

# HB2887

# HD2

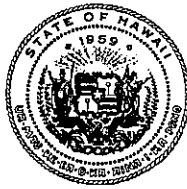
Measure Title:  
RELATING TO TATTOOING.

Report Title:  
Traditional Hawaiian Tattooing

Description:  
Exempts experts in the practice of Kakau, traditional Hawaiian tattooing, from current tattoo licensure laws. Effective January 1, 2050. (HB2887 HD2)

Introducer(s):  
AWANA, CARROLL, GREEN, HANOHANO, MANAHAN, MCKELVEY, MIZUNO, SHIMABUKURO, TOKIOKA, Brower, Karamatsu, Magaoay, Marumoto, Rhoads, Tsuji

Current Referral:  
AHW/HTH, CPH



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

In reply, please refer to:  
File:

**Committee on Agriculture and Hawaiian Affairs**

**Committee on Health**

**H.B. 2887, HD2, RELATING TO TATTOOING**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**March 19, 2008  
1:15 p.m.**

1 **Department's Position:** The Department of Health supports this bill with reservations.

2 **Fiscal Implications:** Funding for research on traditional Hawaiian tattooing will be needed if this bill is  
3 passed requiring the department to determine the efficacy of the "Kahuna Ka Kakau" and their experts.

4 **Purpose and Justification:** The bill would amend HRS 321-374 to exempt tattoo artists deemed to be  
5 "Kahuna Ka Kakau" from licensing requirements as a tattoo artist. "Kahuna Ka Kakau" is defined as an  
6 expert in the cultural practice and application of traditional Hawaiian tattooing. The exemption would  
7 allow the "Kahuna Ka Kakau" to utilize procedures, equipment and dyes that are inconsistent with  
8 current health standards.

9 The Department of Health respectfully acknowledges the Hawaiian culture and arts and would  
10 support this bill provided that the qualification for "Kahuna Ka Kakau" is not in any way determined by  
11 the Department of Health as the bill now requires, but by an organization or agency that has a better  
12 understanding regarding the qualifications for this title. The department suggests that this organization  
13 or agency be established prior to the effective date of this bill to prevent any misunderstanding or  
14 confusion that would jeopardize its success.

1           In addition to the licensing of the practice, the issue of permitting of the tattoo shop must also be  
2 addressed. The department suggests that an exemption from all regulations and statutes be considered  
3 for the “Kahuna Ka Kakau” to practice traditional Hawaiian tattooing. This would allow unrestrictive  
4 ability for the “Kahuna Ka Kakau” to practice their form of traditional Hawaiian tattooing. In addition,  
5 this would release the State from the responsibility and liability of regulating traditional Hawaiian  
6 tattooing and its use of procedures, equipment and dyes that are inconsistent to current regulations.

7           The rationale is based on current Center for Disease Control and Infection (CDC) and DOH  
8 Disease Investigation Branch statistical information that does not indicate persons with exposures to  
9 tattooing are at an increased risk for Hepatitis C (HCV), Hepatitis B (HBV), HIV or other significant  
10 numbers of infections. In light of this information and given the maturity of the industry and its ability  
11 to practice in a sanitary fashion, we also recommend that the regulatory system be changed from  
12 licensing tattoo artists to a simpler registration system so that there is a means to keep track of  
13 practitioners. This would effectively insure all tattoo artists are treated equally and fairly.

14           Thank you for the opportunity to testify.



**HB 2887, HD 2, RELATING TO TATTOOING**  
Senate Committees on Health; Agriculture and Hawaiian  
Affairs;  
and Energy and Environment

March 19, 2008

1:15 p.m.

Room: 016

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The Office of Hawaiian Affairs (OHA) **SUPPORTS**, with **amendments**, H.B. 2887, H.D. 2, which would exempt traditional Hawaiian tattoo experts from current tattoo licensure laws.

Traditional Hawaiian tattooing is a sacred cultural practice that connects individuals to their ancestors. Individuals who wish to receive tattoos in the traditional manner must often conduct in-depth genealogical and spiritual research before they are tattooed. The practice is rising in popularity as more Native Hawaiians seek out ways to reconnect to their rich cultural heritage.

However, exempting the practice from state licensure laws raises health concerns that will affect our beneficiaries, the Native Hawaiian community. Therefore, we ask that the bill be amended to include language that states that guidelines or best management practices for traditional Hawaiian tattooing be developed by traditional Hawaiian tattoo experts in consultation with at least one Native Hawaiian health organization, such as Papa Ola Lōkahi, ŷAhahui o nā Kauka, the University of Hawaiŷi at Mānoa's John A. Burns School of Medicine's Native Hawaiian Center of Excellence or the UH's Department of Native Hawaiian Health. These guidelines or best management practices should be developed to protect the health and well being of the Native Hawaiian community and the public at large.

OHA urges the Committee to PASS H.B. 2887, H.D. 2, taking the above-mentioned request into account. Thank you for the opportunity to testify.

# HPACH

919 4th Street  
Pearl City, Hawaii 96782

February 2008

Representative Ken Ito, Chair  
Representative Jon Riki Karamatsu, Vice Chair  
And Committee Members, Committee On Water, Land  
And Ocean Resources And Hawaiian Affairs  
House of Representatives, The Twenty-Fourth Legislature  
Regular Session of 2008, State of Hawaii

Subject: HB 2887, Relating To Tattooing, "SUPPORT"

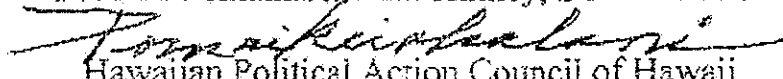
ALOHA Kakou,

My name is Richard Pomaikaiokalani Kinney. As Sovereign of the Hawaiian Political Action Council of Hawaii, I SUPPORT the passage of HB 2887.

Kakau, the practice of traditional Hawaiian tattooing is one of the parts of the Hawaiian Culture that has been dormant for far too many years in the past. As with the Hula, the Hawaiian Language, celebration of Makahiki and other parts of Hawaii's culture, Kakau is also becoming an important cultural role in today's Hawaii.

Once more, HPACH Supports the passage of HB 2887. Mahalo Nui for the opportunity to present testimony of this Bill.

Richard Pomaikaiokalani Kinney, SOVEREIGN



Hawaiian Political Action Council of Hawaii

Email: [HIAHAWAII@aol.com](mailto:HIAHAWAII@aol.com)

**Ken Ito, Chair**  
**Jon Karamatsu, Vice Chair**  
**Committee on Water, Land, Ocean and Hawaiian Affairs (WLH)**

**Kanani Kaaiawahia Bulawan**  
**Kanaka Maoli, Private Citizen**

**LATE TESTIMONY**

**February 11, 2008, 9:30am. Rm 312**

**STRONG SUPPORT OF HB 2887: Relating to Traditional Tattooing**

Aloha Chair, Vice Chair and members of the committee:

My name is Kanani Kaaiawahia Bulawan, a Kanaka Maoli or what you would call a private citizen. I'm here testifying in Full Support of HB:2887 relating to Traditional Tattooing and the exemption from licensing requirement by your Department or Board of Health.

**It has been my experience with both non-tradition or commercial tattooing and that of traditional tattooing. In these experiences there are very distinct differences. With the commercial process one goes into a shop, pick a design, sign a waiver and statement of understanding, pay the fee and get the work done. With the traditional process one gets to kuka kuka with Ka Kakau, the kuka kuka involves knowing your genealogy, understand your ancestry, and have a general idea of what your kuleana is towards life. This process is more than just putting a design picked out from a group of art graphic. It is a process of which you learn tradition and protocol. Based on your family status and kuleana in the ahu'pua'a. This allow you to know who you are, where you come from, what you are called and responsible to do in this life time for both the past (your kupuna) and your future (keiki).**

Our community has many needs and challenges. The bill identifies the concerns and solutions in addressing the barriers to assuring we have a healthier community and thereby reducing the need for continued government interventions. Allowing and recognizing a traditional practice and cultural believes respects all cultures that Hawaii is known and sensitive for.

Thank you for allowing me this time to submit my testimony and request your favor to support this measure. For more information I can be contacted at 783-9302.

# HB3150

# HD2

Measure Title:  
RELATING TO THE HAWAII EMERGENCY PLANNING AND COMMUNITY  
RIGHT-TO-KNOW ACT.

Report Title:  
Emergency Planning and Community Right-to-Know Act

Description:  
Clarifies the different reporting requirements for hazardous substances and extremely  
hazardous substances. (HB3150 HD1)

Package:  
Governor

Companion:  
SB3072

Introducer(s):  
SAY (BR)

Current Referral:  
HTH/ENE

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

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

In reply, please refer to:  
File:

**COMMITTEE ON HEALTH AND ENERGY AND ENVIRONMENT**

**H.B. 3150, HD2, RELATING TO THE HAWAII EMERGENCY PLANNING AND  
COMMUNITY RIGHT-TO-KNOW ACT**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**March 19, 2008  
1:15 P.M.**

1 **Department's Position:** The Department of Health strongly supports this administration bill.

2 **Fiscal Implications:** There will be some facilities that have to pay reporting fees for extremely  
3 hazardous substances when they did not do so before.

4 **Purpose and Justification:** The bill amends section of 128E-6 (a) (2), Hawaii Revised Statutes (HRS),  
5 of the Hawaii Emergency Planning and Community Right-To-Know Act (HEPCRA), to clarify the  
6 reporting requirements for "extremely hazardous substances." There have been some cases where  
7 businesses thought the law only required them to report "extremely hazardous substances" when they  
8 had 10,000 pounds instead of 500. The bill separates the different reporting requirements for "hazardous  
9 substances" and "extremely hazardous substances" to make sure that businesses file the required  
10 chemical inventory reports for "extremely hazardous substances" and pay the fee.

11 Protecting and preserving the health and safety of the residents of Hawaii is a primary function  
12 of the Department, this bill augments that function by ensuring that emergency responders and the  
13 department have complete and accurate information about the location and types of "extremely  
14 hazardous substances" at an emergency site. Affected businesses will be able to fill out and report their



1 appropriate chemical inventories with better accuracy. In turn, this more accurate and broader set of  
2 chemical inventory information will provide first responders, such as County fire departments, and other  
3 emergency response agencies as well as Local Emergency Planning Committees (LEPCs), with an  
4 increased capability to protect public health and safety when they respond to emergencies, such as  
5 hurricanes, fires, earthquakes, and prepare response plans. We ask that the effective date of the Act be  
6 changed from “January 1, 2050” to “upon its approval.”

