At the end of the day, we want something that meaningfully deters people from breaking the law," he said.

But Myles Breiner, who served as president of the Hawaii Association of Criminal Defense Lawyers, said he doubts that "proportional" fines could ever work, and said they also would be unfair. If the courts system wants to give poor people a break, judges can sentence defendants to community service instead of imposing fines, he said.

Breiner also questioned whether the courts would be able to determine who has money and who does not. "Can you imagine the morass of paperwork to verify whether someone qualifies to pay a fine or not?" he asked. "How do you determine the accuracy of someone declaring that they can't afford it?"

Lee's resolution was supported by Kat Brady, coordinator of the Community Alliance on Prisons.

"As we see our jails bursting with low-level lawbreakers, our current system is not working," Brady said in written testimony to lawmakers. "Justice should never depend on someone's economic condition. It should be fair and proportional to the offense."

The Senate Judiciary Committee has scheduled a hearing on the resolution for 10:10 a.m. today in Room 414 of the state Capitol.