

SB651

SD1



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATE COMMITTEE ON JUDICIARY AND LABOR

SB651,SD1 RELATING TO HEALTH

Testimony of David Sakamoto, MD, MBA
Deputy Director, Health Resources Administration

February 20, 2014
10:30 am, Room 016

1 **Department's Position:** The Department of Health (DOH) supports SB0651,SD1 which prohibits
2 smoking in and around public housing and state low-income projects under the jurisdiction of the
3 Hawaii Public Housing Authority (HPHA) and in and around elder or elderly households. The DOH
4 recommends inclusion of language to protect parking lots from becoming designated smoking areas.

5 **Fiscal Implications:** None.

6 **Purpose and Justification:** SB0651,SD1 amends Chapter 356D, Hawaii Revised Statutes (HRS), by
7 adding a new section to part I to prohibit smoking in any public housing project, elderly or elderly
8 household, or state low-income housing. This measure includes community facilities, expands the
9 definition of all common areas, expands the twenty-foot rule, and authorizes signage. The most recent
10 amendments to this bill eliminated electronic cigarettes from the definition of smoking and allowed the
11 HPHA to designate smoking areas where needed.

12 DOH recognizes the scientific findings and recommendations of the United States Surgeon
13 General regarding the hazard of involuntary exposure to tobacco smoke by nonsmokers. Those findings
14 disclose that: 1) There is no safe level or amount of exposure to secondhand smoke (SHS), and breathing

1 even a little amount can be dangerous; 2) Children are more likely to have lung problems, ear infections,
2 and severe asthma from being around tobacco smoke; 3) Breathing SHS is a known cause of sudden
3 infant death syndrome; 4) SHS is a known human carcinogen (cancer-causing agent); and 5) Inhaling
4 SHS causes lung cancer, coronary heart disease, and strokes in nonsmoking adults.

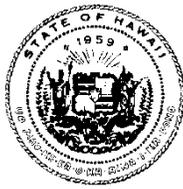
5 Hawaii's current smoke-free workplace and public places law, Chapter 328J, HRS enacted in
6 2006, protects the public in enclosed and partially-enclosed areas, but does not cover and excludes
7 private residences. The federal Housing and Urban Development Authority actively supports and
8 encourages the creation of smoke-free residential public housing properties governed under that
9 authority.

10 To protect those who access their vehicles daily from exposure to SHS, the DOH recommends
11 including language to exempt parking lots from becoming designated smoking areas.

12 DOH supports this measure to protect the residents of public housing by banning smoking and
13 supports SB0651,SD1 with amendments.

14 Thank you for the opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
Honolulu, Hawaii 96817

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON JUDICIARY AND LABOR

February 20, 2014 10:30 A.M.
Room 016, Hawaii State Capitol

In consideration of

**Senate Bill 651, Senate Draft 1
Relating to Health**

Honorable Chair Hee and Members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to provide you with comments regarding Senate Bill (S.B.) 651, Senate Draft 1 (SD1), relating to health.

The Hawaii Public Housing Authority (HPHA) offers the following comments in regards to this measure, which will prohibit smoking in and around public housing projects and state low-income public housing projects.

For the past year and a half, the HPHA has been working with stakeholders on revising the relevant administrative rules, and a public hearing will be held on February 28, 2014 to gather comments on the proposed administrative rule changes. This effort incorporated the input from tenants, the U.S. Department of Housing and Urban Development (HUD), the Hawaii State Department of Health, the Coalition for a Tobacco Free Hawaii, and the Attorney General's office to ensure compliance with all relevant regulations. Highlights of the proposed administrative rules allow the HPHA to designate smoking areas, evict tenants on the 4th violation (includes their guests), and provides for reasonable accommodations.

The HPHA appreciates the opportunity to provide the Senate Committee on Judiciary with the agency's comments regarding S.B. 651, SD1. We thank you very much for your dedicated support.



To: The Honorable Clayton Hee, Chair, Committee on Judiciary and Labor
The Honorable Maile S.L. Shimabukuro, Vice Chair, Committee on Judiciary and Labor
Members, Senate Committee on Judiciary and Labor
From: Tiffany Gourley, Policy & Advocacy Director
Date: February 19, 2014
Hrg: Senate Committee on Judiciary and Labor; Thurs., February 20, 2014 at 10:30 a.m. in
Rm 016
Re: **Support and comments for SB 651 SD 1, Relating to Health**

Thank you for the opportunity to offer testimony in **support of the intent and offers comments** for SB 651 SD 1, which prohibits smoking in and around public housing under the jurisdiction of the Hawaii public housing authority (HPHA) and in and around elder or elderly households.

The Coalition for a Tobacco Free Hawaii (Coalition) is a program of the Hawaii Public Health Institute working to reduce tobacco use through education, policy and advocacy. The Coalition consists of over 100 member organizations and 2,000 advocates that work to create a healthy Hawaii through comprehensive tobacco prevention and control efforts. The Coalition also supports the public through its Smoke-Free Homes Initiative, designed to create smoke-free apartments and condos through voluntary policy adoption.