7 This bill also enhances the Department's mission of protecting and preserving the environment.

8 Thank you for the opportunity to testify on this important measure.

CHARMAINE TAVARES  
MAYOR



NEAL A. BAL  
Interim Chief

**COUNTY OF MAUI**  
**DEPARTMENT OF FIRE AND PUBLIC SAFETY**

200 DAIRY ROAD  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7561  
FAX (808) 270-7919

March 17, 2008

The Honorable David Y. Ige, Chair  
Committee on Health  
The State Senate  
State Capitol, Room 215  
Honolulu, Hawaii 96813

The Honorable Ron Menor, Chair  
Committee on Energy and Environment  
The State Senate  
State Capitol, Room 208  
Honolulu, Hawaii 96813

Dear Chairs Ige and Menor:

Subject: HB 3150, H.D. 2 Relating to the Hawaii Emergency Planning and Community Right-To-Know Act

I am Neal A. Bal, Fire Chief of the County of Maui, Department of Fire and Public Safety. Our Department supports H.B. 3150, H.D. 2, which proposes to clarify the Hawaii Emergency Planning and Community Right-To-Know Act reporting requirements. As a first responder agency, it is imperative that our personnel know the risks and potential risks concerning hazardous materials that are present in a building or facility, especially under extreme hazardous fire or release conditions. Accurate information will be used as a planning tool prior to and during emergency conditions and can mean the difference between life and death. This information is also essential for facility owners to plan for the safety of its employees, who will be the first line of defense if or when emergency conditions arise.

I hereby urge your committees' support on the passage of H.B. 3150, H.D. 2.

Should you have any questions, please call me at (808) 270-7561.

Sincerely,

A handwritten signature in black ink that reads "Neal A. Bal".

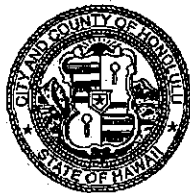
NEAL A. BAL  
Interim Fire Chief

NAB:rgkm

HONOLULU LOCAL EMERGENCY PLANNING COMMITTEE  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 523-4121 • FAX: (808) 524-3439 • INTERNET: [www.honolulu.gov](http://www.honolulu.gov)

MUFI HANNEMANN  
MAYOR



CARTER DAVIS  
CHAIR

LELAND NAKAI  
COORDINATOR

March 17, 2008

The Honorable David Y. Ige, Chair  
Committee on Health  
Room 215  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: **Support for H.B. 3150, H.D. 2**

Dear Senator Ige:

The Honolulu Local Emergency Planning Committee strongly supports H.B. 3150, H.D. 2, the proposed amendment to the Hawaii Emergency Planning and Community Right-To-Know Act, HRS 128E.

We have found in the City and County of Honolulu that in a number of instances facilities misinterpret the reporting requirements of HRS Section 128E-6 (a) (2), and do not file the required chemical inventory form. This lack of important chemical information poses potential risks to responders and the community during an emergency situation involving these chemicals.

The clarification of Section 128E-6 (a) (2) will help to further emphasize the different reporting requirements for "hazardous substances" and "extremely hazardous substances" and minimize any confusion that facilities may have on reporting these substances. Better reporting by facilities will allow our emergency responders to better prepare for any emergency involving these hazardous chemicals.

We strongly believe that this bill will enhance the safety of our island community and further protect our citizens and the environment.

Sincerely,

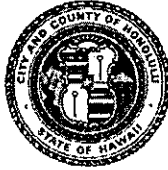
A handwritten signature in black ink, appearing to read "Carter Davis".

Carter Davis  
Chair, Honolulu LEPC

HONOLULU FIRE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

636 South Street  
Honolulu, Hawaii 96813-5007  
Phone: 808-723-7139 Fax: 808-723-7111 Internet: www.honolulu.gov/hfd

MUFI HANNEMANN  
MAYOR



KENNETH G. SILVA  
FIRE CHIEF

ALVIN K. TOMITA  
DEPUTY FIRE CHIEF

March 18, 2008

The Honorable David Y. Ige, Chair  
Committee on Health  
The State Senate  
State Capitol, Room 215  
Honolulu, Hawaii 96813

The Honorable Ron Menor, Chair  
Committee on Energy and Environment  
The State Senate  
State Capitol, Room 208  
Honolulu, Hawaii 96813

Dear Chairs Ige and Menor:

Subject: H.B. 3150, H.D. 2 Relating to the Hawaii Emergency Planning and Community  
Right-To-Know Act

I am Kenneth G. Silva, Fire Chief of the Honolulu Fire Department (HFD). The HFD supports H.B. 3150, H.D. 2, which proposes to clarify the Hawaii Emergency Planning and Community Right-To-Know Act reporting requirements. As a first responder agency, it is imperative that our personnel know the risks and potential risks concerning hazardous materials that are present in a building or facility, especially under extreme hazardous fire or release conditions. Accurate information will be used as a planning tool prior to and during emergency conditions and can mean the difference between life and death. This information is also essential for facility owners to plan for the safety of its employees, who will be the first line of defense if or when emergency conditions arise.

The HFD urges your committees' support on the passage of H.B. 3150, H.D. 2.

Should you have any questions, please call HFD Legislative Liaison Lloyd Rogers at 723-7171.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth G. Silva".

KENNETH G. SILVA  
Fire Chief

KGS/LR:bh

# HB2076

# HD1

Measure Title:  
RELATING TO DEPLETED URANIUM.

Report Title:  
Depleted Uranium; Air Sampling

Description:  
Requires the department of health to establish air sampling stations to monitor for levels of depleted uranium. Effective Date July 1, 2020. (HB2076 HD1)

Introducer(s):  
EVANS

Current Referral:  
HTH/ENE, WAM

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

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

In reply, please refer to:  
File:

**Senate Committee on Health**

**Senate Committee on Energy and Environment**

**HB 2076, HD1 RELATING TO DEPLETED URANIUM**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**March 19, 2008**

**1:15 p.m.**

1 **Department's Position:** The department supports but has strong reservations regarding this  
2 proposal.

3 **Fiscal Implications:** The proposed activities are not budgeted. Cost estimate for implementation is  
4 \$1.64 million (See Addendum).

5 **Purpose and Justification:** The bill requires the department of health to collect data on levels of  
6 contamination by depleted uranium by establishing air sampling stations located adjacent to and  
7 downwind from military facilities in Hawaii where depleted uranium was used.

8 The department supports the continuous air monitoring and routine analysis of samples to  
9 identify and quantify any depleted uranium released from military facilities and traveling into adjacent  
10 communities. We are happy to consult with qualified experts. We do not see a need to adopt the  
11 proposed rules; the department can address the issues of access, standards, and chain of custody with its  
12 existing authorities. However, aside from limited air sampling conducted under EPA, there are no funds

1 in the department to implement these activities. Any appropriations should not adversely affect the  
2 priorities in the executive supplemental budget priorities.

3 Thank you for the opportunity to testify.

Addendum to  
Department of Health  
Testimony  
on HB2076

BUDGET:

Assume Three Army Posts Requiring Air Monitoring; Five Monitoring Stations Per Post; Air Filter Collection Twice A Week; A Total Of 30 Air Filters Collected Weekly For 52 Weeks Per Year; Total Of 1560 Air Filters Annually. No Accredited Radiochemistry Laboratory In Hawaii To Conduct Analysis; Analysis By A Mainland Laboratory Costs \$1,000 Per Sample;

$3 \text{ Posts} \times 5 \text{ Stations/Post} \times 2 \text{ Collections Weekly} \times 52 \text{ Weeks/Year} \times \$1\text{k Per Sample}$   
= \$1.56 Million.

One Radiation Staff Member Will Travel To Kona Weekly.

Travel:  $\$150 \text{ Per Week} \times 52 \text{ Weeks} = \$7,800$

Salary for 1 FTE = \$75,000

Grand Total: \$1.64 Million



STATE OF HAWAII  
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 2076 HD1  
A BILL FOR AN ACT RELATING TO DEPLETED URANIUM

PRESENTATION TO THE  
SENATE COMMITTEE ON HEALTH  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

BY

MAJOR GENERAL ROBERT G. F. LEE  
ADJUTANT GENERAL  
March 19, 2008

Chair Ige, Chair Menor, and Members of the Committee:

I am Major General Robert G. F. Lee, State Adjutant General. I am testifying on House Bill 2076 HD1. This bill requires the Department of Health to establish air sampling stations to monitor levels of depleted uranium.

We support the intent of House Bill 2076 HD1 so long as it does not replace or adversely impact priorities as indicated in the Executive Supplemental Budget Request.

The United States Army has not shipped, stored, or used any ammunition in Hawaii that contained depleted uranium since 1962. It should be noted that spotting rounds with depleted uranium has been limited to the range impact areas only and not on the maneuver training areas that are used by our soldiers.

Since the discovery of depleted uranium, the U. S. Army has started and continues to monitor and remediate their training areas and weapon ranges. They have been very open in the discussions regarding depleted uranium at the ranges and are working with the State Department of Health, other federal organizations, and have kept our communities informed through town hall and formal meetings.

Additionally, the Department of Health conducted periodic background readings, usually on a monthly basis, in the populated areas around Pohakuloa Training Area, and the readings have been normal.

Chair Ige, Chair Menor, thank you for the opportunity to provide this written testimony.

## testimony

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**From:** Joel Fischer [jfischer@hawaii.edu]  
**Sent:** Monday, March 17, 2008 12:31 PM  
**To:** testimony  
**Cc:** senige@capitol.hawaii.gov; Sen. Carol Fukunaga  
**Subject:** HB2076; HTH; 3/19; 1:15; Rm 016

**Importance:** High

**Attachments:** Card for Joel Fischer <jfischer@hawaii.edu>



jfischer.vcf (343 B)

HB 2076, HD1, Relating to Depleted Uranium HTH; Chair, Sen Ige

PLEASE PASS THIS BILL.

To date, we have no idea how much depleted uranium there is in our lands and atmosphere. The military consistently has lied about the use of depleted uranium, and we cannot trust them to do the monitoring.

We owe the people of Hawai'i nei a transparent, fair and objective reporting system. We also owe our people the truth about threats to their health.

Thank you for introducing and hearing this important bill.

Aloha, joel

Dr. Joel Fischer, ACSW  
President, 19-3, Democratic Party

Professor  
University of Hawai'i, School of Social Work Henke Hall Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."  
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."  
Dr. Martin Luther King, Jr.

"Never, never, never quit."  
Winston Churchill

# LIFE OF THE LAND

*Ua Mau Ke Ea O Ka 'Aina I Ka Pono*

*The Sovereignty of the Land is Perpetuated in Righteousness*

76 North King Street, Suite 203, Honolulu, Hawai'i 96817

Phone: (808) 533-3454 \* E-Mail: [kat@lifeoftheland.net](mailto:kat@lifeoftheland.net)

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## VERY LATE TESTIMONY

### **COMMITTEE ON HEALTH**

Sen. David Ige, Chair

Sen. Carol Fukunaga, Vice Chair

### **COMMITTEE ON ENERGY & ENVIRONMENT**

Sen. Ron Menor, Chair

Sen. Gary Hooser, Vice Chair

Wednesday, March 19, 2008

1:15 p.m.

Room 016

### **SUPPORT HB 2076 HD1 - DEPLETED URANIUM**

Aloha Chairs Ige and Menor and Members of the Committees!

