

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

In reply, please refer to:
File:

HOUSE COMMITTEE ON HEALTH

SB1073, SD1, RELATING TO CORRECTIONAL FACILITIES

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

March 20, 2009, 9:00 AM

1 **Department's Position:** The Department of Health supports this measure to repeal the exemption in
2 Chapter 328J, HRS that permits smoking in correctional facilities.

3 **Fiscal Implications:** none

4 **Purpose and Justification:** The bill would amend Chapter 328 J, HRS to repeal the exemption that
5 permits smoking in correctional facilities.

6 The Hawaii Smoke Free Workplace and Public Places Law was always intended to provide
7 protections to all workplaces that were enclosed or partially enclosed as defined in the law. At the time
8 of the passage of this statute in 2006, the Department of Public Safety requested the exemption that was
9 granted in the law giving them additional time to bring Hawaii's correctional institutions to a point
10 where implementation of a smoke free correctional system could be achieved.

11 Across the nation, most states have already implemented smoke free prison systems that have
12 created a healthier environment for inmates and staff alike, reduced the risk of both acute and chronic
13 tobacco related diseases, and created savings in health care costs. The repeal of this exemption is a
14 positive step in creating a healthier, smoke free environment for Hawaii's correctional system.

15 Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR



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JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 1073, SD1
RELATING TO CORRECTIONAL FACILITIES
Clayton A. Frank, Director
Department of Public Safety

House Committee on Health
Representative Ryan I. Yamane, Chair
Representative Scott Y. Nishimoto, Vice Chair

Friday, March 20, 2009; 9:00 AM
State Capitol, Conference Room 329

Representative Yamane, Representative Nishimoto, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** Senate Bill 1073, SD1, which seeks to prohibit smoking in all correctional facilities statewide. As you know, the purpose of this measure is to repeal the exemption from the ban on smoking for State correctional facilities, which will provide a healthier environment for those incarcerated, staff, and visitors to the facilities.

When the provisions of Section §328J(7) were enacted during the HSL 2006, the PSD requested to be exempted from the law as the Department was not yet prepared to implement the provisions of the law. The PSD is now prepared to implement the provisions of the law.

PSD is responsible for the maintenance and improvement of the inmates' health, inmates in our custody have been prohibited from smoking as of February 1, 2009. This will significantly improve the health of the inmates, while simultaneously decreases the long-term health care costs for those incarcerated.

If enacted, this measure would also eliminate staff smoking within the facility, which would decrease the possibility of second hand smoke inhalation and the potential lawsuits attributed to second hand smoke. In addition, this measure would assist the PSD in the enforcement of the smoking ban, as it would eliminate all tobacco products from entering the facility.

It is important to protect the rights of nonsmoking inmates and staff by providing an environment free from the exposure of harmful secondary smoke, which contains several carcinogens, all of which are extremely harmful to the human body.

Thank you for the opportunity to provide testimony on this matter.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) 533-3454/kat.caphi@gmail.com



COMMITTEE ON HEALTH

Rep. Ryan Yamane, Chair

Rep. Scott Nishimoto, Vice Chair

Friday, March 20, 2009

9:00 AM

Room 329

COMMENTS ON SB 1073

HLTTestimony@capitol.hawaii.gov

Aloha Chair Yamane, Vice Chair Nishimoto and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

SB 1073 repeals the exception that allows smoking in correctional facilities.

Community Alliance on Prisons respectfully offers comments on this measure. Although we know that smoking is the cause of many health problems, we understand that smoking is an addiction and assert that any ban **MUST** be accompanied by smoking cessation classes – for both inmates and staff.

We were shocked to hear at the prior hearing on this bill that UPW had reached an agreement with Director Frank, who then sent letters to all Hawai'i correctional facilities requiring the Wardens to designate a specific area in which the staff could smoke. Then the department came in and testified in support of a full smoking ban! What's up? There seems to be some cognitive dissonance at PSD.

Community Alliance on Prisons believes that an agreement is an agreement and if any amendments are made, both sides should have a chance to discuss the proposed amendment before enactment. PSD's testimony just seemed under-handed and sneaky – not the kind of role modeling our lawbreakers need.

Mahalo for this opportunity to testify.



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Improving Life

One Breath at a Time

Founded in 1904, the
American Lung Association
includes affiliated associations
throughout the U.S.