The Coalition recommends amending to prohibit designated smoking areas in parking lots.

For public health reasons, the Coalition recommends amending the proposed language in subsection (b) to prohibit designated smoking areas (DSAs) in parking lots. DSAs create a concentrated area of smoke. The majority of residents are required to walk through the parking lot to enter and exit the property. DSAs should be prohibited in parking lots to protect the majority of residents from being subjected to this high concentration of smoke. Consequently, this also protects persons smoking in DSAs from vehicular traffic.

The Coalition offers the following language:

(b) Notwithstanding subsection (a), the authority may designate one or more permissible smoking areas at least twenty feet away from any residential or other building, or any greater distance away as may ensure that the secondhand smoke does not infiltrate any dwelling unit, and not within a parking lot.

The U.S. Department of Housing and Urban Development encourages Public Housing Authorities to implement non-smoking policies.

Housing units can adopt their own rules to prohibit smoking. The U.S. Department of Housing and Urban Development (HUD) states that “PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law.”¹ A 2007

¹U.S. Department of Housing and Urban Development (2009). “Non-Smoking Policies in Public Housing” Notice. <http://www.hud.gov/offices/pih/publications/notices/09/pih2009-21.pdf>



letter from the Honolulu HUD office indicates that “[r]egulating smoking in public housing units or in common areas is a local decision. In addition, according to the Fair Housing and Equal Opportunity Civil Rights analyst, smokers are not a protected class under the Fair Housing Act.”

PHAs across the country have been implementing smoke-free policies and have developed enforcement processes whereby residents are given multiple notices prior to eviction. Just this month, the Houston Housing Authority, one of the largest housing authorities in the country, joined Seattle, Boston, San Antonio, Detroit, and 250 other PHAs to implement a smoke-free policy.²

During the 2012 session, a law was passed to prohibit smoking in public housing. The Governor vetoed the bill allowing the Hawaii Public Housing Authority (HPHA) a chance to implement an administrative policy. Since then, the Coalition and Department of Health have been working with the HPHA to develop a policy and assist with education and outreach to ensure a successful outcome, however more than eighteen months after the veto, we still do not have an official policy in place.

Secondhand smoke has killed 2.5 million Americans and should be eliminated.

Secondhand smoke is dangerous; the 50th Anniversary U.S. Surgeon General Report released on January 17, 2014 states that any level of exposure to secondhand smoke is dangerous and can be harmful and over 2.5 million people have died from secondhand smoke.³ The International Agency for Research on Cancer and the U.S. Environmental Protection Agency both note that environmental tobacco smoke (or secondhand smoke) is carcinogenic to humans. Secondhand smoke contains 7,000 identifiable chemicals, 69 of which are known or probable carcinogens.

The Coalition receives calls from residents who reside in public housing units and who have asthma and other health issues affected by secondhand smoke exposure. There is little assistance the Coalition can provide them. It is clear, however, that all residents—regardless if they have asthma, COPD or other health issues—are impacted by the hazards of secondhand smoke.

All families deserve to live free of second-hand smoke. The only way to ensure this is to prohibit smoking in units.

The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) adopted a position that states, “[a]t present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity. . . No other engineering approaching, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs.”

² <http://www.pr.com/press-release/539721>

³ U.S. Department of Health and Human Services. (2014). “The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General.” Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.



Furthermore, although there have been eviction cases due to smoking violations, they have been rare. The goal is not to punish residents but to encourage residents to have a healthier home free from the dangers of secondhand smoke and to protect all residents.

Thank you for the opportunity to testify on this matter.



Tiffany L. Gourley, esq.
Policy and Advocacy Director

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: mz9995@hotmail.com
Subject: Submitted testimony for SB651 on Feb 20, 2014 10:30AM
Date: Monday, February 17, 2014 4:58:16 PM

SB651

Submitted on: 2/17/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Hawaii Smokers Alliance	Oppose	No

Comments: Smoking is already ban by the housing administration, this bill would take away any flexibility for the administration to deal with problems as they arise. Also e-cigarettes could still to banned by this bill because they could very soon be considered "tobacco products" which would be banned because the use "heat" as written in the definition of the bill to produce smoke.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

For Hearing Date: Thursday, February 20, 2014, 10:30 a.m., Conference Room 016

Testimony Submitted By: Daria A. Fand

Honolulu, Hawaii

To: Senate Committee on Judiciary and Labor

The Honorable Senator Clayton Hee, Chair

The Honorable Senator Maile Shimabukuro, Vice Chair

Members of the Senate Committee on Judiciary and Labor

Subject: SB651 SD1, RELATING TO HEALTH

Position: Support, with Amendments

Honorable Committee Members:

Thank you for this opportunity to submit testimony for this very important measure, SB651 SD1.