Life of the Land, Hawai'i's own environmental and community action group advocating for the people and the `aina since 1970. Our mission is to preserve and protect the life of the land through sustainable land use and energy policies and by promoting open government through research, education, advocacy, and litigation.

HB 2076 HD1 requires the department of health to establish air monitoring sampling stations to monitor for levels of depleted uranium.

Life of the Land supports this measure. We have served on military restoration advisory boards (RABs) for 10 years, including

- Army Schofield Barracks Technical Review Committee
- Air Force Hickam Restoration Advisory Board
- Air Force Central O`ahu Restoration Advisory Board
- Navy Pearl Harbor Restoration Advisory Board

We know something about the impact the military has had on Hawai'i and the contamination that they have left behind.

Why are people worried about depleted uranium? Well, below is a short explanation of what it is, what it does and how it spreads. Life of the Land's interest was heightened when we received resistance to the questions we asked at the RAB meetings. There is plenty of contamination that we don't know about...and plenty the military doesn't know about either...and you can bet that there is plenty that they're just not talking about.

To quote the poet Arundhati Roy:

*"I think my eyes were knocked open and they don't close.  
I sometimes wish I could close them and look away...  
But once you've seen certain things, you can't un-see them,  
and seeing nothing is as political an act as seeing something."*

Below is a short primer on depleted uranium – which has a radioactive half life of 4.7 billion years. Yes that was **BILLION**. (Source: [http://seattlepi.nwsource.com/national/133581\\_du04.html](http://seattlepi.nwsource.com/national/133581_du04.html))

**WHAT IT IS:**

Depleted uranium is a highly dense, toxic and radioactive metal that is the byproduct of the process during which fissionable uranium used to make nuclear bombs and reactor fuel is separated from natural uranium. The U.S. uses it for bullets and shells.

**WHAT IT DOES:**

Depleted uranium contains the highly toxic U-238 isotope, which has a radioactive half-life of about 4.5 billion years. As U-238 breaks down, an ongoing process, it creates protactinium-234, which radiates potent beta particles that may cause cancer as well as mutations in body cells that could lead to birth defects.

**HOW IT SPREADS:**

When a depleted uranium round hits a hard target, as much as 70 percent of the projectile can burn on impact, creating a firestorm of depleted uranium particles. The toxic residue of this firestorm is an extremely fine insoluble uranium dust that can be spread by the wind, inhaled and absorbed into the human body and absorbed by plants and animals, becoming part of the food chain. Once in the soil, it can pollute the environment and create up to a hundredfold increase in uranium levels in ground water, according to the U.N. Environmental Program.

Life of the Land and many people in Hawai'i are concerned that the Army is working on the largest military build-up since World War II. For years they have ignored the environment and dumped their opala and who knows what else – toxic and nontoxic – into our gulches.

The Army, even today, has a policy not to clean up ranges – where live fire is used in practice. In fact, in the 2004 Environmental Impact Statement for the Stryker Brigade, they actually said that if a range become too contaminated, they would find other land. What about the people of this land – the ones who will be here when they leave? What about our children?

So experience has taught us that depleted uranium is an issue that the military does not want to address. In fact, the military has consistently insisted that depleted uranium has never been used in Hawai'i.

In an e-mail reply from the Army, when questioned by a resident asking if depleted uranium was ever used in Hawai'i:

In a message dated 5/26/04 1:45:22 PM Hawaiian Standard Time,  
[Cindy.S.Barger@poh01.usace.army.mil](mailto:Cindy.S.Barger@poh01.usace.army.mil) writes:

Subj: RE: Army announces the release of the SBCT Final EIS :

Date: 5/26/04 1:45:22 PM Hawaiian Standard Time

From: [Cindy.S.Barger@poh01.usace.army.mil](mailto:Cindy.S.Barger@poh01.usace.army.mil) (Barger, Cindy S POH) :

To:

CC: [WilliamsJC@schofield.army.mil](mailto:WilliamsJC@schofield.army.mil) (LTC John Williams)

I checked with one of our specialists on unexploded ordnance and depleted uranium. He informed me that **there is no record of depleted uranium being used in Hawai'i**. Interesting fact I just learned, I guess there were only something like 1,000 DU ordnances ever made and they weren't typically used for training activities because they were so destructive (can only train in an area once) so they usually used "duds" of some sort instead.

Hope that helps.

Cindy

The March 2005 Draft Environmental Impact Statement for Makua denies the use of depleted uranium weapons in Hawai'i.

But recent discoveries have proven this to be untrue.

A January 6, 2006 Honolulu Advertiser Article entitled, "Schofield uranium find prompts call for probe" reported, A Sept. 19 e-mail message from Samuel P. McManus of the U.S. Army Engineering and Support Center in Huntsville, Ala., to Ronald Borne, an Army employee involved with preparations for the Stryker brigade at Schofield Barracks. The e-mail involved the high cost of unexploded ordnance removal in preparation for the construction of a new Stryker brigade battle area complex at Schofield. In the e-mail, McManus noted, *"We have found much that we did not expect, including the recent find of depleted uranium."*

The article went on to say, The Army confirmed yesterday that in August, 15 tail assemblies from spotting rounds made of D-38 uranium alloy, also called depleted uranium, were found by Zapata Engineering while the contractor was clearing a range area of unexploded ordnance and scrap metal. The tail assemblies are remnants from training rounds associated with an obsolete weapon system that was on O'ahu in the 1960s, and their low-level radioactivity represents no danger, the Army said.

The Army also stated that other than the armor-piercing rounds for the Abrams tank and Bradley fighting vehicle, there are no other weapons in its current stockpile that use depleted uranium. "There is no record of the Abrams and Bradley DU rounds ever being stockpiled in Hawai'i or being fired on Army ranges in Hawai'i," the statement said.

The 15 tail assemblies recovered have been triple-bagged, stored in metal containers and secured pending disposition instructions, the Army said.

The Army statement was issued several hours after a DMZ Hawai'i/Aloha 'Aina news conference announcing the e-mail findings, which was attended by representatives of six groups and concerned residents.

Depleted uranium munitions have raised concerns because they generate aerosolized particles on impact that can lead to lung cancer, kidney damage and other health problems.

Committee members, more and more research is coming out on depleted uranium and its long term effects on people. Think of our soldiers breathing in the dust, think of the Iraqi people, whose water, air and soil is contaminated with tons of depleted uranium stockpiles left by the U.S. military, think of the children of returning soldiers, think of Iraqi mothers giving birth to children with severe deformities.

The testing asked for in this bill is to protect the health and safety of the people of Hawai'i. We know that it is impossible to comprehend 4.7 BILLION YEARS. But we are asking that you good people err on the side of caution. The Army has repeatedly said that they have no record of depleted uranium being used in Hawai'i. Well, we know that myth has been blown out of the water.

At an informational briefing on January 17, 2008, the Army said they were concerned about the 'speculation' and 'misinformation' about DU. They said that the Army has not been permitted to use DU since 1996 (new story) and they have no intention of using it now. They confirmed what the community reported in January 2006 from filing a Freedom of Information Act request – that the DU at Schofield and Pohakuloa was from the Davey Crockett munitions.

Army records show that 714 rounds containing DU were shipped to the islands in 1962. A little under 300 pounds of DU is at Schofield and Pohakuloa.

The Army is taking this seriously and Tad Davis has put together a 'First class strategy' with the goals of being transparent and accountable. The strategy is:

1. Archival research (500 pages confirmed 714 rounds shipped to Islands)
2. Scoping survey
3. Characterization survey to determine the scope of the problem
4. Baseline human health risk assessment
5. Remediation plan

DU found in 2 areas of Schofield and 4 areas at Pohakuloa. The field work is 'wrapped up', the labs are producing reports, involved agencies are doing their reports and the Army wants to get the results to the Nuclear Regulatory Commission for risk assessment.

Ken Rubin, a Volcanologist at UH Dept. of Geochemistry is doing report.

The Army is working on a plan for persistent monitoring at Pohakuloa. They want an integrated system to address concerns.

**The Army reiterated that they do NOT currently use DU weapons.**

This statement is important to remember in light of the numerous denials over the years that DU was ever used in Hawai'i.

The community's concerns are heightened by the construction at both Schofield and Pohakuloa as well as the ongoing bombing at Pohakuloa and the threat of toxic fugitive dust being inhaled. What is all this new activity stirring up?

The citizens of Hawai'i earnestly hope that the Legislature will hold the Army to their word to be 'transparent and accountable'.

Mahalo for allowing us to submit testimony supporting HB 2076 HD1.

**TESTIMONY BEFORE THE SENATE HEALTH COMMITTEE  
RELATED TO H.B. 2076, H.D. 1**

**March 19, 2008**

Chairman Ige, Members of the Committee, I am Dr. James W. Morrow. Since it has been at least 15 years since I last testified at a legislative hearing, allow me to very briefly give you some background about myself. My education and degrees are in biochemistry and public health science. I have been in the air quality and air pollution control business in Hawaii since 1974 working throughout the Pacific area doing air quality impact analyses, air permitting, air monitoring, and assisting governments establish air pollution control programs. During the 1980's and early 1990's, I served on the State's Environmental Quality Commission, Environmental Council and Department of Health Air Advisory Committee. Until its closure in 2000, I was also on the clinical faculty at the UH School of Public Health, lecturing on air pollution health effects and lung disease.

My testimony today is solely on my own behalf and not on behalf of any of my current or former clients or employers. I would now like to offer the following comments and suggestions regarding the nature of uranium in the air environment and its potential health effects as they relate to H.B. 2076, H.D. 1

Uranium occurs naturally in the environment. During the late 1980's and early 1990's, we conducted a multi-year study of the volcanic aerosol ("VOG") on the Big Island. Hundreds of air samples were collected at Hilo, Captain Cook and Kalapana. These samples were analyzed for their chemical content including uranium which was found at very low levels [less than 0.001 microgram per cubic meter of air]. For comparison, the World Health Organization guideline for long-term exposure to uranium is one (1) microgram per cubic meter of air which is intended to protect the public from the chemical effects of uranium. The WHO also has a radiation guideline for uranium which is a dose not to exceed 100 millirem per year above the normal background level. Based on our VOG studies, the background dose due to naturally occurring uranium at those Big Island areas would be less than 1 millirem per year. The WHO does not distinguish between natural uranium and depleted uranium (DU) in setting its guidelines because chemically, uranium is uranium and DU is only different in that it is less radioactive.