TO: House Committee on Health

FOR: Hearing Scheduled for 9 am, Friday, March 20, 2009

**RE: TESTIMONY IN SUPPORT (WITH SUGGESTIONS) OF SB 1073, SD1
RELATING TO CORRECTIONAL FACILITIES**

Chair Yamane, Vice Chair Nishimoto, and Committee Members:

The American Lung Association in Hawaii (ALA in Hawaii) supports SB 1073, SD1 that repeals the exception that allows smoking in correctional facilities. However we do have some concerns about the implementation of this measure.

While the prisons in Hawaii voluntarily went smoke-free on February 1, 2009, we would like to see the exception removed from the smoke-free law. The ALA in Hawaii is currently providing cessation services at two correctional facilities. We have some major concerns regarding what is actually happening in these facilities. Prison personnel and visitors continue to smoke cigarettes in front of the incarcerated, perhaps not inside, but on the grounds close enough to be seen and the secondhand smoke to be inhaled. This makes it much more difficult for those in the correctional facilities to have a positive attitude about quitting, which is necessary if they are to succeed. We propose that all correctional facility property (indoors and outside) be nonsmoking areas. This must apply to employees, visitors and inmates alike. In addition, we recommend that no tobacco products be allowed on the correctional facilities campuses. Visitors and employees currently are allowed to carry these products on them and they can easily be seen and smelled by the inmates.

Kicking the smoking addiction is not easy. Everyone, including those incarcerated, should have all the tools available to assist them in this difficult task, including cessation medications and programs. Currently medications are not being made available and programs are very limited.

We are also concerned that cigarettes continue to be readily available on the black market.

We support this measure, but strongly recommend that the smoking ban be for everyone and cover all indoor and outside areas in correctional facilities. Tobacco products must also be prohibited from being carried onto the property by employees and visitors. In addition, comprehensive cessation services including all recommended medications must be made available and contraband cigarettes must be controlled.

Respectfully submitted,

Jean Evans, MPH, Executive Director, ALA in Hawaii



To: Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

Hrg: House Health Committee hearing on Friday, March 20, 2009

Re: **Support for SB 1073, Relating to Correctional Facilities**

By: Valerie Chang, JD, Executive Director
Hawaii COPD Coalition, <http://hawaiicopd.org>
733 Bishop Street, Suite 1550, Honolulu, HI 96813
(808)699-9839

Re: **Support for SB 1073, Relating to Correctional Facilities**

Thank you for the opportunity to testify in support of SB 1073, which would make correctional facilities in Hawaii smoke-free—and healthy for all.


My name is Valerie Chang. I am Executive Director of the Hawaii COPD Coalition. Our organization provides services and support to Hawaii's people affected by Chronic Obstructive Pulmonary Disease, more commonly known as emphysema and chronic bronchitis. COPD is the fourth leading cause of death in the US and expected to be the third leading cause of death in the US and world by 2020. The American Lung Association has estimated that over 50,000 people in Hawaii have COPD. Many, many more people in Hawaii suffer from asthma, tuberculosis, pneumonia and other respiratory conditions. Our organization provides free breathing testing, resources, information and support for cessation and those with lung disease.

Adding State correctional facilities to the list of smoke-free workplaces would ensure adult correctional officers have the same protections that are extended to the majority of our state's employees—a work environment free of dangerous second-hand smoke. SB 1073 would also create a healthier prisoner population by eliminating dangerous second-hand smoke and by preventing inmates from smoking. Most correctional facilities and prisons in our state are already smoke-free and there have been no problems that have been reported.

Our organization sees first-hand how lives are severely affected by tobacco, causing those who smoke it or are exposed to second or third-hand smoke to struggle to breathe, every day, all day. Tobacco addiction is a very tough addiction and is important for our state to be consistent and have smoke-free workplaces and have our correction officers set a good example to the inmates.

Thanks for the opportunity to testify about this issue that is so vital to the health of Hawaii's people. Please support in favor of SB 1073. This issue is very important to our state.



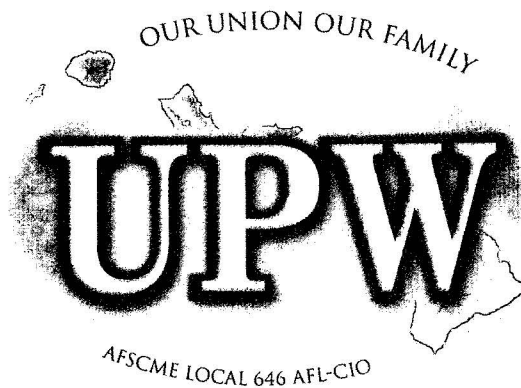
To: Representative Ryan I. Yamane, Chair, House Committee on Health
Representative Scott Y. Nishimoto, Vice Chair, House Committee on Health
Members, House Committee on Health
Fr: Trisha Y. Nakamura, Policy and Advocacy Director 
Date: March 18, 2009
Hrg: House Committee on Health; March 20, 2009 at 9:00 a.m.; Rm 329
Re: Strong Support for SB 1073, SD 1, Relating to Correctional Facilities

Thank you for the opportunity to testify in support of SB 1073, SD 1 which would make correctional facilities in Hawaii smoke-free—and healthy for all.

