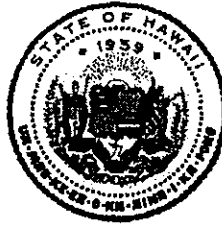


NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

JODIE F. MAESAKA-HIRATA
DIRECTOR

MARTHA TORNEY
Deputy Director of
Administration

JOE W. BOOKER, JR.
Deputy Director
Corrections

KEITH KAMITA
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 40 SD2 HD1
A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE
Jodie F. Maesaka-Hirata, Director
Department of Public Safety

House Committee on Consumer Protection & Commerce
Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair

House Committee on Judiciary
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

Wednesday, March 30, 2011, 2:00 PM
State Capitol, Room 325

Chairs Herkes and Keith-Agaran, Vice Chairs Yamane and Rhoads, and
Members of the Committees:

The Department of Public Safety (PSD) supports the intent of Senate Bill
40 SD2 HD1 that proposes to amend Hawaii's pseudoephedrine tracking
program to require the electronic tracking of all retail sales of pseudoephedrine
containing products utilizing an electronic log on software provided by PSD and
approved by the Narcotics Enforcement Division (NED) Administrator. The
Legislature passed Act 184 in 2008 that mandated that all retail distributors
selling products, mixtures, or preparations containing pseudoephedrine
electronically report all retail sales data to the NED on a monthly basis.
Pseudoephedrine control and tracking has been very successful in Hawaii in

reducing the amount of clandestine laboratories manufacturing methamphetamine / ICE. NED formed a partnership with the Western States Information Network (WSIN/RISS) whose mission is to support law enforcement efforts nationwide to combat illegal drug trafficking, identity theft, human trafficking, violent crime, terrorist activity, and to promote officer safety in Alaska, California, Hawaii, Oregon, Washington, as well as Canada and Guam to host the pseudoephedrine tracking database.

The electronic tracking log was a great first step for the State to attempt to track retail pseudoephedrine sales and decrease the production of methamphetamine / ICE. The language being proposed in Senate Bill 40 SD2 HD1 will help PSD track all sales of pseudoephedrine products regardless of amount. PSD would like to suggest an amendment on page 2, line 7 of Senate Bill 40 SD2 HD1 to read as follows: "electronic log on software provided or authorized by the narcotics". This amendment would allow the PSD to take advantage of The Hawaii Food Industry offer to fund this new pseudoephedrine tracking system.

The Hawaii Food Industry testified, "The OTC industry offering to pay for this system! The Consumer Healthcare Products Association (CHPA) - the trade association representing U.S. manufacturers of nonprescription medicines - supports a multistate electronic tracking system in retail outlets that will monitor all over-the-counter (OTC) PSE purchases in real-time to prevent criminals from exceeding legal limits. Providing an enforcement mechanism for the purchase limits is the best way to curb the diversion of PSE for meth production. States

have been passing laws requiring such systems, but in some cases, the laws do not take effect unless funding for them is provided. States began asking for industry support, and industry agreed to help.”

For these reasons, PSD strongly supports the passage of Senate Bill 40 SD2 HD1 with the proposed amendments. Thank you for the opportunity to testify on this matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-6552

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE ROBERT N. HERKES, CHAIR
HOUSE CONSUMER PROTECTION AND COMMERCE COMMITTEE
THE HONORABLE GILBERT S.C. KEITH-AGARAN
HOUSE JUDICIARY COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i

March 30, 2011

RE: S.B. 40, S.D. 2, H.D. 1, Proposed H.D. 2; RELATING TO PSEUDOEPHEDRINE.

Chair Herkes, Vice Chair Keith-Agaran, and members of the House Committee on Consumer Protection and Commerce, and the House Committee on Judiciary, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in support of S.B. 40, S.D. 2, H.D. 1, Proposed H.D. 2.

The proposed H.D. 2 of this bill requires electronic tracking of the distribution of pseudoephedrine or any drug containing pseudoephedrine. It also requires a report to the Legislature prior to the 2012 Regular Session.

Currently, pseudoephedrine is regulated as a List 1 Chemical that is allowed to be sold, transferred, or furnished over the counter without a prescription. A pseudoephedrine permit is required for any person transporting more than three packages. A pharmacy or retailer can sell or distribute to a person without a prescription not more than 3.6 grams per day of any product containing any detectable quantity of pseudoephedrine, provided the product is sold from an area not accessible to the customers such as behind the counter or in a locked glass casing. The pharmacy or retailer is further required to record information in an electronic log on software provided by the Narcotics Enforcement Division of the Department of Public Safety. Also, every wholesaler must report to the Narcotics Enforcement Division of the Department of Public Safety all sales of products containing any detectable quantity of pseudoephedrine. Currently, individuals cannot purchase more than 9 grams of any product containing any detectable quantity of pseudoephedrine within a thirty day period, unless the individual has a valid prescription. Failure to comply with the mentioned requirements would result in criminal and civil penalties.

Electronic tracking will help prevent individuals from purchasing pseudoephedrine for the manufacturing of methamphetamine. Methamphetamine increases alertness, concentration, energy, and in high doses, can induce euphoria, enhance self-esteem, and increase libido. It has a

high potential for abuse and addiction by activating the psychological reward system via triggering a cascading release of dopamine, norepinephrine and serotonin in the brain.