In order to assess the potential health impacts of the 714 DU-containing M-101 spotter rounds that the Army reported had been brought into Hawaii in the 1960's, we conducted a computer modeling analysis using the EPA model that has been used for many years in permitting air pollution sources throughout the U.S. This was a "worst case" analysis in which 100 of those DU rounds were assumed to be located at a single spot in the Pohakuloa Training Area (PTA) impact zone and struck by a high explosive munition that aerosolized all the rounds. In other words, those 100 rounds were converted into a cloud of inhalable sized particles of DU. The model then dispersed that cloud downwind under artificially adverse meteorological conditions. This explosion and dispersion were assumed to occur once per day for one year. The maximum annual average DU concentration was computed at 966 receptor sites along the PTA boundary. The result was that the maximum annual DU concentration found at any one site on the PTA



**TESTIMONY BEFORE THE HOUSE FINANCE COMMITTEE  
RELATING TO H.B. 2076  
February 25, 2008**

boundary was 0.25 microgram per cubic meter of air. Annual radiation dose at this level is estimated at less than 20 millirem.

From these "worst case" results we conclude that it is highly unlikely that the DU rounds which may be remaining in the PTA impact zone will have any significant effect on ambient air quality beyond the PTA boundaries. Under more realistic conditions the DU will be at much lower concentrations and simply become a less radioactive part of the naturally occurring uranium, i.e., it will be lost in the background. And, needless to say, such levels would be well below the one (1) microgram per cubic meter WHO guideline for public health protection.

I would also advise you that we have been conducting baseline air quality monitoring in the PTA area since early 2006. The sample filters have been carefully controlled, accompanied by chain-of-custody forms and have been archived at the mainland laboratory that initially provided them. When the Army's DU investigation team discovered this, we were asked to provide filters for DU analysis. Over 400 filters have been recently transferred to another independent laboratory for uranium analysis.

In conclusion, the naturally low uranium levels measured in the air at Hilo, Kalapana and Captain Cook suggest that the DU fragments at PTA, which have been there for 40+ years, have not had a significant effect on air quality. This finding is consistent with our computer modeling analysis which suggests that the DU would have an insignificant impact on air quality even at the PTA boundaries. And given that DU is 40% less radioactive than naturally occurring uranium, radiation would appear to be a non-issue as well.

Finally, the DOH stated at the House Finance Committee hearing that it is in the process of establishing several monitoring sites in an effort to measure uranium levels. In light of all of the foregoing, we believe this bill is unnecessary and should not be enacted.

Thank you for the opportunity to present my views.

James W. Morrow, DrPH  
(808) 942-9096  
(jwmorrow@att.net)

**testimony**

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**From:** Jeff Sacher [jsacher@kona.net]  
**Sent:** Tuesday, March 18, 2008 5:55 PM  
**To:** testimony  
**Subject:** HB 2076 RELATING TO DEPLETED URANIUM

Dear Representative Evans,

I agree that the department of health needs to establish air sampling stations to monitor for levels of depleted uranium. However, an effective date of July 1, 2020 is far too late. Stations need to be set up immediately. In addition, these stations need to also be monitored by independent sources in conjunction with DOH.

Mahalo,  
Jeff Sacher  
Kawaihae, Big Island  
808-936-9983

## testimony

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**From:** Joan Conrow [joanconrow@hawaiiantel.net]  
**Sent:** Wednesday, March 19, 2008 10:03 AM  
**To:** testimony  
**Subject:** HB 2076

Committee on Health  
Committee on Energy and Environment

Dear Senators:

I am writing to express my support for HB 2076. I believe it's important for the state to assume the responsibility for monitoring depleted uranium and not depend on the military for reports.

Please move up the effective date from 2020. We need this monitoring to begin immediately.

Sincerely,  
Joan Conrow

# HB2283

# HD1

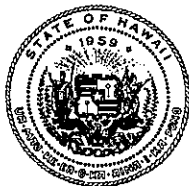
Measure Title:  
RELATING TO TATTOO ARTISTS.

Report Title:  
Tattoos; Temporary Permits

Description:  
Allows department of health to issue temporary 14-calendar-day certificates of registration to tattoo artists for educational, trade show, or product demonstration purposes only. (HB2283 HD1)

Introducer(s):  
MIZUNO

Current Referral:  
HTH



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

In reply, please refer to:  
File:

**Committee on Health**

**H.B. 2283, HD1, Relating to Tattoo Artists**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**March 19, 2008  
1:15 p.m.**

1 **Department's Position:** We have reservations about this bill and request changes.

2 **Fiscal Implications:** An increase in funding and staffing will be required to adequately effect the  
3 changes this bill would require for investigating the background and license of tattoo artists applying for  
4 temporary certificates of registration to perform tattooing in Hawaii. The financial burden to the general  
5 public should be minimized by including provisions in the bill that would allow the department to  
6 charge fees for these temporary certificates of registration and temporary tattoo establishment permits.

7 **Purpose and Justification:** The intent of this bill is to allow appropriately licensed tattoo artists to  
8 practice tattooing in Hawaii without a valid Hawaii State Tattoo License for a period of 14 calendar  
9 days.

10 Given the maturity of the industry and its ability to practice in a sanitary manner, we support this  
11 bill with reservations. Our information regarding infection rates from tattoos [Centers for Disease  
12 Control and Protection (CDC) and DOH Disease Investigation Branch] show that commercial tattoo  
13 artists are not responsible for significant numbers of transmitted infections. We recommend that the  
14 regulatory system for licensing of all tattoo artists in Hawaii be changed from licensing to one of  
15 registration whereby the department has means to keep track of practitioners.

1           The department also requests a limit or cap on the validation of 14 calendar days for temporary  
2 certificates of registration. Currently as written, a tattoo artist could continuously and endlessly renew  
3 the temporary certificate of registration every 14 calendar days.

4           We would also like to add that licensing of individuals is only one law facing tattoo artists who  
5 want to practice in Hawaii. Our regulations only allow tattooing in a permitted tattoo establishment.  
6 There are no provisions for a temporary tattoo shop in a convention or trade show type setting.

7           Thank you for the opportunity to testify.

## Kanoe Kamaano

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**From:** jas pascua [jazpascua@hotmail.com]  
**Sent:** Tuesday, March 18, 2008 1:38 PM  
**To:** HTHInPerson  
**Subject:** Hearing Scheduled for March 19, 2008, HTH Senate Committee at 1:15pm.

Senator David Ige, Chair  
Senator Carol Fukunaga, Vice Chair  
Health Committee  
Tuesday 18, 2008

I will testify in support of HB.2283, Relating to Tattoo Artist

Dear Senator Ige,

My name is Jas J. Pascua introducer of house bill 2283, this bill would allow the State Health Department to issue temporary certificates or registration to our tattoo artists and allow them to demonstrate in a controlled and approved venue such as trade show & convention style setting.

This event will not only demonstrate the art of tattooing, but as for educational purposes as well, through seminars which deals with health and safety related issues, the art of Polynesian & Filipino tribal tattoos and also from different cultures as well. Culture preservation through demonstration will not only educate, but give meaning to each tribal geometrical & symmetrical symbols which only the tattoo artist can understand and share. It is no different from a painter who paints a mural, or sculptor who makes statues and shares it with the public.

This event will not be a financial burden to the State, it may bring in additional revenues to the State Department and also promote the State as well. By issuing the temporary certificates or registration at a nominal fee, monies collected should off set any cost that it may incur.

I was instructed by Mr. Rex Mitsunaga's letter (Sanitation Branch Manager of the State Health Department) back in mid 2007 " in order to circumvent existing administrative rules, is to have Governor's office declare an emergency ruling, have court overturn the rule, or by modifying the rule through legislation." which I have taken his instructions into consideration.

By allowing us to produce an expo, I can assure that our tattoo artist will be able to express their passion, talents and livelihood for the people of Hawaii, other than in a permitted tattoo shop or establishment and will continue to abide by the Department of Health rules and regulations when passed.

I respectfully and humbly thank you for allowing this bill to be heard.

Sincerely,

Jas J. Pascua

Senior Producer

The Hawaii Big Boys Show  
216-5718

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Need to know the score, the latest news, or you need your Hotmail®-get your "fix". [Check it out.](#)

3/18/2008

## testimony

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**From:** Marc A. Ebalaroza [marc@httpgroup.com]  
**Sent:** Tuesday, March 18, 2008 7:47 AM  
**To:** testimony  
**Cc:** jas pascua  
**Subject:** In regards to: Bill 2283 - Hearing Wednesday March 19, 2008

Aloha,

My name is Marc A. Ebalaroza and I am writing you today in **support of Bill: 2283**

We live in a State that thrives off its culture, and throughout Polynesian history Tattooing has been a huge part of their way of life. Passing Bill 2283 will allow Tattoo Artist from all types of backgrounds to display their artistic skills and educate the public on the history of Tattooing in a public venue such as a Convention.

Throughout the State there are many talented Tattoo Artist that would like to display their talents, however most times they would have to go to the mainland to practice their Art in a public place. Personally I feel this is not fair at all, Hawaii has too many laws such as the Vehicle Recon Law, and the Off-Roading Laws that many places in the Mainland do not regulate. We in Hawaii either seem to be behind on things or just too strict on the Hawaii people.

Laws are good it keeps us safe; however allowing Tattoo Artist Temporary Permits is not a law that will hurt anyone. When someone gets a tattoo no one is forcing him or her, they come on their own free will. It is simply a personal approach of expressing themselves. This is why I strongly believe you should PASS BILL: 2283 and allow the Department to issue Temporary Permits to Tattoo Artist in the State of Hawaii!

Mahalo,  
Marc A. Ebalaroza

[4x4boyz.com](http://4x4boyz.com) - Founder / Creator  
[forhawaiiisoffroad.com](http://forhawaiiisoffroad.com) - Founder / Creator  
[hawaiiinked.com](http://hawaiiinked.com) - Supporter \*\*  
[Messages For Soldiers](http://Messages For Soldiers) - Founder / Creator  
[dylanfujimoto.com](http://dylanfujimoto.com) - Creator / Supporter



# HB7

# HD1

Measure Title:  
RELATING TO THE I-SAVeRx PRESCRIPTION DRUG PROGRAM.

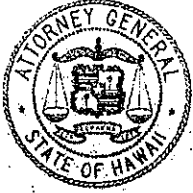
Report Title:  
Prescription Drugs; I-SaveRx; Governor; Reimportation

Description:  
Directs the Governor to establish the State of Hawaii's participation in the I-SaveRx prescription drug program to provide residents with increased access to affordable drugs.  
(HB7 HD1)

Companion:  
SB817

Introducer(s):  
TAKUMI, GREEN, THIELEN

Current Referral:  
HTH, CPH



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 7 H.D. 1, RELATING TO I-SAVERX PRESCRIPTION DRUG PROGRAM.

**BEFORE THE:**

SENATE COMMITTEE ON HEALTH

**DATE:** Wednesday, March 19, 2008 **TIME:** 1:15 PM

**LOCATION:** State Capitol, Room 016  
*Deliver to: Committee Clerk, Room 215, 1 Copy*

**TESTIFIER(S):** Mark J. Bennett, Attorney General  
or Cori K. Woo, Deputy Attorney General.

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Chair Ige and Members of the Committee:

The Attorney General has serious concerns regarding this bill, specifically, the ability of the State to execute its provisions within federal restrictions.

