

STAND. COM. REP. NO. 1406

Honolulu, Hawaii

March 23, 2007

RE: S.B. No. 1636  
S.D. 2  
H.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 1636, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE,"

begs leave to report as follows:

The purpose of this bill is to promote drug-free workplaces by allowing tests used for forensic testing as a workplace testing device and approved by the Director of Health to be administered for pre-employment drug testing. This bill also provides for:

- (1) The use of screening tests as directed by the United States Food and Drug Administration (FDA) package insert or, in its absence, the insert provided by the FDA-approved facility that manufactured the screening test;
- (2) Employers to test employment applicants;
- (3) Unions to test members; and
- (4) Manufacturers to apply to the Department of Health (DOH) for interim approval while seeking FDA approval.

Emerald Bay Consulting, LLC; Branan Medical Corporation;  
Pacific Resource Partnership; Kapolei Property Development, LLC;  
General Contractors Association of Hawaii; Hawaii Carpenters  
Union, Local 745; Hidano Construction, Inc.; S&M Sakamoto, Inc.;

SB1636 HD2 HSCR LAB HMS 2007-3270



Waiawa Ridge Development, LLC; Ralph S. Inouye Co., Ltd.; Castle & Cook Homes Hawaii, Inc.; and Building Industry Association of Hawaii testified in support of this bill. Straub Doctors on Call supported the intent of this measure. DOH and the Scientific Director of the Toxicology Department at Clinical Laboratories of Hawaii testified in opposition to this bill. Diagnostic Laboratory Services, Inc., submitted comments.

Drug use, especially the use of "crystal meth", is a major problem facing Hawaii. In particular, employers are discovering that substance abuse is a growing problem in the workplace that contributes to an impaired workforce resulting in work quality issues. According to Pacific Resources Partnership, it has been estimated that drug use in the construction industry can cost the industry \$50,000 per individual drug user. In an effort to promote drug-free environments, many employers require prospective employees to be subjected to substance abuse screening prior to employment. However, these tests can be costly and difficult to schedule since only a few laboratories conduct them. With the growing popularity of oral fluid drug screen on the West Coast, your Committee finds that the use of these devices in Hawaii may provide a cost effective way for employers to provide drug screening of potential employees.

While these tests may be useful in providing a cost-effective way for employers to provide drug tests to their employees, your Committee recognizes that such tests are not infallible and may result in false positives. Since these tests are relatively new, confirmatory testing for these false positive results currently do not exist. Your Committee also understands concerns raised that oral fluid drug screens lack the same accuracy as urine screens and may lead to confidentiality concerns, stigmatizing the tested individual should the oral fluid test result in a false positive. Accordingly, your Committee has amended this measure by:

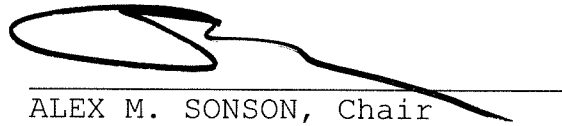
- (1) Removing the requirement that substance abuse on-site screening tests be used for pre-employment screening; and
- (2) Allowing a confirmatory urine test to be conducted should a substance abuse on-site screening test using oral fluids produce a positive result.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1636, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.B. No. 1636, S.D. 2, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,



ALEX M. SONSON, Chair