Methamphetamine is FDA approved for the treatment of ADHD and exogenous obesity, marketed in the USA under the trademark name Desoxyn. However, methamphetamine is illicitly synthesized and then sold in a crystalline form resembling small shards of odorless, bitter-tasting crystals; leading to the colloquial nickname "crystal meth". Following a period of heavy use, also known as "binging", which typically last days or even weeks, a severe withdrawal syndrome lasting up to ten days can occur, primarily consisting of depression, fatigue, excessive sleeping and an increased appetite. Chronic methamphetamine abuse may result in prolonged psychiatric disorders, cognitive impairment, as well as an increased risk of developing Parkinson's disease.

As a result of methamphetamine-induced neurotoxicity to dopaminergic neurons, chronic abuse may also lead to withdrawal symptoms which persist beyond the withdrawal period for months, and even up to a year. Research has found that 20% of methamphetamine addicts experience a psychosis resembling schizophrenia, which persists for longer than six months post-methamphetamine use; this amphetamine psychosis can be resistant to traditional treatment. In addition to psychological harm, physical harm, primarily consisting of cardiovascular damage, may occur with chronic abuse or acute overdose.

Further, a number of individuals addicted to methamphetamine resort to theft, prostitution, and other illegal activity in order to pay for the drugs. Also, a number of violent crimes involve individuals "high" on methamphetamine or disagreements in the distribution of such drugs.

For these reasons, we support the passage of S.B. 40, S.D. 2, H.D. 1, Proposed H.D. 2. Thank you for this opportunity to testify.



LEGISLATIVE INFORMATION SERVICES OF HAWAII

1188 Bishop St., Ste. 608 PH: 533-6750 FAX: 356-0133
Honolulu, HI 96813 www.lish.info Email: lishawaii@aol.com

March 30, 2011

House Committee on Consumer Protection & Commerce - Wednesday @ 2:00 p.m. in CR 325

Rep. Robert N. Herkes, Chair

Rep. Ryan I. Yamane, Vice Chair

House Committee on Judiciary

Rep. Gilbert S.C. Keith-Agaran, Chair

Rep. Karl Rhodes, Vice Chair

By:

Richard C. Botti

On Behalf of LISH, and the Consumer Healthcare Products Association

Re:

SB 40 SD2 HD2 PROPOSED - RELATING TO PSEUDOEPHEDRINE

Chairs & Committee Members:

Pseudoephedrine (PSE) is a safe and effective active ingredient found in leading cold and allergy medicines to provide congestion relief. An estimated 16 million Americans purchase pseudoephedrine each year. To help prevent illegal diversion of PSE for meth production, Hawaii law moved all PSE products behind the counter, limits purchases to 3.6 grams per day and 9 grams per 30 days, and requires a purchaser's signature in a logbook that is accessible by law enforcement.

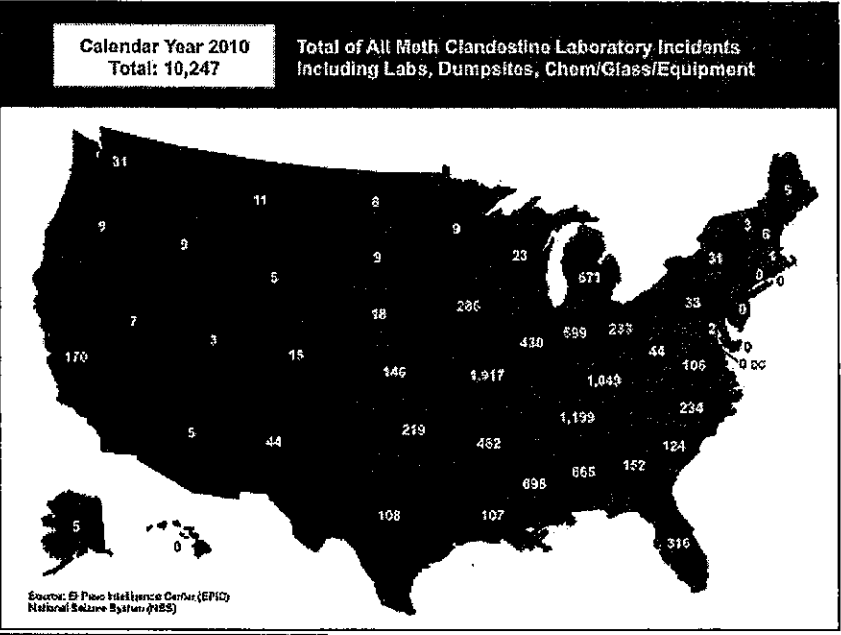
Although meth lab incidents have been drastically reduced in Hawaii. Proposed HD2 further restrict access to PSE, and would require consumers to see a doctor and get a prescription before purchasing this safe, nonprescription medicine. The Proposed Draft2 does not exempt nonprescription formulations from the prescription requirement that applies to Schedule V drugs, therefore we oppose this bill in its current form.

