



**Office of the Public Defender
State of Hawaii**



**Timothy Ho, Chief Deputy Public Defender
Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Transportation**

January 27, 8:30 a.m.

RE: H.B. 1950

Chair Souki and Members of the Committee:

This measure would create the misdemeanor offense of discarding burning material from a motor vehicle. We oppose H. B. 1950.

This measure will make the act of tossing a cigarette butt out of a car a full misdemeanor. Currently, such an act would constitute the offense of criminal littering, which is a petty misdemeanor punishable by up to thirty days in jail, and mandatory terms which include picking up trash on the highway and a minimum fine of five hundred dollars.

We agree that fires that result from the willful and wanton acts of others should not be condoned. We also believe that our arson statutes, which range severity from a petty misdemeanor up to a class A felony, in addition to our criminal littering law are sufficient to deter and punish these acts.

A misdemeanor offense entitles a defendant to a jury trial. We do not believe that this legislature would want to grant an individual who was charged with tossing a lit cigarette out of his car the right to a jury trial. Most individuals charged with criminal littering waive their right to an attorney and plead guilty at their first appearance. If this same person was charged with a full misdemeanor, a district court judge would not accept his waiver of jury trial and guilty plea without first having consulted with an attorney. The hearing would then be continued until the defendant consulted with an attorney. If this person elected a jury trial, the court congestion and costs would increase tremendously. A half-hour trial would be stretched out to a minimum of two days, which would include the selection of a twelve person jury.

For the reasons stated above, we oppose H.B.1950. Thank you for the opportunity to comment on this bill.