

# **SB 2561**

**Measure Title:**  
RELATING TO SPRAY PAINT.

**Report Title:**  
Public Safety; Spray Paint Sales

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 2561  
RELATING TO SPRAY PAINT**

by  
Clayton A. Frank, Director  
Department of Public Safety

Senate Committee on Public Safety and Military Affairs  
Senator Will Espero, Chair  
Senator Robert Bunda, Vice Chair

Tuesday, February 9, 2010; 1:25PM  
State Capitol, Conference Room 229

Senator Espero, Senator Bunda, and Members of the Committee:

The Department of Public Safety (PSD) strongly opposes this measure because the measure requires PSD to administer and enforce a new initiative, which includes providing software to all retailers of spray paint, but does not provide any funding for this significant undertaking. Not only would this initiative require new positions, in enforcement and administration, but it would also require the purchase of new software which would be well beyond the fiscal capabilities of the department during this economic crisis. This measure envisions a statewide enforcement of retailers, if not international enforcement since it includes catalog and internet sales of spray paint, which easily totals over one hundred retailers and wholesalers. This in turn would require at least eight new positions, six in enforcement and two in administration to comply.

Based on the foregoing reasons, PSD strongly opposes this measure due to its impact on the priorities set forth in the Executive Supplemental Budget for Fiscal Year 2010-2011.

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

**From:** HillsComm1@aol.com [mailto:HillsComm1@aol.com]  
**Sent:** Monday, February 08, 2010 1:27 PM  
**To:** PSM Testimony  
**Cc:** HillsComm1@aol.com  
**Subject:** Testimony, SB 2561, Public Safety and Military Affairs

Good afternoon:

The attached testimony is from Robert Hills, Executive Director of the National Council to Prevent Delinquency, Inc.

It is intended for the Committee on Public Safety and Military Affairs for the Tuesday afternoon, February 9, hearing on SB 2561, relating to spray paint.

The testimony was originally submitted to <http://www.capitol.hawaii.gov/emailtestimony>, earlier today.

However, no confirmation of receipt was received.

Our contact information is:

National Council to Prevent Delinquency  
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Annapolis, MD 21404  
Tel. -- 410-897-9209,  
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E-mail: [info@anti-graffiti.org](mailto:info@anti-graffiti.org)  
Web Site: [www.anti-graffiti.org](http://www.anti-graffiti.org)  
Bob Hills' direct E-mail: [hillscomm1@aol.com](mailto:hillscomm1@aol.com)  
Bob Hills' direct cell: 443-621-1115

Please let us know if you require anything further.

The communications difficulties are probably originating from this end. Extreme weather here on the East Coast is causing some Internet connection problems.

RNH

**The Committee on Public Safety and Military Affairs**  
**Hearing, Tuesday, February 9, 2010**  
**Senate Bill 2561, Relating to Spray Paint**

Testimony of the *National Council to Prevent Delinquency (NCPD)*.  
Submitted by Robert Hills, Executive Director

By way of introduction, the Council is an industry-funded nonprofit organization tasked with combating and preventing the illegal or dangerous misuse of consumer products by young people. Our largest single activity is the NCPD Anti-Graffiti Project ([www.anti-graffiti.org](http://www.anti-graffiti.org)), which provides information, counsel, networking and on-site help to local and state governments in building comprehensive anti-graffiti programs. Our *Responsible Retailing Program*, preventing illegal purchase and theft of potential graffiti tools, has been adopted by a number of US cities.

We oppose SB 2561 as its two major components, when applied in other jurisdictions, have been ineffective in reducing graffiti vandalism; and appear to be based on a faulty understanding of the spray paint supply stream and the information it can provide law enforcement.

First, the one-size-fits-all practice of locking up paint began in the 1980s and was popular, primarily in California cities, until the mid-1990s, when the International Municipal Lawyers Association (IMLA) Model Bill Service published a comprehensive anti-graffiti ordinance, including prudent retail display standards. That model and those standards, allowing use of technology in store security, became and continue to be the guide for practical legislation. No state has a lockup statute. However, Texas and Arizona have passed laws with IMLA components and New Mexico is considering language much closer to that model.