A better alternative is now available that uses a unified, electronic logbook to determine in real time if a purchaser has made any purchases or attempted purchases at any other location where the products are available. Twelve states have enacted laws requiring electronic stop sale systems, or e-tracking, of PSE sales, at no cost to these states that are using the industry funded system outlined in the attached Model Pseudoephedrine Electronic Tracking Legislation. We are proposing that Hawaii participate in this program. Electronic tracking unifies the logbooks that were previously kept in each individual store, preventing criminals from skirting the limits by visiting multiple stores, while allowing law enforcement real time access to the system for monitoring.

Electronic blocking technology stops meth crimes before they happen by blocking illegal sales. It blocks 40,000 grams of PSE sales in IL, IA, KY and LA alone each month. CHPA supports requiring the use of real-time electronic tracking technology in Hawaii and provides an industry-funded program to implement such a requirement.

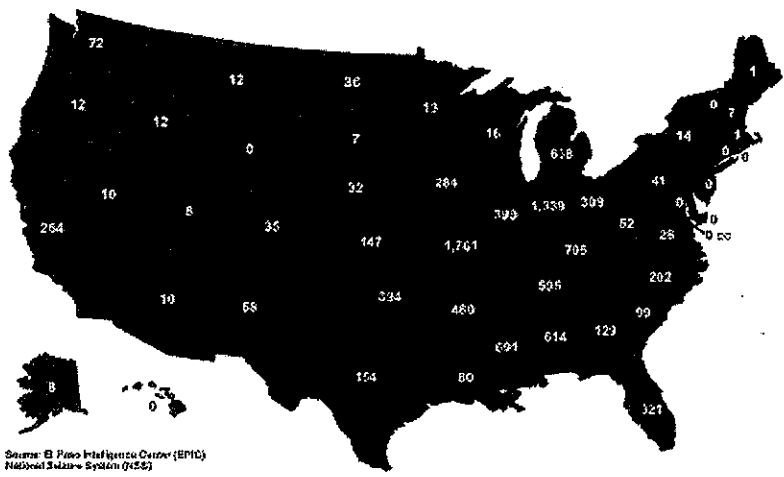
Methamphetamine Lab Incidents, 2004-2010

NOTE: These maps include all meth incidents, including labs, "dumpsites" or "chemical and glassware" seizures.



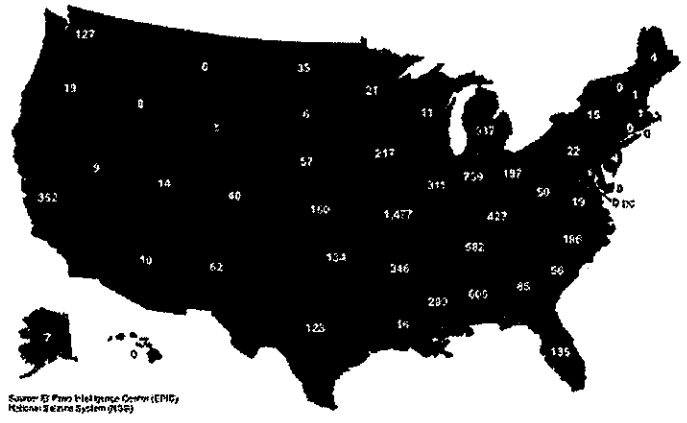
Calendar Year 2009
Total: 10,090

Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment



Calendar Year 2008
Total: 7,334

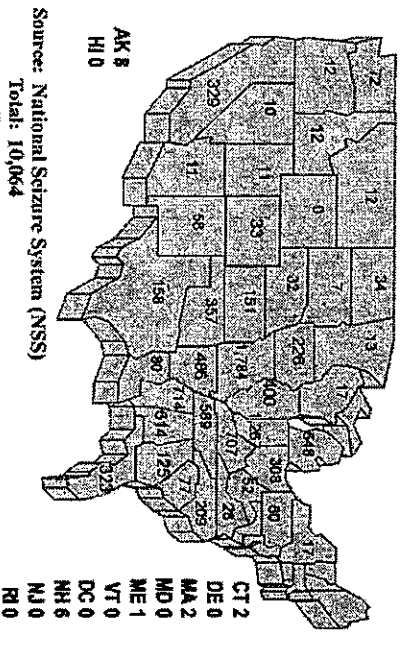
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment



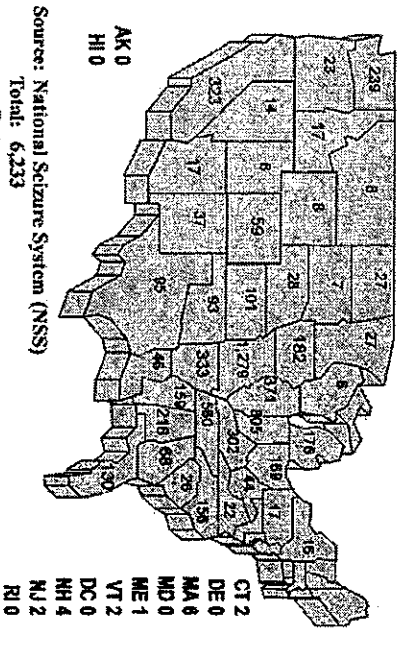
Maps of Methamphetamine Lab Incidents 2004 through 2009

NOTE: These maps include all meth incidents, including labs, "dumpsites" or "chemical and glassware" seizures.