In 2012, Hawaii Public Housing Authority (HPHA) asked the Governor to veto a similar measure, prohibiting smoking in public housing to protect residents endangered by secondhand smoke (SHS), on the promise that they would administer such a program themselves. Two years later, absolutely nothing has changed on public housing properties. When this measure, SB651, was introduced in 2013, HPHA testified before the previous Committee that there was no need for a law, as various implementation provisions — including signage throughout the property in common areas, Designated Smoking Areas (DSA's), and warnings for violations -- would imminently be put in place. None of this occurred, despite letters going out to residents in January, 2013, officially announcing that a no-smoking policy was hereby en force. There was no follow-up or follow-through, leaving residents in limbo, and the educational momentum deflated. And those who have been gravely afflicted by SHS — such as myself — have continued to suffer for another year and up to the present.

What is the "take-home" lesson of this? That Hawaii State law should be the final and proper vehicle through which to ensure public housing residents' welfare and health protections, over and above any given HPHA administrative process, potential neglect, or whim. **The State has an obligation, a duty of care, to protect all its citizens equally from the threats of SHS**, especially as a steward of the most vulnerable, frail, socioeconomically immobile demographic, its public housing population. **This law is an overdue corrective measure which would bring parity to those populations who are involuntarily exposed to SHS where they can't escape it, in alignment with Hawaii's existing smoke-free laws for workplaces and other public establishments recognizing such an indisputable safety hazard.**

In order for a no-smoking policy to be successful, certain standards and provisions must be established uncompromisingly; and given the unpredictable nature of the current and

future administrations, it is vitally important for this measure to establish such provisions. Though some of these recommendations may seem like "details," they in fact define the difference between a successful policy and a failure in enforcement, compliance, and efficacy. National smoke-free protocols are unanimous in these recommendations, and thus they should be adopted by law as I'm suggesting in **MY ATTACHED PROPOSED SD2 DRAFT, WITH THE FOLLOWING AMENDMENTS:**

SECTION 1 (b):

-- I'm strongly urging the addition of subsections (1) and (2), which respectively mandate the placement of proper identifying signage for DSA's and litter-preventive receptacles at their locations. HPHA has resisted this language, even though they have agreed with the concept that they may install DSA's, where necessary. If they are serious about establishing these areas on campuses where warranted, why would they not want to commit to appropriate signage and litter control for sanitation purposes? This is only common sense — that IF a property has smoking-allowed areas (which is not being mandated), residents should not be wondering where they are, or dropping butts around the grounds. This is not a cost-prohibitive demand for any public place where smoking is prohibited, as these amenities can be modest, and HPHA should be held by law to these basic requirements. Doing otherwise would be unacceptable practice.

-- Relating to DSA's in general, I strongly recommend that there NOT be restrictive language about where to locate such sites on a property, such as "not in a parking lot." With all due respect to agencies concerned about the concentration of SHS in parking lots, there is nothing inherently better about one location or another, and in fact, parking lots may be ideal locations because they are the furthest away from buildings, which would minimize drifting smoke into dwellings (the priority!). In some cases, prohibiting DSA's in certain areas may preclude some properties from having them, and that would be detrimental to compliance, which especially with a new policy requires a transitional option for smokers. It all depends on property layout, so DSA placement should be handled on a case-by-case project basis. [PLEASE SEE ATTACHED DOCUMENT OF AUTHORITATIVE COMMENTARY SUPPORTING DSA'S.]

SECTION 1 (c):

-- **THE IMPORTANCE OF "NO-SMOKING" SIGNAGE AS VISUAL REMINDERS TO RESIDENTS CAN'T BE OVERESTIMATED AS A TOOL FOR COMPLIANCE.** As Serena Chun, Regional Advocacy Director with the American Lung Association in California states, "Signage is the first line of defense." There should be absolutely no compromising on this, as they are a low-cost tactic widely espoused by policy educators. Therefore my draft proposal for additional "**No-smoking" signage on the property is an adaptation — to achieve consistency in principle and statute -- of existing language contained in HRS for other smoke-free public places, as follows:**

§328J-9 Signs. Clearly legible signs that include the words "Smoking Prohibited by Law" with letters of not less than one inch in height or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette

enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in and at the entrance to every place open to the public and place of employment where smoking is prohibited by this chapter by the owner, manager, or other person in control of that place.

-- Language which I have bracketed and stricken in SD1, I have replaced with "for the purpose of conspicuous notice." The stricken language is unnecessarily cumbersome and superfluous, when the emphasis for signage should merely be on "conspicuous notice"

SECTION 1 (d):

-- I recommend that the word "sidewalks" be added to the enumerated list of places defined in "common areas" language, because sidewalks are one of the most frequently-trafficked areas where smoking activity might occur.

