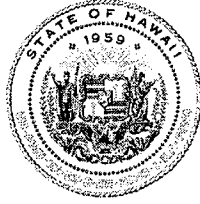
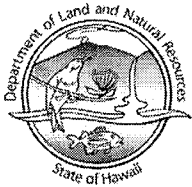


SB 2375

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
LAURA H. THIELEN
Chairperson**

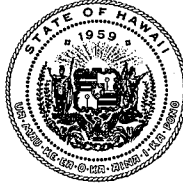
**Before the Senate Committees on
TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS
and
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

**Wednesday, February 3, 2010
1:30 PM
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 2375
RELATING TO HIGHWAYS**

Senate Bill 2375 would prohibit the placement of vehicles or structures on any highway or at any scenic lookout for the purpose of selling any article, service, or thing. The Department of Land and Natural Resources has concerns with the bill as currently written but would not be opposed to this bill if a provision is added to allow vending from scenic lookouts with a permit. There are scenic lookouts at state parks, such as Opaekaa Falls on Kauai, where vending concessions are allowed with a permit.

LINDA LINGLE
GOVERNOR



BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 3, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

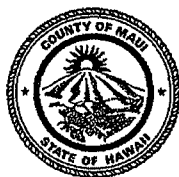
SENATE BILL NO. 2375

COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS AND COMMITTEE ON WATER, LAND,
AGRICULTURE AND HAWAIIAN AFFAIRS

The Department of Transportation supports this bill.

We believe vending on or along highways creates a hazardous condition for highway users unless specifically allowed by permit.

CHARMAINE TAVARES
Mayor



BENJAMIN M. ACOB
Prosecuting Attorney
PETER A. HANANO
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

February 1, 2010

HONORABLE J. KALANI ENGLISH, CHAIR
HONORABLE MIKE GABBARD, VICE CHAIR
COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL
AFFAIRS

HONORABLE CLAYTON HEE, CHAIR
HONORABLE JILL N. TOKUDA, VICE CHAIR
COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,
IN SUPPORT OF S.B. NO. 2375
RELATING TO HIGHWAYS.

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui strongly supports S.B. 2375, Relating to Highways.

This bill apparently seeks to correct an oversight in HRS Section 264-101 which prohibits vending from public highways.

In the past, our Department has had several cases involving vending at the scenic lookout on Honoapiilani Highway. However, despite the scenic lookout being a few feet from the highway, we have had problems in enforcing HRS Section 264-101, because the law was ambiguous as to whether the prohibition against vending extended to the actual scenic lookout. Clearly, the intent of the statute is to prohibit vending from public highways which should included scenic lookouts.

Accordingly, our Department supports S.B. 2375. Thank you for the opportunity to testify.

(S.B. 2375, Relating to Highways)



CHARMAINE TAVARES
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

February 1, 2010

The Honorable J. Kalani English
And Members of the Committee on Transportation,
International and Intergovernmental Affairs
The Senate
State Capitol
Honolulu, HI 96813

Re: S.B. No. 2375, Relating to Highways

Dear Chair English and Members:

The Maui Police Department supports S.B. NO. 2375, Relating to Highways. This bill would prohibit vending at scenic lookouts. Our officers have reported that vending occurs on almost a daily basis.

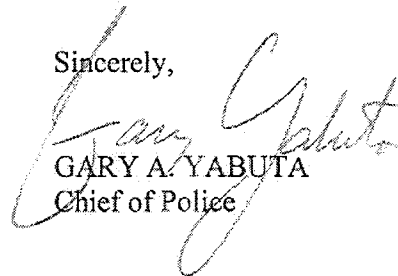
These vendors occupy valuable parking spaces at busy viewing areas and create a hazard by displaying their products on the sidewalks where visitors are trying to enjoy the scenery. Visitors are unable to legally park due to vendors occupying parking stalls for the entire day. State and county law enforcements are unable to enforce rules prohibiting vending because scenic lookouts weren't included in the statute prohibiting vending at these locations.

This bill would keep the parking available for visitors at the scenic lookouts and would reduce hazards by keeping walkways free of merchandise.

The Maui Police Department urges you to support S.B. No. 2375, Relating to Highways.

Thank you for the opportunity to testify.

Sincerely,



GARY A. YABUTA
Chief of Police

Testimony of
Bob Loy
Director of Environmental Programs
The Outdoor Circle
Committee on Transportation, International and Intergovernmental Affairs and
Committee on Water, Land, Agriculture and Hawaiian Affairs
February 3, 2010

I am Bob Loy testifying on behalf of The Outdoor Circle. We support SB2375 and consider it a needed element in protecting the scenic environment of Hawaii.

One doesn't have to drive very far in Hawaii before encountering commercial activity on State highway rights-of-way. The same is true for encountering vehicles that are being offered for sale. And while those activities already are prohibited on highway rights-of-way by State law, enforcement of the law appears to be a low priority.

SB 2375 will extend the same prohibition to scenic lookouts. And while we are hopeful that the legislature will extend protections against these activities to scenic lookouts, we would point out that the legislation will not impact these activities at scenic lookouts owned by the counties. On Oahu, for instance, two of the most visited lookouts are Lanai Lookout and Halona Blowhole. These and many other scenic lookouts statewide are under county jurisdiction and will not be affected.

Also be advised that while unpermitted commercial activity already is prohibited on property owned by the City and County of Honolulu, this does not prohibit commercial activity or the sale of vehicles. Enforcement is the key and enforcement is lacking.

So while passage of this law might serve to deter the inappropriate activities at scenic lookouts under state control, without enforcement the state will end up like the county—with laws on the books that are not actively being enforced.

I will point out, however, that when The Outdoor Circle observes or receives complaints about these activities, on either state or county property, the proper authorities generally will investigate and take action to correct the violations. But generally enforcement is not undertaken without complaints.