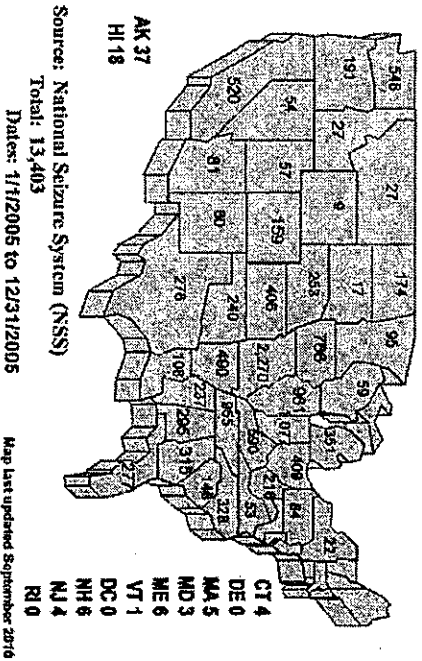
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2009



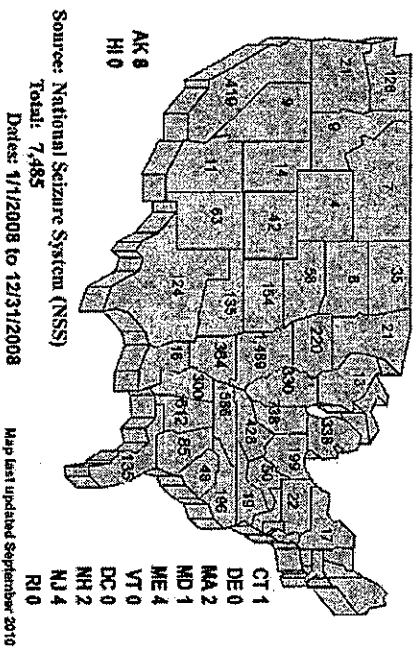
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2007



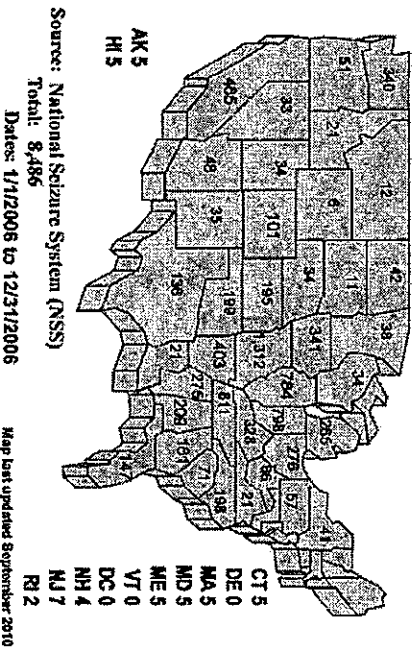
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2005



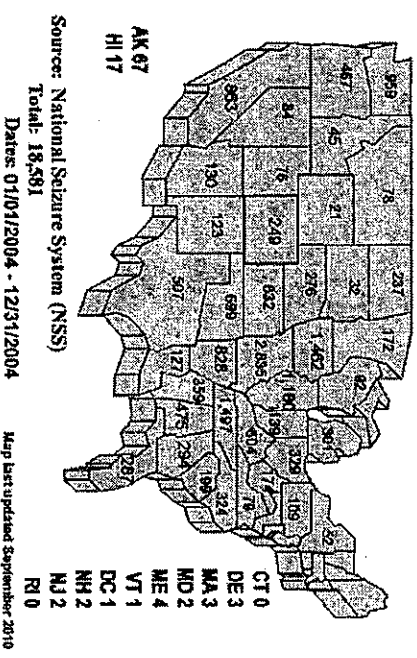
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2008



Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2006



Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2004



Model Pseudoephedrine Electronic Tracking Legislation

Model Pseudoephedrine Electronic Tracking Legislation

- (a) (1) A retailer shall not sell to the same person, and a person shall not purchase, products containing more than three and six tenths (3.6) grams per day or more than nine (9) grams per thirty day period of ephedrine or pseudoephedrine base, or their salts, isomers, or salts of isomers. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products, and not the overall weight of the products.
- (2) Nonprescription products containing pseudoephedrine or ephedrine shall be maintained behind the counter or in a locked case where the customer does not have direct access.
- (b) The retailer shall require any person purchasing a nonprescription product that contains pseudoephedrine or ephedrine to present valid government issued photo identification at the point of sale. The retailer shall record the name and address of the purchaser; name and quantity of product purchased; date and time purchased; and purchaser identification type and number, such as driver license state and number, and require the purchaser's signature in a logbook.
- (c) Beginning January 1, 2011, a retailer shall, before completing a sale under this section, electronically submit the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI). Absent negligence, wantonness, recklessness, or deliberate misconduct, any retailer utilizing the electronic sales tracking system in accordance with this subdivision shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection and shall be immune from liability to any third party unless the retailer has violated any provision of this subsection in relation to a claim brought for such violation.
- (d) If a retailer selling a nonprescription product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the retailer shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as the retailer is able to comply with the electronic sales tracking requirement.
- (e) NADDI shall forward state transaction records in NPLEx to the appropriate state agency weekly, and provide real-time access to NPLEx information through the NPLEx online portal to law enforcement in the state as authorized by the agency.
- (f) This system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits set forth in this section. The seller shall not complete the sale if the system generates a stop sale alert. The system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if they do not complete a sale. Each instance in which the override function is utilized shall be logged by the system.
- (g) A violation of any provision of this section is a Class A misdemeanor, punishable by fine only. If a product is dispensed in violation of subsection (a), the owner or operator of the wholesale or retail establishment dispensing the product shall be in violation of subsection (a).
- (h) This section does not apply to a person who obtains the product pursuant to a valid prescription.
- (i) This section shall supersede any local laws or ordinances regulating sales of products containing pseudoephedrine or ephedrine.