I hope this Committee will adopt the amendments that I've recommended here. They place no unreasonable burdens upon HPHA financially or otherwise, while serving to maximally hold HPHA accountable to residents, giving them a viable smoke-free policy according to recognized standards. It is very important that we create a law and policy to last, and stand as highly functional on the ground, not just an injunction on paper.

Thank you.

COMMENTARY IN SUPPORT OF DESIGNATED SMOKING AREAS IN PUBLIC HOUSING

Excerpts from "Request for Information on Adopting Smoke-Free Policies in PHAs and
Multifamily Housing", HUD call for testimony, 2013

(from Providence Housing Authority, the National Center for Healthy Housing, and
ChangeLab Solutions).

Consensus:

**Establish AT LEAST a 25-foot smoke-free buffer around buildings (25 feet being
the minimally-effective distance)**

- **Custom approach designated areas: do not apply a one-size-fits-all policy**
(standards for office buildings should not apply, since they have more limited
entrances/windows)
- **Unilateral application of distance standard or expectation that residents go off-
premises in a campus-wide ban can increase the likelihood that residents will
smoke in their units**

*Matthew Moore, JD, MPH, Staff Attorney, ChangeLab Solutions; specializing in legal
issues involving tobacco product use, exposure to secondhand smoke, and in
particular, multi-unit housing (telephone consultation):*

-- As we know, there are PHAs that DO NOT have designated smoking areas;
HOWEVER these are usually in rural areas with very small properties/populations; for
instance, if you have a small property in a small town where there's a park across the
street, you don't need to make a smoking area on-campus; however, within urban areas
and greater density of smokers, the designated areas become more critical to compliance
with the policy

-- The more smokers on a property, the more important it is to have a designated area

-- Designated areas are especially important when a policy is first being implemented, to
help transition residents

*Anne Pearson, JD, MA, Vice President of Programs, managing ChangeLab Solutions'
tobacco control program (<http://www.regulations.gov/#!documentDetail;D=HUD-2012-0103-0096>):*

From page 3, "i. *Where smoking Is prohibited*":

Research shows that levels of SHS exposure outdoors can reach levels attained indoors

depending on the direction and amount of wind, and the number and proximity of smokers. [footnote] To escape SHS exposure in outdoor places, a person may have to move nearly 25 feet away from the source of the smoke — about the width of a two-lane road. [footnote] Therefore, outdoor smoke-free "buffer zones" should extend at least 25 feet from any doorway, window, or opening into an enclosed area where smoking is prohibited, *as well as* any unenclosed area primarily used by children or improved to facilitate physical activity (*e.g.*, playgrounds, tennis courts, swimming pools, school campuses). [footnote] Buffer zone perimeters should be clearly marked, with conspicuous signage, to help prevent confusion and ensure consistent enforcement.

From page 3-4, "iii. *Designated Smoking Areas and Additional Support*":

Recognizing that residents of subsidized housing have fewer housing choices due to limited income, we recommend providing a designated smoking area on the premises to facilitate compliance with the smoke-free policy and reduce housing instability. **In our work with communities throughout California, landlords and property managers have consistently noted that providing designated smoking areas is instrumental in their efforts to seek compliance with smoke-free policies from tenants who smoke. [emphasis mine]**

Any designated smoking area should be located beyond the buffer zone described above, far enough away from any windows or doors that individuals in nonsmoking areas will not be exposed to the drifting smoke. Outdoor designated smoking areas must also be accessible to persons with disabilities. [footnote]

Melissa Sanzaro, Special Projects Officer, Providence Housing Authority
(<http://www.regulations.gov/#!documentDetail;D=HUD-2012-0103-0012>)

Establishing Designated Smoking Areas was a key element in the implementation of the □ Smoke-Free policy. While we encouraged smokers to seek help quitting with our smoking □ cessation program, it was also important to understand that not all smokers would seek □ help. For this reason having Designated Smoking Areas (DSA) was imperative to fulfill the □ main goal of having a Smoke Free policy which was not to expose non-smokers to the □ danger of second hand smoke.

Jane Malone, Policy Director, National Center for Healthy Housing [in conjunction with Rebecca Morley, Executive Director, former policy analyst for HUD]
(<http://www.regulations.gov/#!documentDetail;D=HUD-2012-0103-0100>)

Smoke-free policies that prohibit smoking inside the rental units and common areas should factor □ in alternatives for smokers who may not quit immediately. Property-wide bans could exempt □ smoking in cars parked in a parking lot or other land owned by the

PHA. Policies can permit smoking outside in areas a reasonable number of feet away from a door, window or other opening. The layout of dwellings in the property may warrant a custom approach rather than applying one-size-fits-all formulae (e.g. 25 feet) that have been devised for office buildings with a very limited number of entrances. Unilateral application of a distance standard can result in increasing the likelihood that residents will smoke inside their rental units. For example, where a large PHA complex has multiple separate buildings and grass and trees around each building, the designation of areas somewhat near the buildings should be considered, as opposed to expecting a smoker to walk off-campus to smoke. A western US public housing authority (PHA) instituted a broad smoking ban on all property owned by the PHA, including all common areas, yards and parking lots. This broad ban may have had the unintended consequence of increasing exposure to secondhand smoke within the apartment. The following anecdote describes what happened to one family:

Jo had a small baby, and didn't want to hold the baby while she smoked, and didn't want to leave the baby alone in the apartment while she walked far away to have a cigarette. Before the enactment of a smoke-free policy, Jo would walk just outside her apartment door to smoke -- which kept the smoke away from her child and didn't affect any of the other neighbors. After the policy, Jo would sometimes smoke inside her apartment, since she knew she was not likely to be caught. A child-advocacy worker in her community became very concerned about children's health after the smoking ban was implemented, because many parent/residents were much more likely to smoke inside their units and the children were more exposed to smoke than they had been before the smoking ban.

**DRAFT PROPOSAL
SUBMITTED BY: DARIA FAND**

S.B. NO. 651 SD 2

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2014
STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO HEALTH.

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

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§356D- Prohibition on smoking in and around public housing; designated smoking areas. (a) Smoking shall be prohibited in any public housing project, elder or elderly household, as defined in section 356D-1, or state low-income housing project, as defined in section 356D-51, within:

- (1) Each individual housing unit;
- (2) All common areas;
- (3) Community facilities; and
- (4) Twenty feet from each individual building of the public housing project, and from any entrance, exit, window, and ventilation intake that serves an enclosed or partially enclosed area.

(b) Notwithstanding subsection (a), the authority may designate one or more permissible smoking areas at least twenty feet away from any residential or other building, or any greater distance away as may ensure that the secondhand smoke does not infiltrate any dwelling unit.

(1) The authority shall place and maintain clearly visible identifying signage at the locations of any designated smoking areas where they exist.

(2) The authority shall place and maintain receptacles for the disposal of cigarette litter at the locations of any designated smoking areas where they exist.

(c) The authority shall place and maintain "No smoking" signage at all entrances and exits of the property. Clearly legible signs that include the words "Smoking Prohibited by Law" with letters of not less than one inch in height or the international "Non Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be posted in or at any main entryway or face of each individual building on the property, and at any other appropriate location. The authority may display additional "No smoking" signage at residential and community facilities at their entrances and exits, offices, and

in or at enclosed, partially enclosed, or open common areas
[where conspicuous notice is deemed necessary or appropriate by
the authority.]for the purpose of conspicuous notice.

(d) For purposes of this section:

"Common areas" means roofs, halls, corridors, lobbies,
stairs, stairways, fire escapes, entrances and exits of the
building or buildings, basements, yards, gardens, recreational
facilities, parking areas, storage spaces, sidewalks, and other
parts of the project normally in common use or other areas
designated by the authority.

"Smoking" means inhaling, exhaling, burning, or carrying
any lighted or heated tobacco product or plant product intended
for inhalation in any manner or in any form.["]

SECTION 2. Section 356D-92, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided, the authority may terminate any lease, rental agreement, permit, or license covering the use and occupation of any dwelling unit or other premises located within a public housing project and evict from any premises any tenant, licensee, or other occupant for any of the following reasons:

- (1) Failure to pay rent when due;
- (2) Violation of any of the provisions of a lease, rental agreement, permit, or license;
- (3) Violation of any of the rules of the authority;

- (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition; [~~or~~]
- (5) Upon a third violation of section 356D- ; provided that a violation of any of these terms by a non-resident, a guest who is visiting a resident, or by any member of the resident's household, shall be deemed a violation by the resident; or

[~~(5)~~](6) The existence of any other circumstances giving rise to an immediate right to possession by the authority."

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

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:

Public Housing; State Low-income Housing; Elder or Elderly Households; Smoking Prohibited

Description:

Prohibits smoking in and around public housing projects and state low-income housing projects under the jurisdiction of the Hawaii public housing authority and in and around elder or elderly households. (SD1)

**DRAFT PROPOSAL
SUBMITTED BY: DARIA FAND**

S.B. NO. 651 SD 2

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2014
STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO HEALTH.

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- (1) Each individual housing unit;
- (2) All common areas;
- (3) Community facilities; and
- (4) Twenty feet from each individual building of the public housing project, and from any entrance, exit, window, and ventilation intake that serves an enclosed or partially enclosed area.

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in or at enclosed, partially enclosed, or open common areas
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- (1) Failure to pay rent when due;
- (2) Violation of any of the provisions of a lease, rental agreement, permit, or license;
- (3) Violation of any of the rules of the authority;

- (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition; [~~or~~]
- (5) Upon a third violation of section 356D- ; provided that a violation of any of these terms by a non-resident, a guest who is visiting a resident, or by any member of the resident's household, shall be deemed a violation by the resident; or

[~~(5)~~](6) The existence of any other circumstances giving rise to an immediate right to possession by the authority."