The purpose of the bill is to direct the Governor to establish Hawaii's participation in the I-SaveRx prescription drug program to provide residents with increased access to affordable drugs. Hawaii residents would have access to the I-SaveRx program through an Internet website and a toll-free twenty-four-hour telephone number run by Illinois' pharmacy benefit manager, Pegasus Health Services Limited, which has existing relationships with licensed pharmacies in Canada, the United Kingdom, Australia, and New Zealand.

We have identified several legal problems with this bill concerning FDA requirements and approval.

First, importing a drug into the United States that is unapproved or does not comply with the labeling requirements in the Federal Food, Drug, and Cosmetic Act ("FFDCA") is prohibited under 21 U.S.C. section 331(a), (c), and (d). Under the same section of the FFDCA, the interstate shipment of any prescription drug that lacks required FDA approval is also illegal. Interstate shipment includes importation

such as bringing drugs from a foreign country, like Canada, into the United States.

Second, the drug distribution network for legal prescription drugs in the United States is a "closed" system that involves several players who move drug products from the point of manufacture to the end user, and provides the American public with multiple levels of protection against receiving unsafe, ineffective, or poor quality medications. Even if the drug was manufactured in the United States and approved by the FDA, then shipped to a purchaser in a foreign country and brought back in through Illinois, once it leaves the United States it loses its FDA approval. Therefore, pursuant to 21 U.S.C. section 381(d)(1), it is illegal for any person other than the original manufacturer of a drug to import into the United States a drug that is originally manufactured in the United States and sent to another country. Failure to comply with the applicable federal law would expose any individual involved with this program to both civil and criminal liability pursuant to 21 U.S.C. sections 331, 332, 333, and 381(d)(1) and 18 U.S.C. sections 2 and 371.

The Attorney General would like this Committee to be informed on these issues. Thank you for this opportunity to testify.

LINDA LINGLE  
GOVERNOR



LILLIAN B. KOLLER, ESQ.  
DIRECTOR

HENRY OLIVA  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 19, 2008

MEMORANDUM

TO: Honorable David Y. Ige, Chair  
Senate Committee on Health

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 7, H.D. 1 – RELATING TO THE I-SAVERX PRESCRIPTION  
DRUG PROGRAM**

Hearing: Wednesday, March 19, 2008, 1:15 PM.  
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to direct the Governor to establish the State of Hawaii's participation in the I-SaveRx prescription drug program to provide residents with increased access to affordable drugs.

DEPARTMENT'S POSITION: The Department of Human Services appreciates the intent of the Legislature to lower the cost of prescription drugs for the citizens of Hawaii but we must oppose this bill because it will require State funds that will adversely impact the priorities in the Executive Supplemental Budget.

There will be costs to implement and administer the I-SaveRx program and this bill has no appropriation for the administering of this program. This bill proposes to place the I-SaveRx program in chapter 346 which covers DHS. Even though this bill proposes that Hawaii's I-SaveRx program will be administered by the State of Illinois,

DHS will still require new positions to gather the information for Illinois and to monitor the I-SaveRx program as required by this bill. Also, since Illinois is the primary administrator of the pharmacy benefits management agreement for this program, DHS will also have costs to pay to the State of Illinois as a participating State.

The Department needs to point out that the State of Hawaii would be prohibited from utilizing Federal Medicaid matching funds to purchase prescription drugs from the I-SaveRx Prescription Drug Program because these drugs are purchased from Canada and Europe. The U.S. Food and Drug Administration (FDA) considers imported prescription drugs as unapproved new drugs, and Federal Medicaid rules clearly indicate that only FDA approved drugs can be prescribed.

The Department also has a concern as to the appropriateness of the placement of this type of non-Medicaid program in the Department of Human Services statutes in chapter 346.

Inasmuch as this bill will require additional State appropriations, the Department opposes this bill and respectfully requests that such funding not adversely impact nor replace the priorities in the Executive Supplemental Budget.

The Department defers to the Department of the Attorney General as to the legality of this bill.

Thank you for the opportunity to comment on this bill.

**POLICY ADVISORY BOARD FOR ELDER AFFAIRS (PABEA)  
NO.1 CAPITOL DISTRICT  
150 SOUTH HOTEL STREET, SUITE 406  
HONOLULU, HAWAII 96813**

**TO: SENATE-SGT-AT- ARMS**

**March 15, 2008  
Fax 586-6659**

**FROM: Bruce McCullough  
Legislative Committee, PABEA**

**FOR: Committee on Health  
Senator David Y. Ige, Chair  
Senator Carol Fukunaga, Vice Chair**

**RE: HB 7, HD 1 Relating to the I-SaveRX Prescription Drug Program**

**DATE: Wednesday, March 19, 2008**

**TIME: 1:15 PM**

**PLACE: RM 016 (I will be testifying in person).**

**I am offering testimony on behalf of PABEA, which is a State appointed Board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA, but of the board.**

**PABEA is in strong support of this proposed legislation.**

**I-SaveRx is a prescription drug reimportation program developed by the State of Illinois that allows Illinois consumers to refill prescriptions for the most common brand-name prescription drugs used to treat chronic illness at affordable prices from pharmacies in Canada and the United Kingdom.**

**This bill amends Chapter 346 of the Hawaii Revised Statutes by inserting a new section to enable Hawaii to participate in the I-Save Rx program that is**

currently in effect in the State of Illinois as well as several other states that are participating in the program.

Since Illinois implemented the I-Save Rx prescription drug program,, Wisconsin, Missouri, Kansas, and Vermont have joined the program as participating states.

DEPARTMENT OF COMMUNITY SERVICES  
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 311 • HONOLULU, HAWAII 96813 • AREA CODE 808 • PHONE: 768-7762 • FAX: 768-7792



MUFI HANNEMANN  
MAYOR

DEBORAH KIM MORIKAWA  
DIRECTOR

ERNEST Y. MARTIN  
DEPUTY DIRECTOR

March 19, 2008

The Honorable David Y. Ige, Chair  
The Honorable Carol Fukunaga, Vice Chair  
and Members of the Committee on Health  
The Honorable Jill N. Tokuda, Chair  
The Honorable J. Kalani English, Vice Chair  
and Members of the Committee on Agriculture and Hawaiian Affairs  
The Honorable Ron Menor, Chair  
The Honorable Gary L. Hooser, Vice Chair  
and Members of the Committee on Energy and Environment  
The Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chairs Ige, Tokuda, Menor, Vice Chairs Fukunaga, English, Hooser, and Members:

Subject: Support of HB7, HD1, Relating to the I-SaveRx Prescription Drug Program

The Elderly Affairs Division is an Area Agency on Aging designated by the State Executive Office on Aging under the Older Americans Act of 1965. We support HB7, HD1, Relating to the I-SaveRx Prescription Drug Program.

HB7, HD1 would allow the implementation of the I-SaveRx drug reimportation program developed by the State of Illinois in 2006. Since that time, other states including Kansas, Missouri, and Wisconsin have also implemented the program. Participation in the program is voluntary and offers participants access via the internet and toll-free telephone number to drugs from licensed pharmacies in Australia, Canada, New Zealand, and the United Kingdom saving users approximately 20-50%.

Availability of more options for seniors to access lower cost drugs would be beneficial and we urge passage of HB7, HD1. Thank you for the opportunity to submit this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen K. Miyake".

Karen K. Miyake  
County Executive on Aging  
Elderly Affairs Division

PT:ab  
cc: Office of the Mayor





Hawaii's Voice for a Better Future

COMMITTEE ON HEALTH

Senator David Y. Ige, Chair

Senator Carol Fukunaga, Vice Chair

March 19, 2008

**Re: HB7 — Relating to the I-SaveRX Prescription Drug Program**

**In Support**

According to a CBS News report:

*It may come as no surprise that the pharmaceutical industry is the most profitable business in the country. American drug prices are the highest in the world, so more than a million Americans now buy their medications in Canada.*

Personal import of prescription drugs is growing rapidly. Since the federal government won't take any action that opposes the interests of US drug manufacturers, it has fallen to the states to take action on behalf of their citizens.

Several states (Illinois, Kansas, Wisconsin, Missouri and Vermont) have joined forces in a purchasing program that imports prescription medications from overseas. Recently, Illinois Governor Rod R. Blagojevich announced that the State of Illinois will expand its innovative I-SaveRx drug importation program to state employees and dependents. The saving for employees and retirees alone is estimated at \$94.9 to \$112.9 million a year.

The program is voluntary, not mandatory. Those who can find an even cheaper way to purchase a particular medication can do that. Those who have no choice will benefit—particularly seniors, those with disabilities, the uninsured and the underinsured.

Through its expansion of the program Illinois expects to reduce its annual prescription drug costs and reduce, and sometimes even eliminate, co-payments for state employees and dependents.

Hawaii residents can reap the same benefits. Please pass this bill so that Hawaii can join other states in the I-SaveRx program.

Larry Geller, President

  
Kokua Council

HB7  
HTH  
Wednesday, March 19, 2008  
1:15 p.m.  
Room 016



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

AFSCME LOCAL 152, AFL-CIO

888 MILILANI STREET, SUITE 601 • HONOLULU, HAWAII 96813-2991



Randy Perreira *Executive Director*  
Tel: 808 543-0011 Fax: 808 528-0922

Nora A. Nomura *Deputy Executive Director*  
Tel: 808 543-0003 Fax: 808 528-0922

Derek M. Mizuno *Deputy Executive Director*  
Tel: 808 543-0055 Fax: 808 523-6879

The Twenty-Fourth Legislature, State of Hawaii  
The Senate  
Committee on Health  
Committee on Agriculture and Hawaiian Affairs  
Committee on Energy and Environment

Testimony by  
Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO  
Wednesday, March 19, 2008

H.B. 7, H.D. 1 – RELATING TO THE I-SAVERX  
PRESCRIPTION DRUG PROGRAM

The Hawaii Government Employees Association (HGEA), AFSCME Local 152, AFL-CIO supports H.B. 7, HD1, which directs the Governor to enter into a written agreement to participate in the I-SaveRx prescription drug program. The I-SaveRx program is a prescription drug reimportation program developed by the State of Illinois in 2004. Through this program, Illinois consumers are allowed to use licensed pharmacies from Canada, Australia and New Zealand to purchase lower-priced prescription drugs. Since Illinois implemented the program, Wisconsin, Missouri, Kansas and Vermont have joined as participating states.

While the reimportation of prescription drugs is not a long-term, comprehensive solution to making drugs more affordable, it will help Hawaii consumers with an interim option to obtain safe and less expensive medications. Consumers in the United States pay more for medicines than the rest of the world. Estimates are that program participants will save between 25 -50% on the cost of their medications. The I-Save Rx program will be especially beneficial for those without drug insurance.