LEGISLATIVE INFORMATION SERVICES OF HAWAII

1188 Bishop St., Ste. 608 PH: 533-6750 FAX: 356-0133
Honolulu, HI 96813 www.lish.info Email: lishawaii@aol.com

March 30, 2011

Amended Testimony 10:45 a.m. March 29, 2011.

House Committee on Consumer Protection & Commerce
Rep. Robert N. Herkes, Chair
Rep. Ryan I. Yamane, Vice Chair

House Committee on Judiciary
Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhodes, Vice Chair

By: Richard C. Botti
On Behalf of LISH, and the Consumer Healthcare Products Association

Re: SB 40 SD2 HD2 PROPOSED - RELATING TO PSEUDOEPHEDRINE

Chairs & Committee Members:

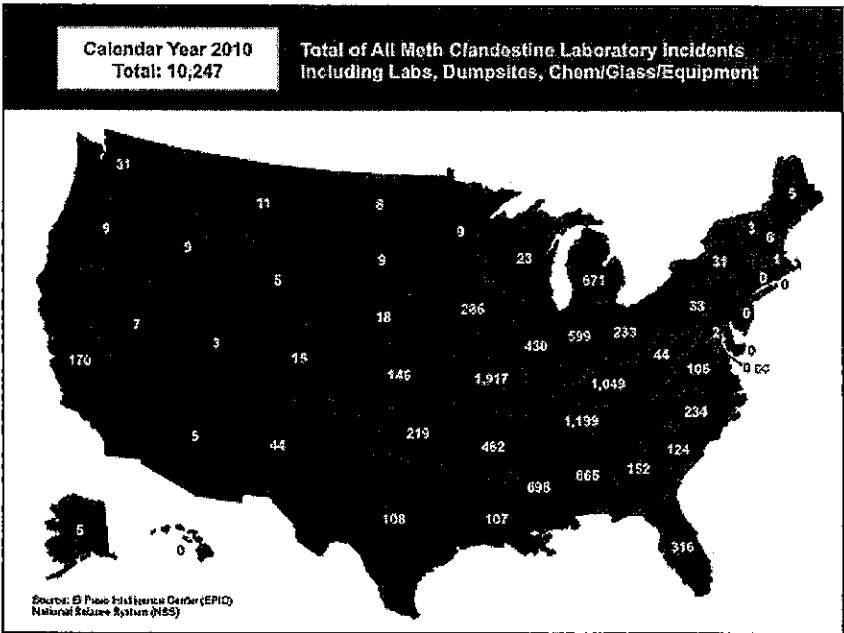
We support SB40 SD2 HD2 PROPOSED.

We do suggest that the Legislature look at what we believe is a better alternative now available that uses a unified, electronic logbook to determine in real time if a purchaser has made any purchases or attempted purchases at any other location where the products are available. Twelve states have enacted laws requiring electronic stop sale systems, or e-tracking, of PSE sales, at no cost to these states that are using the industry funded system outlined in the attached Model Pseudoephedrine Electronic Tracking Legislation. We are proposing that Hawaii participate in this program. Electronic tracking unifies the logbooks that were previously kept in each individual store, preventing criminals from skirting the limits by visiting multiple stores, while allowing law enforcement real time access to the system for monitoring.

Electronic blocking technology stops meth crimes before they happen by blocking illegal sales. It blocks 40,000 grams of PSE sales in IL, IA, KY and LA alone each month. CHPA supports requiring the use of real-time electronic tracking technology in Hawaii and provides an industry-funded program to implement such a requirement.

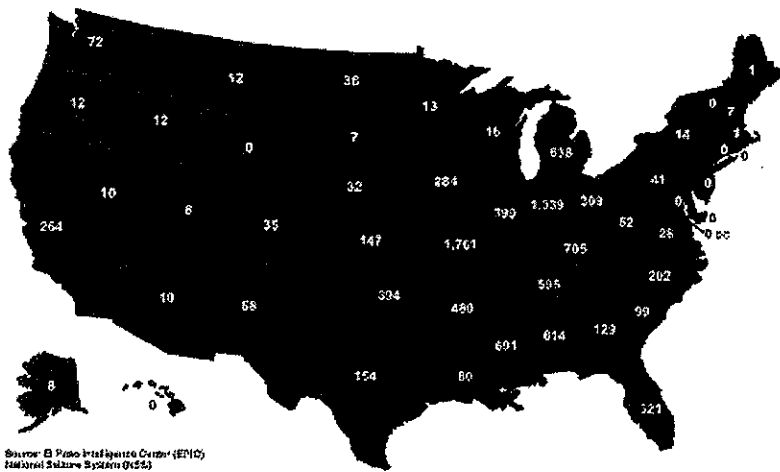
Methamphetamine Lab Incidents, 2004-2010

NOTE: These maps include all meth incidents, including labs, "dumpsites" or "chemical and glassware" seizures.