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

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Report Title:

Public Housing; State Low-income Housing; Elder or Elderly Households; Smoking Prohibited

Description:

Prohibits smoking in and around public housing projects and state low-income housing projects under the jurisdiction of the Hawaii public housing authority and in and around elder or elderly households. (SD1)

From: mailinglist@capitol.hawaii.gov
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Subject: Submitted testimony for SB651 on Feb 20, 2014 10:30AM
Date: Sunday, February 16, 2014 7:51:38 PM

SB651

Submitted on: 2/16/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Santiago	Individual	Oppose	No

Comments: The state government needs to respect the right to privacy in the home environment.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: jchangworld@gmail.com
Subject: *Submitted testimony for SB651 on Feb 20, 2014 10:30AM*
Date: Sunday, February 16, 2014 7:54:47 PM

SB651

Submitted on: 2/16/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Chang	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: Anthony_Orozco@yahoo.com
Subject: *Submitted testimony for SB651 on Feb 20, 2014 10:30AM*
Date: Monday, February 17, 2014 9:43:42 AM

SB651

Submitted on: 2/17/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Orozco	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: mikenakas@hotmail.com
Subject: *Submitted testimony for SB651 on Feb 20, 2014 10:30AM*
Date: Monday, February 17, 2014 12:15:36 PM

SB651

Submitted on: 2/17/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	No

Comments:

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IRA CALKINS

Hawaii Public Housing Authority AMP 35 Resident
Punchbowl Homes Resident Association President
730 Captain Cook Ave Unit 426
Honolulu, Hawaii 96813-2161
808-4696434 808-3498667 FAX 5454707
Washington D.C. 202-697-9782

SMOKING BILLS 2014

OPPOSED HB 2577 HB 86 SB 651 SB 330

WHO : Residents of the Hawaii Public Housing Authority

WHAT : Smoking for years an addiction harder to quit then quitting Heroin, and even harder with a mental disorder. The Constitution of the United States 8th amendment imposing a cruel and unusual punishment.

WHERE : State of Hawaii, HPHA Punchbowl Homes

WHY : Health issue must be personal, Second hand smoke. Lived in public housing 5 years and not effected by people on both sides of my unit smoking in their units.

WHEN : 1 notice to Quit smoking in HB 2577 and to change a very long habit with people with mental illnesses then evict.

HOW MUCH : will it cost the State of Hawaii to evict all the residents in public housing who smoke? The extreme overload on management operations now, and the increase in the cost of managements budgets for all Hawaii. The increase cost of operations of the Hawaii Public Housing Authority Eviction Boards.

SMOKING Bills 2014

OPPOSED HB 2577 HB 86 SB 651 SB 330

HOW MANY : Public housing residents will the bills effect if passed, do you know? I estimate 47% of the residents in public housing now smoke. Most of the residents in public housing now came from the streets of Hawaii or from another country, can you imagine the civil unrest the bill if passed will cause putting people back on the streets? What about the cost of putting the units back in livable condition after that resident has been evicted!

I urge the members of the legislature to vote no on HB 2577 HB 86 SB 651 SB 330

Respectfully,

Ira Calkins

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: starjenchan@gmail.com
Subject: Submitted testimony for SB651 on Feb 20, 2014 10:30AM
Date: Monday, February 17, 2014 5:33:11 PM

SB651

Submitted on: 2/17/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Chan	Individual	Oppose	No

Comments: A person's home is their castle, even if that person is poor. Don't forget that. Thank you for your time and consideration.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: konaking@live.com
Subject: Submitted testimony for SB651 on Feb 20, 2014 10:30AM
Date: Monday, February 17, 2014 8:27:45 PM

SB651

Submitted on: 2/17/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Stevens	Individual	Oppose	Yes

Comments: Good luck enforcing this insane bill.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: fred@ejlounge.com
Subject: *Submitted testimony for SB651 on Feb 20, 2014 10:30AM*
Date: Tuesday, February 18, 2014 4:46:59 PM

SB651

Submitted on: 2/18/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Fred Remington	Individual	Oppose	No

Comments:

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From: HedrickHNECA@aol.com
To: [JDLTestimony](#)
Cc: SUPPORT for SB651 SD1, Relating to Health
Subject: Tuesday, February 18, 2014 10:53:29 PM
Date:

For Hearing Date: Thursday, February 20, 2014, 10:30 a.m., Conference Room 016

Testimony Submitted By: Hannah L. Hedrick, PhD

Fern Forest, Upper Puna, Hawaii County, Hawaii

To: Senate Committee on Judiciary and Labor

The Honorable Senator Clayton Hee, Chair

The Honorable Senator Maile Shimabukuro, Vice Chair

Members of the Senate Committee on Judiciary and Labor

Subject: SB651 SD1, RELATING TO HEALTH

Position: Support, with Amendments

Honorable Committee Members,

Thank you for this opportunity to comment on SB651 SD1, "Relating to Health" in general, and specifically to "356D--Prohibition on smoking in and around public housing; **designated smoking areas.**"

As a 50+-year soldier in the "Tobacco Wars" and an outspoken advocate for tobacco control, I had the privilege of working with a succession of Surgeon Generals of the Public Health Service, most actively with C. Everett Koop, MD. As advocates for the rights of people with disabilities before he was appointed as Surgeon General, we were acutely aware of the adverse affects of second-hand smoke on people with special health needs. The most recent Surgeon General's report includes even more adverse effects, with specific numbers provided for diseases and disabilities caused by exposure to second-hand smoke.