Our research has uncovered no objective evidence of graffiti reduction attributable to lockup laws. This is most likely because, upon examination, lockup, combined with a ban on sale to minors, inconveniences only those vandals under 18, who have no friends over 18 to buy for them, no money, and no access to the about 1,000 Internet sources for paint and graffiti tools. That appears to be a very small population.

Second, the paint customer registration (name, address, DOB, type of ID and issuing agency); retailer reporting requirements to the Department of Public Safety (repeat customer data plus brand name of product, colors, sizes and quantities); the wholesaler reporting requirements; and the new software to be created to record and manage all these data overlook two facts which make them highly unlikely to ever connect a sale with a graffiti crime. They are: (a) the new State system will be required to record, and Public Safety to track an estimated 1,500,000+ cans of spray paint sold annually in approximately 145 stores in Hawaii; and (b) spray cans have no individual identity. The manufacturer's code is identical on thousands in a fill batch and similar is true for the bar code. Even if this yet non-existent government software becomes operational, there is nothing unique to track with this dramatically expanded government collection of personal and business information.

A few years ago, one northwestern city passed a customer registration law indicating that, in one year, it would officially report on its success. The report never came. What did come from program staff was the information that of all the purchasers recorded; a number well into six figures, not a single purchaser name matched the name of a graffiti vandal. We respectfully submit that the Committee need not reinvent that wheel.

The NCPD Anti-Graffiti Project would consider it a privilege to work and share our resources with the Committee and with the authors of this bill to strengthen the State's efforts to eliminate illegal graffiti. While we cannot support SB 2561 for the reasons cited, we very much appreciate the interest and concern of the Committee and the bill sponsors in the problem of illegal graffiti.

Thank you for allowing us to submit testimony. We look forward to an opportunity to work with you on this important issue.

Submitted on Feb. 8, 2010



Senator Will Espero, Chair  
Senator Robert Bunda, Vice Chair  
Committee on Public Safety and Military Affairs

HEARING        Tuesday, February 09, 2010  
                     1:25 pm  
                     Conference Room 229  
                     State Capitol, Honolulu, Hawaii 96813

**RE:    SB 2561, Relating to Spray Paint**

Chair Espero, Vice Chair Bunda, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 23% of the labor force.

**RMH strongly opposes SB2561**, which regulates the retail and wholesale sales of spray paint. As concerned citizens, we do not disagree that graffiti is a blight on our community. However, this bill penalizes retailers, inconveniences legitimate customers, creates a potential for identity theft, and most likely will do nothing to support prosecutorial effectiveness.

**Retailers:** the cost to implement securing these products and establishing information collecting, storing and reporting procedures is tremendous. In this troubling economy, retailers are focusing on cost-controlling measures to keep our doors open and avoid further employee reductions.

**Customers:** Legitimate customers will be forced to provide personal information to purchase something as practical and useful as spray paint. In an environment where identity theft is a serious and escalating problem, this measure runs at counter purposes to established consumer protection regulations. Given statutes already in place: §487N, HRS, Security Breach of Personal Information and §487R, HRS, Destruction of Personal Information Records, SB2561 needlessly exposes our customers to potential personal information compromises and our retailers to unnecessary liability.

**Prosecution:** HPD has informed us that they cannot arrest an individual at the scene of the graffiti unless they actually witness the activity. Connecting the can of spray paint to the retailer will result in severe penalties to the seller; it will in no way contribute to the prosecution of the tagger. There is no rational nexus between the seller of the spray paint and any consequence for the person defacing property.

SB2561 penalizes a business for conducting its legitimate business and ignores the responsibility and accountability of the person committing this offense.