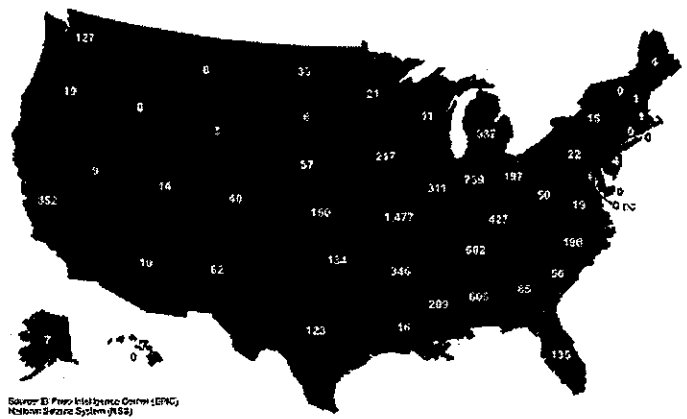
Calendar Year 2009
Total: 10,090

Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment



Calendar Year 2008
Total: 7,334

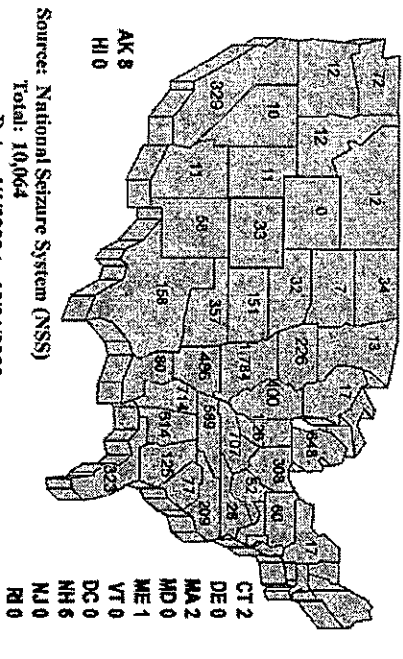
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment



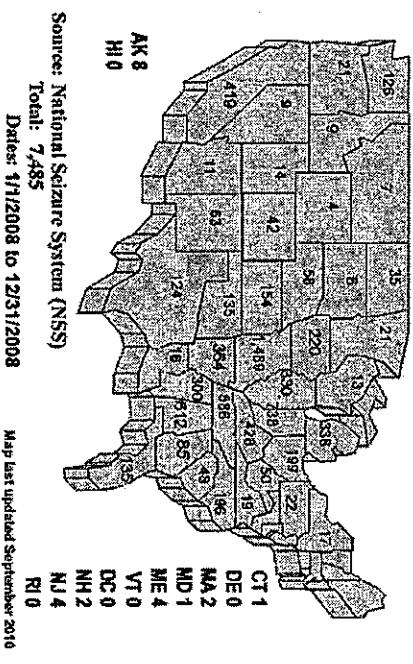
Maps of Methamphetamine Lab Incidents 2004 through 2009

NOTE: These maps include all meth incidents, including labs, "dumpsites" or "chemical and glassware" seizures.

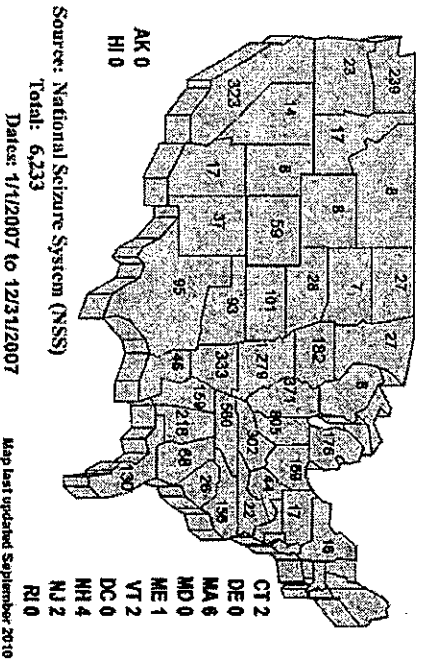
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2009



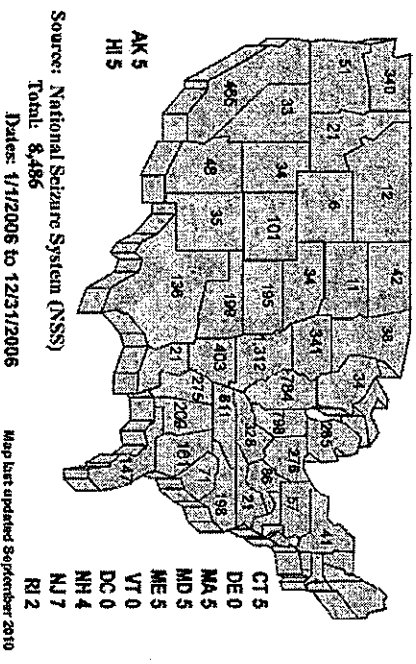
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2008