Our State now stands at the threshold of landmark legislation related to reducing exposure to second-hand smoke via SB651 SD1, which would offer protection to our most vulnerable residents: children and adults with chronic or life-threatening diseases or disabilities who live in public housing. Due to the flawed policy and process initiated by the Hawaii Public Housing Authority after the Governor vetoed the first bill passed by the legislature, **legislation is our State's only hope of alleviating the known fatal impact of continued unabated exposure to second-hand smoke on persons with compromised immune systems.**

No one can deny that in the two years since the Governor vetoed the smoke-free public housing bill, children with asthma, adults with COPD and heart disease, etc, will have suffered unnecessary exacerbations and even death. Permanent declines in health could have been reduced or even prevented had we eliminated exposure to second-hand smoke in the residences that many of them are unable to leave.

As you know, it was opposition of the Hawaii Public Housing Authority that led the Governor to veto the 2012 Bill and to legislation being deferred last year. During those two years, HPHA has not taken any steps to decrease smoking in public housing, although available education and support programs could have been introduced even prior to the January 31, 2012, communication that a smoke-free public housing policy was in force as of that date.

Given this lack of action, I support the detailed wording in the amendments proposed by Daria Fand, with whom I have worked closely for the past three years.

In particular, I support

1. The option of designated smoking areas determined by residents working in conjunction with management, with appropriate litter control.
2. Details regarding placement of signage related to the smoke-free facility and the designated smoking areas, consistent with standard practices across the nation, as referenced by Daria Fand in her suggested amendments.
3. Including "sidewalks" among the "common areas."

If these details are included in SB651 SD1, they will be reflected in the revised HPHA Administrative Rules, which would then be consistent with "best practices" nationwide. **While details in the current version of the ARs that reflect the flaws in the HPHA policy need to be addressed, these revisions should not interfere with or delay the current process.**

I hope you share my sense of urgency about passing legislation during this legislative session so that smoke-free signage can be placed immediately and education/support programs can be initiated while the administrative rules are being modified before public hearings February 28, 2014.

Thank you for considering my comments and for creating landmark legislation that can be implemented.

Thanks

From: [Steph](#)
To: [JDLTestimony](#)
Subject: Subj: SB651 SD1: Testimony IN SUPPORT, with Amendments
Date: Wednesday, February 19, 2014 3:02:30 AM

Aloha,

Please support this bill.

We need to tighten up the communication element of a smoke free environment in public places.

And example of this is bus terminals, public housing etc

Now is the time to act for the children of Hawaii

Stephanie and Roy Bath

Kea'au Hawaii

From: [N. Bath](#)
To: [JDLTestimony](#)
Subject: My Testimony in support of Bill SB 651 With Amendments designated by Daria Fand
Date: Wednesday, February 19, 2014 6:30:49 AM
Attachments: [DSASupportiveRefs.pdf](#)
[SB651SD2REDProposed.docx](#)
[SB651SD2Proposed.pdf](#)

For Hearing Date: Thursday, February 20, 2014, 10:30 a.m., Conference Room 016

Testimony Submitted By: Noah D. Bath

Kurtistown, Hawai'i (currently attending college on the mainland for Science/Engineering)

To: Senate Committee on Judiciary and Labor

The Honorable Senator Clayton Hee, Chair

The Honorable Senator Maile Shimabukuro, Vice Chair

Members of the Senate Committee on Judiciary and Labor

Subject: SB651 SD1, RELATING TO HEALTH

Position: Support, with Amendments

Honorable Committee Members:

Thank you for the opportunity to submit my testimony regarding this very important measure, SB651 SD1. I am in support of the proposals made by Daria Fand. Simply the bill is good and would be great with the amendments listed below. 😊 I submit my testimony as a citizen, student, and worker. I have included the following proposals written by Daria Fand, who I believe wrote it well. Please consider my testimony and these simple proposed revisions. Aloha!