We urge you to hold SB2561. Thank you for your consideration and for the opportunity to submit testimony.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII  
1240 Ala Moana Boulevard, Suite 215  
Honolulu, HI 96814  
ph: 808-592-4200 / fax: 808-592-4202

TO: PSMTESTIMONY@CAPITOL.HAWAII.GOV  
CC: CAROL AI  
SUBJECT: TESTIMONY FOR SB2561 ON 2/9/2010 1:25:00 PM

TESTIMONY FOR PSM 2/9/2010 1:25:00 PM SB2561

CONFERENCE ROOM: 229  
TESTIFIER POSITION: OPPOSE  
TESTIFIER WILL BE PRESENT: NO  
SUBMITTED BY: CAROL AI MAY  
ORGANIZATION: CITY MILL COMPANY, LTD.  
ADDRESS: 660 N. NIMITZ HIGHWAY HONOLULU HAWAII 96817  
PHONE: 808-529-5806  
E-MAIL: CAI@CITYMILL.COM  
SUBMITTED ON: 2/3/2010

COMMENTS:

WE OPPOSE THIS ADDED BURDEN TO RETAILERS. WE WOULD RECOMMEND THAT THE LAWS FOR PERSONS CREATING GRAFFITI BE MADE MORE STRICT. YOU ARE MAKING THE RETAILER AND WHOLESALER RESPONSIBLE AND NOT THE PERSON COMMITTING THE CRIME. THE PERSON COMMITTING THE CRIME NEEDS TO BE ACCOUNTABLE AND LAWS NEED TO BE STRENGTHENED TO DETER THIS BEHAVIOR. MAHALO, CAROL AI MAY

TESTIMONY FOR PSM 2/9/2010 1:25:00 PM SB2561

CONFERENCE ROOM: 229  
TESTIFIER POSITION: SUPPORT  
TESTIFIER WILL BE PRESENT: NO  
SUBMITTED BY: JEANNINE JOHNSON  
ORGANIZATION: INDIVIDUAL  
ADDRESS: 5648 PIA STREET HONOLULU, HI  
PHONE: 808-373-2874  
E-MAIL: [JEANNINE@HAWAII.RR.COM](mailto:JEANNINE@HAWAII.RR.COM)  
SUBMITTED ON: 2/3/2010

COMMENTS:

I PERSONALLY PAINT OVER GRAFFITI IN MY COMMUNITY, AND STRONGLY SUPPORT SB2561 WHICH REGULATES THE RETAIL AND WHOLESALE SALES OF SPRAY PAINT. IN 2004 WHEN MY NEIGHBORHOOD HAD 2 DRUG HOUSES, I SUPPORTED A LAW THAT RESTRICTED THE SALE OF OVER THE COUNTER COLD MEDICINE TO KEEP IT FROM BEING COOKED INTO METHAMPHETAMINE. AFTER THAT LAW PASSED, THE NUMBER OF DRUG HOUSES AND METH LABS DROPPED SUBSTANTIALLY. DRUG AND ALCOHOL TREATMENT CENTERS ALSO HAD FEWER ADMISSIONS.

WE NEED TO STOP THE BLIGHT OF GRAFFITI RUINING OUR 'AINA BEFORE IT RUINS US.



TO: Senator Espero, Chair  
Senator Bunda, Vice Chair  
Members of the Committee on Public Safety and Military Affairs

DATE: Saturday, February 06, 2010

FROM: Natalie Iwasa  
1331 Lunalilo Home Road  
Honolulu, HI 96825  
808-395-3233

HEARING: 1:25 p.m., February 9, 2010

SUBJECT: SB 2561 Relating to Spray Paint - **Oppose**

Aloha Senators,

Thank you for this opportunity to testify **in opposition** of SB 2561 which would place restrictions on the sale of spray paint and add new responsibilities for sellers of spray paint as well as add a new fee for retailers. While I understand the intent of this bill, it simply goes too far in its requirements for tracking and maintaining personal information of legitimate purchasers of spray paint. Perhaps a better way to decrease the amount of graffiti is to place a bounty on offenders.

Please vote "no" on this bill.