The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy. Our organization is a small nonprofit organization of over 3,000 organizations and advocates that works to create a healthy Hawaii through comprehensive tobacco prevention and control efforts.

Adding State correctional facilities to the list of smoke-free workplaces would ensure adult correctional officers have the same protections that are extended to the majority of our state's employees—a work environment free of dangerous second-hand smoke. SB 1073 would also create a healthier prisoner population by eliminating dangerous second-hand smoke and by preventing inmates from smoking. Most correctional facilities and prisons in our state are already smoke-free and there have been no problems that the Coalition knows of.

We urge you to pass this measure to include State correctional facilities in our Smoke-Free Law out of Committee. Thank you for the opportunity to testify on this matter.



House of Representatives
The Twenty-Fifth Legislature
Regular Session of 2009

Committee on Health

Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

DATE: Friday, March 20, 2009
TIME: 9:00 a.m.
PLACE: Conference Room 329

TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO ON SB 1073, SD1, RELATING TO CORRECTIONAL FACILITIES

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). On behalf of the approximately 2,000 correctional officers and blue collar employees from bargaining unit 1 who work in our correctional facilities, the UPW opposes Senate Bill 1073, SD1 which repeals the exemption that allows smoking in correctional facilities.

Last December, I discussed with Director Clayton Frank the use of tobacco products in our correction facilities. It was my understanding that while tobacco products would be considered contraband and prohibited to inmates, use of tobacco products for employees, volunteers, vendors and visitors would be allowed in designated areas. These designated areas were to be identified by the warden of each facility (see attachment: letter dated January 22, 2009).

This measure circumvents this understanding and current policy. While not condoning

the use of tobacco products, this practice is a personal decision and I believe our members should have access to designated smoking areas. Unlike other state employees whose designated areas are just outside the building, this bill would require the designated area to be entirely outside the gated facility, essentially making it inaccessible to employees. Moreover, relegating staff to the outside of the facility may pose serious safety and security issues should an emergency occur.

For these reasons, the UPW opposes SB 1073, SD1, in its current form. However, we could support a measure that permits smoking in designated areas within the gated facility and which is accessible to employees. Thank you for the opportunity to testify.

NDA LINGLE
GOVERNOR



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DEPARTMENT OF PUBLIC SAFETY
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Law Enforcement

No. _____

January 22, 2009

Mr. Dayton M. Nakanelua
State Director
United Public Workers
1426 North School Street
Honolulu, Hawaii 96817

UPI JAN23'09 AM10:43

Dear Mr. Nakanelua:

After discussing the matter with you and your representatives, this is to inform you that we have amended our intent to prohibit tobacco products in our correction facilities and centers. This amends our prior letter to you on the matter dated December 2, 2008.

Effective February 1, 2009, we shall prohibit the access, possession and use of tobacco products for inmates. Inmates shall be notified accordingly.

Further, where inmates are concerned, tobacco products shall be considered to be contraband. Any person found in violation of the above shall be subject to investigation and appropriate action.

Moreover, where employees, volunteers, vendors and visitors are concerned, we are amending our previous intent to allow those who use tobacco products possession and use of tobacco products at designated areas in each correction facility and center. The Wardens of each facility/center shall designate the areas in the facility/center and notify employees, volunteers, vendors and visitors accordingly.

We have attached three (3) Inter-Office Memorandums for your information and use. The documents are intended for All PSD Employees, Volunteers, Vendors, and Visitors; Wardens; and All Inmates.

Mr. Dayton M. Nakanelua
State Director, UPW
January 22, 2009
Page 2

For your information, we amended our intent after considering the concerns over our proposed action. We did not wish to argue the technical aspects of this action, specifically whether the issue is subject to negotiation or consultation. We take this action with the understanding that it does not affect the parties position on this matter.

If you have any further questions or concerns, please contact Mr. Roy Yamamoto at 587-1219, to arrange for a meeting to discuss the matter.

Thank you for your cooperation and understanding in this matter.

Sincerely,



CLAYTON A. FRANK
Director

Attachments (3)

C: DEP C, A & E
PER