" In order for a no-smoking policy to be successful, certain standards and provisions must be established uncompromisingly; and given the unpredictable nature of the current and future administrations, it is vitally important for this measure to establish such provisions. Though some of these recommendations may seem like "details," they in fact define the difference between a successful policy and a failure in enforcement, compliance, and efficacy. National smoke-free protocols are unanimous in these recommendations, and thus they should be adopted by law as I'm suggesting in **MY ATTACHED PROPOSED SD2 DRAFT, WITH THE FOLLOWING AMENDMENTS:**

SECTION 1 (b):

-- I'm strongly urging the addition of subsections (1) and (2), which respectively mandate the placement of proper identifying signage for DSA's and litter-preventive receptacles at their locations. HPHA has resisted this language, even though they have agreed with the concept that they may install DSA's, where necessary. If they are serious about establishing these areas on campuses where warranted, why would they not want to commit to appropriate signage and litter control for sanitation purposes? This is only common sense — that IF a property has smoking-allowed areas (which is not being mandated), residents should not be wondering where they are, or dropping butts around the grounds. This is not a cost-prohibitive demand for any public place where smoking is prohibited, as these amenities can be modest, and HPHA should be held by law to these basic requirements. Doing otherwise would be unacceptable practice.

-- Relating to DSA's in general, I strongly recommend that there NOT be restrictive language about where to locate such sites on a property, such as "not in a parking lot." With all due respect to agencies concerned about the concentration of SHS in parking lots, there is nothing inherently better about one location or another, and in fact, parking lots may be ideal locations because they are the furthest away from buildings, which would minimize drifting smoke into dwellings (the priority!). In some cases, prohibiting DSA's in certain areas may preclude some properties from having them, and that would be detrimental to compliance, which especially with a new policy requires a transitional option for smokers. It all depends on

property layout, so DSA placement should be handled on a case-by-case project basis.
[PLEASE SEE ATTACHED DOCUMENT OF AUTHORITATIVE COMMENTARY SUPPORTING DSA'S.]

SECTION 1 (c):

-- THE IMPORTANCE OF "NO-SMOKING" SIGNAGE AS VISUAL REMINDERS TO RESIDENTS CAN'T BE OVERESTIMATED AS A TOOL FOR COMPLIANCE. As Serena Chun, Regional Advocacy Director with the American Lung Association in California states, "Signage is the first line of defense." There should be absolutely no compromising on this, as they are a low-cost tactic widely espoused by policy educators. Therefore my draft proposal for additional **"No-smoking" signage on the property is an adaptation — to achieve consistency in principle and statute -- of existing language contained in HRS for other smoke-free public places, as follows:**

§328J-9 Signs. Clearly legible signs that include the words "Smoking Prohibited by Law" with letters of not less than one inch in height or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in and at the entrance to every place open to the public and place of employment where smoking is prohibited by this chapter by the owner, manager, or other person in control of that place.

-- Language which I have bracketed and stricken in SD1, I have replaced with "for the purpose of conspicuous notice." The stricken language is unnecessarily cumbersome and superfluous, when the emphasis for signage should merely be on "conspicuous notice"

SECTION 1 (d):

-- I recommend that the word "sidewalks" be added to the enumerated list of places defined in "common areas" language, because sidewalks are one of the most frequently-trafficked areas where smoking activity might occur.

It is my hope that this Committee will adopt the amendments that I've recommended here.

They place no unreasonable burdens upon HPHA financially or otherwise, while serving to maximally hold HPHA accountable to residents, giving them a viable smoke-free policy according to recognized standards. It is very important that we create a law and policy to last, and stand as highly functional on the ground, not just an injunction on paper. "

Mahalo nui loa.

Noah D. Bath

Kurtistown, Hawai'i

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: jason.park1@aol.com
Subject: *Submitted testimony for SB651 on Feb 20, 2014 10:30AM*
Date: Wednesday, February 19, 2014 8:23:40 AM

SB651

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jason Park	Individual	Oppose	No

Comments:

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From: nancy-kitchen@hawaiiantel.net
To: [JDLTestimony](#)
Subject: SB651 SD1
Date: Wednesday, February 19, 2014 9:37:02 AM

We support this bill

Mr. and Mrs. Kiktchen
Pahoa,
HI 96778

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: marius_van_der_lubbe@yahoo.com
Subject: Submitted testimony for SB651 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 9:54:54 AM
Attachments: [SB651.txt](#)

SB651

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Steve	Individual	Oppose	No

Comments:

This bill is unnecessary as the City and County already has such a ban in place. But I suspect that the reason it is being submitted and debated has nothing to do with reinforcing the City and County ban but as a stepping stone to banning smoking in Condominiums, Townhomes, and private houses that aren't at least 20' from the nearest neighbor but you are not honest enough to say so.

If the Legislature is really so concerned about secondhand smoke I suggest also you look banning barbequing. Many times I have been forced to breathe secondhand huli-huli chicken smoke at the beach or park. The only reason why you are not discussing a ban on barbequing is because most likely it is an activity you enjoy. Why don't you be honest and admit that the reason you're considering this bill is because you don't like smokers and the secondhand smoke issue is just a smoke screen you can use to bully people into conforming to your ideal world.

Thank you for the opportunity to testify. Steve

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