



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

In reply, please refer to:
File:

House Committee on Health

SB 3075 SD1, Relating to Epidemiologic Investigations

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

March 19, 2008, 8:30 a.m.

1 **Department's Position:** This is an administration proposal that the Department strongly supports.

2 **Fiscal Implications:** None

3 **Purpose and Justification:** This measure would allow the Department the authority to collect
4 samples necessary for epidemiologic investigations. If access during an investigation was denied, a
5 representative of the Department could apply for an administrative warrant in district court. The sole
6 purpose of the administrative warrant would be to permit the Department to retrieve timely plant,
7 animal, food, or environmental samples *if consent from the property owner is not granted*. This is often
8 essential for the Department's ability to identify the source or specific type of microbiological or
9 chemical contamination, track the spread of disease, and institute measures to interrupt, contain, and
10 further prevent outbreaks of dangerous diseases. In the case of serious or life-threatening diseases, rapid
11 determination of the cause is critical. As the primary aim of the Department is to safeguard public
12 health, the Department would not use the administrative warrant to assemble evidence of a criminal act,
13 take persons into custody, or otherwise detain individuals, all of which may inhibit cooperation in
14 ensuring public health.

15 The Centers for Disease Control and Prevention estimates that each year there are 76 million
16 cases of foodborne illness in the United States, resulting in 325,000 hospitalizations and 5,000 deaths

1 nationwide. Recent local outbreaks, including infections with *E. coli* O157:H7 and *Salmonella*
2 stemming from contaminated produce and other food items, have highlighted the need for the
3 Department to efficiently collect crucial samples. Timely sampling is necessary so that appropriate
4 measures may be instituted to prevent future outbreaks or occurrences of infectious disease from similar
5 exposures. Delays can result in deaths.

6 This measure is necessary for the protection of public health because epidemiological
7 investigations have been impeded by individuals who refused to allow Department of Health
8 investigators to access property or to obtain samples necessary to determine the source of an outbreak.
9 Specific examples include an April through July 2007 epidemiologic investigation of an *E. coli* outbreak
10 on the island of Kauai. This investigation was impeded by the reluctance and refusal of small business
11 owners to allow the Department to collect samples critical to the public health investigation. In 2001, a
12 similar situation in which access to environmental samples was denied occurred during the investigation
13 of a *Salmonella* disease outbreak. The lack of timely access to samples compromised public health in
14 that it resulted in a lengthier investigation and potentially additional cases of disease.

15 The Department's investigations are conducted with a particular public health focus, and
16 environmental sampling is conducted carefully and efficiently with the single purpose of identifying the
17 potential infectious source. As such, the Department's investigators do not preclude the owners or
18 workers of the establishment or the organization from joining them in collecting samples. In fact,
19 oftentimes, they are very helpful as guides and partners in determining potential sources as they are
20 more familiar with their establishments than are the investigators.

21 Hawaii would not be alone in clarifying this authority. Other states, including California and
22 Texas, allow authorized persons the right of entry to collect samples during the course of epidemiologic
23 investigations. If access is denied, California Department of Public Health representatives can arrest
24 those who refuse, and Texas Department of State Health Services representatives can apply to obtain a
25 warrant for access. The Hawaii Department of Agriculture has also been granted the right of entry to

1 maintain pest control or eradication programs via Hawaii Revised Statutes (HRS), §141-3.6. If entry is
2 refused, the Department of Agriculture is authorized to apply for a warrant to enter the premises. The
3 Department of Agriculture's purview is limited to diseases that are injurious to the environment,
4 vegetation, and domestic animals, and is generally not applicable to epidemiologic investigations
5 conducted by the Department of Health.

6 Protection of the public's privacy is a high priority within the Department and would be ensured
7 via the administrative search warrant process, as well as by existing statutory requirements regarding the
8 treatment of confidential information received by the Department during the course of an epidemiologic
9 investigation (HRS §321-29e). If entry onto a property is refused, and an administrative search warrant
10 is sought, judicial oversight would ensure that there is sufficient cause to allow for the collection of only
11 those samples indicated before the warrant is granted.

12 Thank you for the opportunity to testify.