We represent over 9,000 retired HGEA members who depend upon benefits received upon retirement. The I-SaveRx prescription drug program will result in savings to these retired members on the cost of their medications at a minimal cost to the State. It will also provide members accessibility in obtaining safe and affordable prescription drugs through the Internet and through a twenty-four hour toll-free telephone number. The program is voluntary and allows members to refill prescriptions equal to a three-month supply. Reimportation yields considerable savings for individuals and state government programs.

Thank you for the opportunity to testify in support of this important measure.

Respectfully submitted,

Nora A. Nomura  
Deputy Executive Director

# Statement



In Opposition to House Bill 7, H.D. 1

March 18, 2008

**Position: The Pharmaceutical Research and Manufacturers of America (PhRMA) respectfully opposes House Bill 7, H.D. 1 (HB 7, H.D. 1) because it would likely jeopardize the health and well-being of patients and compromise the integrity of the prescription drug supply in the United States.**

HB 7, H.D. 1 would allow the State of Hawaii and its residents to join an illegal importation website called "I-SaveRx" which is currently utilized by a limited number of states as a way to facilitate the distribution of potentially unsafe and illegal drugs to state residents from foreign pharmacies.

PhRMA and its member companies realize the importance of providing patients with access to life-sustaining and cost-effective pharmaceuticals. However, PhRMA urges Hawaii legislators to consider the safety and liability concerns associated with importing and facilitating the importation of pharmaceuticals from abroad.

## **Patient Safety Is Jeopardized**

On January 11th, 2007, the National Association of Boards of Pharmacy (NABP) released a press statement entitled, *2006 Unprecedented Year of Increased Fake Drug Production, Introduction into U.S. Drug Supply*. In its press release, the NABP states that "one of Canada's largest internet pharmacies is selling counterfeit versions of Lipitor, Crestor, Celebrex and seven other drugs." Additionally, the NABP discussed the 2005 case in the United Kingdom where 10,000 packs of Lipitor were found to have been mixed with counterfeit packs and at least 2,500 of these used by patients before it was determined that they were counterfeit.

Internet pharmacies that claim to be Canadian, Irish, or British may have no ties at all to Canada, Ireland, or the United Kingdom. Many internet pharmacies actually based in these countries obtain their drugs from third-world sources such as India, Thailand, and the Philippines. Furthermore, the Canadian equivalent of the US FDA is not designed to provide oversight on products that merely pass through Canada destined for patients in the US. Patient health is further jeopardized when licensed pharmacists are replaced by questionable internet sites.

The US Food and Drug Administration (FDA) estimates that approximately 1% or less of drugs in the United States are tainted or counterfeit.<sup>1</sup> Assuming that is accurate, that means approximately 3,500,000 U.S. prescriptions may be potentially affected by counterfeit drugs each year.<sup>2</sup> Recent discoveries in counterfeit drugs in the United States have included AIDS/HIV therapy, over-the-counter pain medications, antibiotics, insulin, cholesterol drugs, hormone replacement therapy, cardiac drugs, antihistamines, and many more.<sup>3</sup> The use of counterfeit drugs can cause harm in variety of ways including ingesting the wrong drug which means the patient is not being treated for their condition; getting the wrong concentration or dose which can result in death; taking a drug with no active ingredients which means the patient's condition is not being treated; and ingesting dangerous materials used to make the fake drugs.<sup>4</sup>

In a May 20, 2005, letter to Governor Kenny Guinn of Nevada, the FDA stated that importation of foreign drugs is illegal and outlined numerous safety concerns. In this letter, FDA Associate Commissioner for Policy and

<sup>1</sup> Bryan A. Liang, *Over the Virtual and Geographic Borders: Understanding Importation and Counterfeit Drugs*, 36 Cal. W. Int'l L.J., 11 (2005), citing Paul M. Rudolph & Ilisa B.G. Bernstein, *Counterfeit Drugs*, 350 New Eng. J. Med. 1384 (2004).

<sup>2</sup> Id. at 11.

<sup>3</sup> Id.

<sup>4</sup> Id at 11-12.

Planning Randall W. Lutter indicated, “We cannot provide adequate assurance to the American public that the drug products delivered to consumers in the United States from foreign countries are the same products approved by the FDA.”<sup>5</sup>

### **Legal Concerns and Potential Liability for Public Entities**

In addition to safety concerns, the FDA indicates that states and/or other entities that encourage, act, or even cause illegal importation run afoul of the Federal Food, Drug, and Cosmetic Act (“FDCA”)<sup>6</sup>. FDCA violations have already triggered Department of Justice enforcement actions. As a practical matter, FDA believes that, “it is extremely unlikely that any program in [a state or municipality] could ensure that all of the applicable legal requirements are met.” The administration and costs to a state associated with attempting to create and maintain a program that could oversee the distribution of foreign drugs to its residents, often on an individual basis, would likely be so substantial that a state would be unable to adequately protect against all possible civil and criminal violations.

If a state provides Canadian and other foreign drugs directly or facilitates their distribution, such as through contracting with foreign pharmacies, importing directly or participating in a website (such as I-Save-Rx) that will provide imported drugs to state residents, state tort liability acts would apply. Hawaii attempts to shield itself from liability to any resident who may be injured by an imported prescription drug by giving itself immunity under Section 346-L on page 10 of the bill.

### **Importation Savings are Negligible and FDA Approved Drugs are Available at Low Cost or No Cost**

On September 19<sup>th</sup>, 2006, the Illinois Auditor General released his state-sponsored audit of I-SaveRx after 19 months in operation. Rather than saving the state of Illinois a windfall from importing prescription drugs, the Auditor General found that I-SaveRx instead cost Illinois taxpayers over \$1 million and reached only 4,000 people. While importation was hailed by some as a means to save money, analysis of actual data continues to show that this is not the case.

PhRMA and the biopharmaceutical industry are committed to working with the FDA and other agencies to keep America’s drug supply safe. We are equally committed to ensuring that every American has access to quality medicines. In April 2005, PhRMA established the Partnership for Prescription Assistance ([www.pparx.com](http://www.pparx.com)) which offers a single point of access to more than 475 public and private patient assistance programs, including more than 180 programs offered by pharmaceutical companies. PPARx brings together America’s pharmaceutical companies, doctors, other health care providers, patient advocacy organizations, and community groups to help qualifying patients who lack prescription coverage get the medicines they need through the public or private program that is right for them. Many will get them free or nearly free. Since its inception, PPARx has matched over 4 million Americans nationally to patient assistance program. In Hawaii alone, nearly 9,000 residents have been matched to at least one patient assistance program.

In addition, PhRMA sponsors [www.BuySafeDrugs.info](http://www.BuySafeDrugs.info) which provides information on safe, legal way that patients can save on prescription medications, educates patients on the risks of importing medicines, and explains why legalizing importation is bad public policy.

It is for all these reasons, PhRMA respectfully opposes passage of HB 7, H.D. 1.

*The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country's leading pharmaceutical research and biotechnology companies, which are devoted to inventing medicines that allow patients to live longer, healthier, and more productive lives. PhRMA companies are leading the way in the search for new cures. PhRMA members alone invested an estimated \$39.4 billion in 2005 in discovering and developing new medicines. Industry wide research and investment reached a record \$51.3 billion in 2005.*

<sup>5</sup> Randall W. Lutter, FDA Associate Commissioner, Letter to Nevada Governor Kenny Guinn, May 20, 2005.

<sup>6</sup> William K. Hubbard, FDA Associate Commissioner for Policy and Planning, Letter to CA Deputy Attorney General, August 25, 2003.

The Twenty-Fourth Legislature  
Regular Session of 2008

THE SENATE  
Committee on Health  
Senator David Y. Ige, Chair  
Senator Carol Fukunaga, Vice Chair

State Capitol, Conference Room 016  
Wednesday, March 19, 2008; 1:15 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 7, HD1  
RELATING TO THE I-SAVERX PRESCRIPTION DRUG PROGRAM**

The ILWU Local 142 supports H.B. 7, HD1, which directs the Governor to establish the State of Hawaii's participation in the I-SaveRx Prescription drug program to provide residents with increased access to affordable drugs.

Many uninsured individuals in Hawaii had expected the Hawaii Rx Plus program to address the rising cost of prescription drugs with pharmaceutical company rebates negotiated by the State. However, such rebates have not been negotiated and, as a result, those without drug coverage have to bear exorbitant costs for brand-name drugs.

H.B. 7, HD1 would be another vehicle to address the problem of the high cost of prescription drugs. We urge passage of this bill and thank you for the opportunity to provide testimony.

SENATE COMMITTEE ON HEALTH  
The Hon. David Y. Ige, Chair  
The Hon. Carol Fukunaga, Vice Chair

Wednesday, March 19, 2008, 1:15pm Room 016

HB 7, HD1 RELATING TO THE I-SAVERX PRESCRIPTION DRUG PROGRAM.

**SUPPORT**

I am Laura Manis and I wish to add to the support of the passage of HB7 HD1 for the following reasons.

Many families must choose between buying food or paying for their prescription drugs. Others take their drugs less frequently than prescribed or cut their pills in half, thereby jeopardizing their health. Many Medicare patients reach the "doughnut hole" within a few months and have to pay the total costs of their medicines. In the last 10 years, drug companies have consistently been the most profitable companies with an average of 512 times more profit than the average Fortune 500 company.

The I-Save program includes 5 states that have negotiated with Canada for lower prices and have been doing this for the past 5 years with no repercussions from the Federal government.

It is managed by a very reliable company and backed by the state government of Illinois.

I understand that Hawaii has 228,000 individuals in Hawaii who currently do not have prescription drug insurance coverage or are underinsured.

The current state administration charged with negotiating lower Rx costs has shown no inclination to do this.

Laura G. Manis,  
1350 Ala Moana Blvd, #1511  
Honolulu HI 96814  
Phone: 597-8838

## testimony

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**From:** Justin Wong [wongj060@hawaii.rr.com]  
**Sent:** Tuesday, March 18, 2008 10:33 AM  
**To:** testimony  
**Subject:** Testimony in Support of HB7,HD1 Relating to the I-SaveRx Prescription Drug Plan

SENATE COMMITTEE ON HEALTH  
Senator David Ige, Chair  
Senator Carol Fukunaga, Vice Chair

DATE: Wednesday, March 19, 2008  
TIME: 1:15 p.m.  
PLACE: Conference Room 016  
State Capitol  
415 South Beretania Street

Senator Ige and members of the Health Committee, the Hawaii State Teachers Association - Retired, consisting of more than 4,300 retired teachers statewide, supports the passage of HB7,HD1.

Seniors, whose incomes are relatively fixed, are adversely affected by increases in the cost of living, especially the cost of health services and prescription drugs. Seniors use more prescription drugs than the general population and spend a larger portion of their income on them.

We welcome any proposal which would curtail the cost of drugs. We believe that the I-SaveRx is a sensible approach to reducing the cost of prescription drugs.

Please, support HB7,HD1.