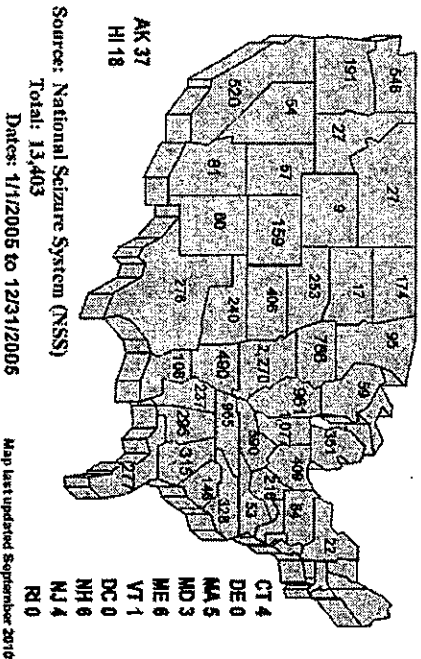
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2007



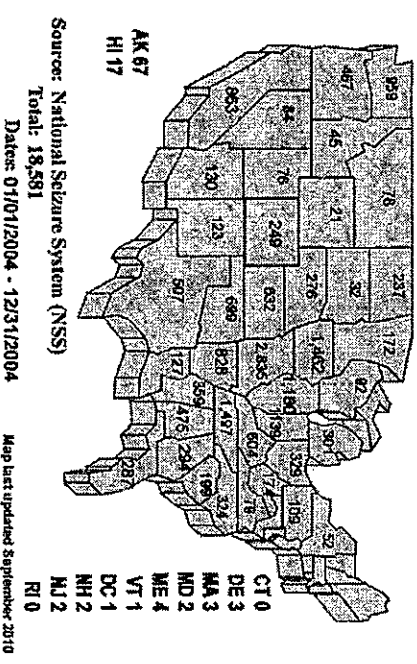
Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2006



Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2005



Total of All Meth Clandestine Laboratory Incidents Including Labs, Dumpsites, Chem/Glass/Equipment Calendar Year 2004



Model Pseudoephedrine Electronic Tracking Legislation

Model Pseudoephedrine Electronic Tracking Legislation

- (a) (1) A retailer shall not sell to the same person, and a person shall not purchase, products containing more than three and six tenths (3.6) grams per day or more than nine (9) grams per thirty day period of ephedrine or pseudoephedrine base, or their salts, isomers, or salts of isomers. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products, and not the overall weight of the products.
- (2) Nonprescription products containing pseudoephedrine or ephedrine shall be maintained behind the counter or in a locked case where the customer does not have direct access.
- (b) The retailer shall require any person purchasing a nonprescription product that contains pseudoephedrine or ephedrine to present valid government issued photo identification at the point of sale. The retailer shall record the name and address of the purchaser; name and quantity of product purchased; date and time purchased; and purchaser identification type and number, such as driver license state and number, and require the purchaser's signature in a logbook.
- (c) Beginning January 1, 2011, a retailer shall, before completing a sale under this section, electronically submit the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI). Absent negligence, wantonness, recklessness, or deliberate misconduct, any retailer utilizing the electronic sales tracking system in accordance with this subdivision shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection and shall be immune from liability to any third party unless the retailer has violated any provision of this subsection in relation to a claim brought for such violation.
- (d) If a retailer selling a nonprescription product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the retailer shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as the retailer is able to comply with the electronic sales tracking requirement.
- (e) NADDI shall forward state transaction records in NPLEx to the appropriate state agency weekly, and provide real-time access to NPLEx information through the NPLEx online portal to law enforcement in the state as authorized by the agency.
- (f) This system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits set forth in this section. The seller shall not complete the sale if the system generates a stop sale alert. The system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if they do not complete a sale. Each instance in which the override function is utilized shall be logged by the system.
- (g) A violation of any provision of this section is a Class A misdemeanor, punishable by fine only. If a product is dispensed in violation of subsection (a), the owner or operator of the wholesale or retail establishment dispensing the product shall be in violation of subsection (a).
- (h) This section does not apply to a person who obtains the product pursuant to a valid prescription.
- (i) This section shall supersede any local laws or ordinances regulating sales of products containing pseudoephedrine or ephedrine.



HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)
1050 Bishop St. Box 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

DATE: Wednesday, March 30, 2011 TIME: 2:00 P.M. PLACE: Conference Room 329

TO: COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair

Rep. Ryan I. Yamane, Vice Chair

COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair

Rep. Karl Rhoads, Vice Chair

FROM: Hawaii Food Industry Association - Lauren Zirbel, Government Relations

RE: SB 40 SD2, HD 1 RELATING TO PSEUDOEPHEDRINE

Chairs & Committee Members:

HFIA stands in opposition to SB 40 SD2 HD1. However, we find the proposed HD2 to be satisfactory.

support

HFIA opposes current language in SB 40 SD2 HD1 because reductions to the gram amounts available under our current and very similar logging requirements will result in allergy sufferers being unable to purchase two week supplies of drugs. We believe the 2 week supply requirement currently in existence is very reasonable.