Justin Wong, President  
Hawaii State Teachers Association - Retired

*(Testimony in support of HB7, HD1 to Senate Committee on Health, for hearing on March 19, 2008, 1:15 p.m. Conference Room 016, submitted by email, March 17.)*

TO: Chair David Y. Ige, Vice Chair Carol Fukumoto and Members of the Committee

Chair Ige, thank you very much for scheduling a hearing on HB7, HD1.

I'm a citizen, and a proud Democrat, one of thousands who participated in precinct meetings a few weeks ago to help decide our choice of presidential candidates for the Democratic Party. What a truly happy day to see so many Democrats participate in this open process, in spite of the logistical problems. Most of us probably have never submitted testimony on any bills, even on those issues that affect us dearly. We have basically trusted our elected Democrat leaders to take the appropriate actions, based on the history of the Democratic Party to spearhead continuing social, economic and educational changes in Hawaii, for which my family and friends are basically pleased.

This is my first testimony as a citizen and a proud Democrat, although I've submitted testimonies in my other roles in our community. I am convinced that HB7, HD1, I SaveRx Program is a proven program for reducing prescription drug costs for citizens in states like Illinois and others and we in Hawaii can truly benefit from it. This bill simply directs the Governor to establish the State's participation in the I-SaveRx Program, which could result in savings of 25-30% in prescription drug costs. Enactment of this bill will truly help the beneficiaries of this program, many who have very limited income to take care of their daily expenses. The merits of the bill are so clear that the State House passed this bill without a single vote in opposition on March 4.

Now HB7, HD1 is in your court. Favorable action of this bill will demonstrate that this Committee, the Senate and this Democratic legislature are willing to take a leadership role in reducing the cost of prescription drugs in the face of legalistic arguments against this bill by the DHS and the AG and the maintain-the-status quo arguments by PhRMA, which may lose some of its huge profits. Fear of legalistic arguments can lead to inaction. Bold social programs all withstand legal challenges. So please stand up for the social and economic good that this bill will bring. The alternative is to kill this bill and do nothing to reduce drug costs. Should you decide to kill this bill, I would be very disappointed as a citizen and a Democrat because you and my Democratic Party will have let me, and others like me, down on this very important social issue by doing nothing, just like the Governor has done. So please approve HB 7, HD1.

A couple of years ago our Governor stated dramatically that she will work with other states to reduce the cost of prescription drugs. To date she has absolutely nothing to show for her efforts to address this statewide problem. Also her inaction to implement a recently passed state law, Act 60, designed to reduce prescription drug prices has resulted in no real reduction of costs, just the maintenance of the status quo. Big talk, do nothing. Please approve HB7, HB1 as an important step to reduce prescription drug costs and as the right thing to do as the leaders of the majority party for our citizens. Mahalo.

Albert T. Hamai, citizen and proud Democrat. 1457 Ala Aolani Street Honolulu, 96819.



**testimony**

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**From:** Beverly Gotelli [bgotelli@msn.com]  
**Sent:** Sunday, March 16, 2008 3:12 PM  
**To:** testimony  
**Subject:** support HB 7, D1

COMMITTEE ON HEALTH

HB 7, HD 1                      Relating to the I-SaveRX Prescription Drug Program

March 19, 2008

1:15 p.m. Room 016

Chair Ige and Members of the Committee:

My name is Beverly Gotelli and I support HB 7, HD 1 which directs the Governor to establish the State of Hawaii's participation in the I-SaveRx prescription drug program to provide residents with increased access to affordable drugs. As a recent retiree and a member of HSTA-R affordable drugs is something that the State must look into for its aging community.

This is the only prescription drug bill remaining that can make a substantial difference to its beneficiaries. House Bill 7, HD 1 simply directs the Governor to establish the State of Hawaii's participation in I-SaveRX Prescription Drug Program, which could result in savings of 25-30% in prescription drug cost, at minimal cost to the State.

Since Illinois implemented the I-SaveRx Prescription Drug Program in 2006, Wisconsin, Missouri, Kansas and Vermont have joined the program. Program participants have access to the I-SaveRx program through an Internet website and a toll-free 24 hour telephone number, just like many of us contact Precision Rx for our prescriptions. The prescription drugs are ordered from licensed pharmacies in Canada, the United Kingdom, Australia, and New Zealand.

This legislation has the support of the Hawaii Alliance for Retired Americans (HARA) which is made up of retirees and seniors from the following organizations: HGEA, HSTA-R, ILWU, Kokua Council, Machinist, AFT, Americans for Democratic Action Hawaii and UPW Retirees. HB 7, HD1 along with family caregivers legislation that is moving along, are priority concerns of HARA this session.

I urge you to support HD7, HD1 and pass it out of Committee.

Thank you for the opportunity to testify.

**Kanoë Kamanao**

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**From:** Alice Kotake [akotake@hawaii.rr.com]

**Sent:** Tuesday, March 18, 2008 8:46 AM

**To:** Sen. David Ige; 'Senator Carol Fukumoto'

**Subject:** Testimony in support of HB7, HD1 to Senate Committee on Health for hearing on March 19, 2008; 1:15 PM Conference Room 016, submitted by email 3/18/08

TO: Chair David Y. Ige, Vice Chair Carol Fukumoto and Members of the Health Committee

Thank you very much for scheduling a hearing on HB7, HD1.

Having spent 28 years teaching in three different states, I had hopes of spending retirement in relatively comfort and contemplated travel, taking care of grandkids, and all the other "good stuff" of retirement. Now, medical care and elderly responsibilities have taken center stage for the remainder of our lives. Why can't we work together to reduce medical and prescription drug costs? Our Governor promised to work on this and has done absolutely nothing. We have to plead with our legislators to help us. Here is your chance to do so.

Thank you.

Alice Y. Kotake  
26 Kepola Place  
Honolulu, HI 96817

# HB466

# PROPOSED

# SD1

Measure Title:  
RELATING TO HEALTH.

Description:

Proposed SD1: Requires the department of health to submit an annual report on forensic patients; requires yearly court status hearings for individuals ordered to be conditionally released or hospitalized as an inpatient by the mental health court; reduces the minimum length of hospitalization from ninety to thirty days for individuals who are recommitted after conditional release; makes appropriation for mental health court operations. (SD1)

Current Referral:  
HTH, JDL



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

In reply, please refer to:  
File:

**Senate Committee on Health**

**H.B. 466, H.D. 1, Proposed S.D. 1, RELATING TO HEALTH**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**March 19, 2008, 1:15 p.m.**

1           **Department's Position:** The Department supports this measure, so long as it does not adversely  
2 impact the priorities outlined in the Executive Supplemental Budget. The Department extends its  
3 appreciation to the Chair and this committee for consideration of this proposed draft. However, the  
4 department respectfully suggests that the committee fully incorporate the language contained in S.B.  
5 2160, S.D.2 which includes language from S.B. 3071 and legal, technical amendments.

6           **Fiscal Implications:** Unspecified appropriation for the establishment of the Mental Health Court.

7           **Purpose and Justification:** The SCR 117 taskforce was convened in September 2006 by the Governor  
8 under the joint direction of Senator Rosalyn Baker and Representative Josh Green. The taskforce  
9 included members of the Department of Health (DOH), Adult Mental Health Division (AMHD), Hawaii  
10 State Hospital (HSH), the judiciary, probation, community hospitals, police, sheriffs, Department of  
11 Public Safety (PSD), consumer rights advocates, consumers, and others. SCR 117 was developed to  
12 identify changes in statute, procedure, and public policy that could reduce the census at HSH. The  
13 department refers the committee to [www.amhd.org/SCR117](http://www.amhd.org/SCR117) to review the final report that was  
14 submitted to the 2007-2008 Legislature.

1 The department respectfully suggests that the committee fully incorporate the language  
2 contained in S.B. 2160, S.D.2 which includes language from S.B. 3071 as well as other legal technical  
3 amendments.

4 **Section 2:** This section statutorily requires an annual report to the Legislature on forensic data  
5 as it relates to the Hawaii State Hospital. The department has continued to highlight how utilization of  
6 the hospital is or is not changing over time. This information has assisted decision makers to determine  
7 how best to allocate resources and may provide an objective basis for policy review and revision. There  
8 is, however, currently no consistently available, comprehensive description of this important aspect of  
9 our mental health and forensic system. The department is supportive of this new report requirement.

10 **Section 3:** This section requires an annual judicial review (for five years and bi-annually  
11 thereafter) for an individual committed pursuant to 704-411(1) a – (Not guilty by reason of mental  
12 disease, defect or disorder). The proposed legislation will require a hearing on an annual basis which  
13 does not currently occur. The hospital is prepared and can provide whatever clinical information is  
14 required for these hearings.

15 **Section 4:** This legislation simply shortens the wait for post Conditional Release (CR)  
16 revocation from 90 to 30 days. The proposed legislation would let the person or the Director, DOH,  
17 acting on their behalf, apply for CR up to 60 days earlier than is permitted presently. The proposed  
18 legislation would provide the small number of patients whose Conditional Release has been revoked and  
19 who are clinically stable and able to abide by conditions of release the opportunity to apply for CR  
20 reinstatement between their 31<sup>st</sup> and 89<sup>th</sup> days of hospitalization.

21 **Section 5:**

22 **Section 5 (1)** provides statutory guidance and clarification on the seventy-hour (72) hour hold  
23 and extended hold process as it relates to patients under Conditional Release from the Hawaii State  
24 Hospital or related facility.

1 It is important to understand that Conditional Release revocation is not the same as a 72-hour  
2 hold or extended hold. Conditional Release revocation mandates the commitment of an individual back  
3 to the custody of the director of health for at least ninety-days, as currently outlined in Section 704-412,  
4 Hawaii Revised Statutes. A 72-hour hold mandates a maximum of 72 hours in DOH care and custody,  
5 followed by a hearing at which the court may extend the hold for additional amounts of time. Any  
6 extension is considered an extended hold. Courts or treatment teams that may not understand the  
7 difference may recommend a CR revocation when a 72-hour hold or extended hold may have addressed  
8 the clinical and supervision needs in a more timely and cost-effective manner. Creating explicit  
9 language in the statute should assist in providing this clarification for treatment teams or courts.

10 By promoting the use of 72-hour holds or extended holds, this measure will likely result in  
11 decreasing the utilization of bed space at Hawaii State Hospital by those mental health consumers who  
12 do not require prolonged hospitalization otherwise mandated by CR revocation.

13 **Section 5 (2):** As suggested by the Department, by incorporating the contents of S.B. 3071 into  
14 this section, this will enable the Director of the Department of Health to petition the court in appropriate  
15 cases, on behalf of any individual served by the DOH, for legal discharge from Conditional Release  
16 (CR). Persons on CR are released by the courts to be discharged from the custody of the Department of  
17 Health, including but not limited to Hawaii State Hospital, back into the community. In the community,  
18 persons on CR continue to be supervised jointly by both the Adult Mental Health Division of the DOH  
19 and the Adult Client Services Branch of the Judiciary. Currently, the State of Hawaii has more than 400  
20 people in the community on CR. To include CR consumers who are in a hospital setting, the number  
21 balloons to more than 500. This is the largest number of CR consumers per capita in the nation. Only  
22 one other state, Ohio with 550, has been identified as having more consumers on CR than Hawaii.

23 In Hawaii, there is no time limit for CR. A person can, and often is, on CR for the rest of his or  
24 her life. More than half of the states with CR statutes similar to Hawaii's have a time limit on CR.

1 Some states have a prescribed limit (no more than 5 years, for example) while others have a time frame  
2 equivalent to the maximum time they would have otherwise served in jail or probation. However, in  
3 Hawaii, CR is an indefinite commitment. For example, 3% of Hawaii's misdemeanor CR cases have  
4 been on CR for more than 20 years—crimes that would have otherwise carried a sentence of no more  
5 than one year. Many people remain on CR indefinitely and under unnecessary supervision.

6 There is no mechanism for the director to petition the courts when the clinical staff determines  
7 that an individual is clinically ready for discharge from conditional release. By allowing the Director of  
8 Health to apply for discharge from conditional release for those who no longer are appropriate for  
9 conditional release:

- 10 1) The effectiveness of forensic coordinators and available community resources is  
11 enhanced as time and energies are focused on appropriate individuals who need higher  
12 levels of support and supervision;
- 13 2) An individual's exposure to court-directed hospitalization is limited. In many cases  
14 court-directed hospitalization results in extended hospitalization considerably beyond  
15 what is clinically determined to be necessary. When a person is on conditional release,  
16 it is possible for the individual be readmitted to inpatient care based on violations of  
17 conditional release orders which are no longer clinically necessary. In such instances,  
18 individuals do not need, nor meet clinical criteria for, inpatient hospital care, but will  
19 remain hospitalized for the duration of the legal proceedings. The hospitalization of  
20 these individuals thereby contributes to a higher inpatient census.

21 **Section 5 (5)** addresses the need for the courts to hear all Conditional Release cases at least once  
22 a year. Overall, the CR process is a very positive and progressive system to aid in the recovery of  
23 mentally ill individuals. The downside to this process is the back end. Very few individuals are ever  
24 legally discharged from their CR, even though state statute allows for it. This results in a



1 disproportionately high number of mentally ill consumers in the community who may be doing quite  
2 well, but still have outstanding court-ordered requirements. It is incompatible with a consumer's  
3 recovery goals to remain under court jurisdiction if no longer clinically required. In the worst case  
4 scenarios, people on CR may be involuntarily committed to HSH as a result of minor infractions of their  
5 CR, which may often be heavy-handed or out of step with clinical need, simply as an artifact of their  
6 continuing legal status. We believe that one of the most salient reasons is that the courts do not have a  
7 process in place to hear the CR cases regularly. The language highlighted in this portion of the bill  
8 attempts to ensure that the court hears all CR cases on a regular basis, to ensure that appropriate cases  
9 are continued on CR and other cases are legally discharged from CR.

10       **Section 6:** Oahu has the state's only Mental Health Court (MHC). This court is a specialty  
11 court which hears, exclusively, cases of mentally ill defendants. Very briefly, the point of the current  
12 ideation of the MHC is to steer defendants out of jail and into treatment. The MHC, mirrored after  
13 successful MHCs on the mainland and tailored for implementation in Hawaii, has shown encouraging  
14 outcome results. However, the MHC is funded entirely by a grant, and therefore is limited in its scope  
15 and influence. It continues to be a pilot project of the judiciary. Only 30 defendants can participate in  
16 the MHC at any one time, for example, and only one dedicated staff position has been created to help  
17 run the court. Also, current funding and staffing limits the impact of the MHC on the correctional  
18 population, but the impact on the HSH census has been minimal. If the MHC is expanded, there is much  
19 greater potential for including HSH consumers in the program, which would likely allow for their  
20 release from HSH more quickly.

21       We look forward to continuing the dialog and collaborating with the legislature on this measure.  
22 Thank you for this opportunity to provide testimony.



*The Judiciary, State of Hawaii*

**Testimony to the Twenty-Fourth State Legislature, 2008 Session**

Senate Committee on Health

The Honorable David Y. Ige, Chair

The Honorable Carol Fukunaga, Vice Chair

Wednesday, March 19, 2008, 1:15 p.m.

State Capitol, Conference Room 016

by

Dee Dee Letts

First Circuit Treatment Court Coordinator

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**Bill No. and Title:** House Bill No. 466, H.D. 1, Proposed S. D. 1, Relating to Health.

**Purpose:** Requires the Department of Health to submit an annual report on forensic patients; requires yearly court status hearings for individuals ordered to be conditionally released or hospitalized as an inpatient by the mental health court; reduces the minimum length of hospitalization from ninety to thirty days for individuals who are recommitted after conditional release; makes appropriation for mental health court operations.

**Judiciary's Position:**

The Judiciary takes no position on the sections of House Bill No. 466, H.D. 1, Proposed S. D. 1, relating to conditional release. Generally speaking, the intent of this omnibus bill is consistent with the report of the SCR 117 Task Force (2006), in which the Judiciary participated. Should the provision for yearly review hearings become law, the Judiciary would need to assess what additional resources might be necessary to implement this requirement.

The Judiciary supports Section 6 of this bill that appropriates monies to support the operation and expansion of the mental health court. Since its inception in February 2004, the mental health court has operated entirely on federal funding provided by grants through the Office of the Attorney General. This funding will end in December 2008.



House Bill No. 466, H. D. 1, Proposed S. D. 1, Relating to Health  
Senate Committee on Health  
March 19, 2008  
Page 2

The mental health court was started in response to statistics which showed that more than 16% of the adults incarcerated in the United States have a serious and persistent mental illness. The court is currently operating at capacity and had its first graduation on February 19, 2008. Aside from the obvious benefits of providing better outcomes for its clients, improving public safety, and significantly reducing recidivism in this population, the diversion of these clients also saves the corrections system on Oahu approximately \$90,882 per client per year. In the words of our first graduates: "I used to think of 100 reasons to use, now I think of 100 reasons not to" and "this program gives hope".

House Bill No. 466, H. D. 1, Proposed S. D.1, if funded at the level requested below will provide the Judiciary the necessary funds to continue providing Mental Health Court services at the existing level as well as provide funds to explore the expansion of the court into the area of conditional release clients. The amounts requested include \$241,522 for FY 08-09, \$327,346 each year for FY 09-10 and FY 10-11. The requested funding would allow the Judiciary to cover staffing and client services costs (i.e., assessment, training, etc.), to increase the number of clients served from 30 to 50, and to explore expanding the program to deal with the population on conditional release. We would also like to note that the Prosecuting Attorney's Office and the Public Defender's Office are partners with the Judiciary's Mental Health Court and should receive additional funding to support their continued role in providing attorneys for this court.

Thank you for the opportunity to comment on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
CITY AND COUNTY OF HONOLULU

ALII PLACE  
1060 RICHARDS STREET, HONOLULU, HAWAII 96813  
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PETER B. CARLISLE  
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DOUGLAS S. CHIN  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE DAVID IGE, CHAIR**  
**SENATE COMMITTEE ON HEALTH**  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

March 19, 2008

**RE: H.B. 466, H.D. 1, Proposed S.D. 1; RELATING TO HEALTH.**

Chair Ige and members of the Senate Committee on Health, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to the proposed S.D. 1 of H.B. 466, H.D. 1.

The purpose of this bill is to require yearly status hearings for persons acquitted on a felony on the grounds of physical or mental disease, disorder or defect and who are subject to inpatient hospitalization. In addition, this bill provides that thirty days after the revocation of conditional release, the person may apply for an order of discharge or conditional release; however, if the court denies the application, the person may not file another application for discharge or conditional release until one year has elapsed from the date of the hearing on the previous application. Finally, the bill requires an annual review of each person who is subject to conditional release to assess the need to continue or modify the conditions for the first four year and then requires a biennial review thereafter.

We oppose this bill as we believe that some of the provisions may overlap and may cause redundant hearings or may be unnecessary. For example, if a defendant is acquitted due to mental disease or defect and he or she is subject to inpatient hospitalization, this bill requires a review one year from the date of commitment for the first four years and then in biennial intervals thereafter. However, after ninety days from the original order of commitment, the person can be conditionally released or discharged. If the court denies the application for either discharge or conditional release, the person may not file for another application for discharge or conditional release for one year from the date of the hearing of the prior application. Thus if the acquitted defendant files for discharge or conditional release which is denied, does he or she get an annual review pursuant to page lines 6-14 that runs from the date of commitment or is the annual review

suspended since he or she cannot be considered for discharge or conditional release for one year from the date of the hearing on the unsuccessful application filed pursuant to page 9 lines 10 to 16? We are unclear as to which provisions and timelines apply when multiple parts of this bill and the law apply.

Furthermore, it seems that annual hearings for defendants who are acquitted by reason of mental disease or defect and who are subject to inpatient hospitalization might seem superfluous as these defendants may apply for discharge or conditional release under 704-412 ninety day after the original order of commitment.

Based upon these concerns, we oppose the proposed S.D. 1 of H.B. 466 and ask that it be held.

Thank you for this opportunity to testify.

## **TESTIMONY TO THE TWENTY-FOURTH STATE LEGISLATURE, 2008 SESSION**

**To:** Senate Committee on Health

**From:** Gary L. Smith, President  
Hawaii Disability Rights Center

**Re:** House Bill 466, HD1, Proposed SD1  
Relating to Health

**Hearing:** Wednesday, March 19, 2008 1:15PM  
Conference Room 016, State Capitol

Members of the Committee on Health:

Thank you for the opportunity to provide testimony supporting House Bill 466 HD1, Proposed SD1, Relating to Health.

I am Gary L. Smith, President of the Hawaii Disability Rights Center, formerly known as the Protection and Advocacy Agency of Hawaii (P&A). As you may know, we are the agency mandated by federal law and designated by Executive Order to protect and advocate for the human, civil and legal rights of Hawaii's estimated 180,000 people with disabilities.

We support this bill and have a long standing interest in this issue. We were pleased to serve on the SCR 117 Task Force convened by the legislature. We believe that this bill will help to keep track of the status and the needs of the individuals who are residents at the Hawaii State Hospital. We particularly express strong support for the provision which will provide for an annual review of the individuals who are on conditional release status. We have seen that many individuals remain on conditional release for an extended ,indefinite period of time. While some of these individuals may need to remain on conditional release, we also believe that some do not. For those who do not, it represents a serious infringement upon their personal liberties. It is also difficult under the current system to obtain court review of these conditional releases. We believe that the provision for a mandatory annual will provide greater protection for these individuals and ensure that their needs are being met.

Thank you for the opportunity to provide testimony in support of this bill.