An up to date, real – time tracking system can be achieved without changes to schedule V drug requirements or Federal gram quantity requirements (3.6 grams per day, or no more than 9 grams per thirty days). Please see proposed language at the end of this testimony.

It is well known that there have been no meth lab busts in Hawaii in the past several years and that the vast majority of meth in the US is imported. **The last meth lab bust in Hawaii was in 2006.**

We estimate sales of pseudoephedrine in Hawaii to be around 250,000 packages.

Most meth is imported into the U.S. as a finished product. Approximately 20% is sourced from the U.S., with 80% from “superlabs” and less than 20% from small labs.

Electronic Tracking of PSE Sales Presents a Real Solution for Combating Meth Abuse. E-logs provide real-time approval or denial of PSE purchases at the point-of-sale, creating no access barriers for the 19 million American households that purchase non-prescription cold and allergy medicines to treat their symptoms.

E-logs enable law enforcement to track real-time activity and search histories, thus identifying “smurfing” operations and labs that would otherwise go undetected. For example, electronic tracking led to 70% of meth lab busts in key Kentucky counties, and reduced illegal sales by more than 90% in a Florida pilot. Ten states have enacted laws that require electronic tracking of PSE sales: Alabama, Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Missouri, Oklahoma, and Washington.

Law enforcement officials have testified before members of Congress about the effectiveness of e-logs, and communicated their concerns that a prescription-only policy would fail to limit PSE sales or enable meth lab detection.

Federal law currently limits all PSE-containing OTCs to behind the counter, with sales per customer of no more than 3.6 grams per day and 9 grams per 30 days, and requires purchasers to show ID and sign a logbook.

Electronic tracking allows retailers to block illegal sales and enhances law enforcement’s suppression and investigative efforts. Establishing a multistate electronic tracking system for medicines that contain PSE will prevent smurfing across different retailers, even across state lines, and provide a highly efficient law enforcement tool. At the same time, it will create no new barriers for the millions of cold and allergy sufferers looking for relief.

E-tracking can also be combined with a state’s meth conviction records. Oklahoma became the first state to enact a law prohibiting sales of PSE to individuals with meth convictions. State officials used their tracking system to identify individuals who had been blocked from making illegal pseudoephedrine purchases and discovered that as many as 60 percent of those being blocked had prior criminal records, many for drug charges. Now Oklahoma will deny any sales of pseudoephedrine to those individuals, even within otherwise legal quantity limits.

What is the Downside of Rx pseudoephedrine?

Unfortunately, reducing or cutting off supply does not guarantee a reduction in demand or use. Mexico, for example, banned pseudoephedrine nearly three years ago. Yet the country is once again the “primary source of methamphetamine” in the U.S., according to the Justice Department’s National Drug Intelligence Center’s 2010 threat assessment. In fact, Oklahoma estimates that 70 percent of the meth in their state is from Mexico, in a potent, smokeable form called “ice.”

Despite extreme actions taken by the Mexican government, drug traffickers and meth cooks have simply found alternative ingredients to use, such as phenylacetic acid, or they illegally smuggle pseudoephedrine to keep meth production viable and profitable.

What is the cost to consumers and taxpayers?

- If only half of the estimated 16 million Americans who use pseudoephedrine each year went to a doctor once a year to obtain a prescription for pseudoephedrine, this would **add three quarters of a billion dollars in healthcare costs** for office visits alone.
- Restricting access to pseudoephedrine products would also decrease sales tax revenues in many states, as over-the-counter medications are subject to sales tax while prescription medications are not.
- Medicaid programs and state employee health and retiree insurance plans would likely face an average of \$11.5 million in added costs for increased provider visits and provision of prescription pseudoephedrine.

The Good News:

The OTC industry offering to pay for this system! The Consumer Healthcare Products Association (CHPA)—the trade association representing U.S. manufacturers of nonprescription medicines—supports a multistate electronic tracking system in retail outlets that will monitor all over-the-counter (OTC) PSE purchases in real-time to prevent criminals from exceeding legal limits. Providing an enforcement mechanism for the purchase limits is the best way to curb the diversion of PSE for meth production. States have been passing laws requiring such systems, but in some cases, the laws do not take effect unless funding for them is provided. States began asking for industry support, and industry agreed to help.

Thank you for the opportunity to provide this testimony.

The following is a draft of Model Pseudoephedrine Electronic Tracking Legislation.

Model Pseudoephedrine Electronic Tracking Legislation

(a) (1) A retailer shall not sell to the same person, and a person shall not purchase, products containing more than three and six tenths (3.6) grams per day or more than nine (9) grams per thirty day period of ephedrine or pseudoephedrine base, or their salts, isomers, or salts of isomers. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products, and not the overall weight of the products. (2) Nonprescription products containing pseudoephedrine or ephedrine shall be maintained behind the counter or in a locked case where the customer does not have direct access.

(b) The retailer shall require any person purchasing a nonprescription product that contains pseudoephedrine or ephedrine to present valid government issued photo identification at the point of sale. The retailer shall record the name and address of the purchaser; name and quantity of product purchased; date and time purchased; and purchaser identification type and number, such as driver license state and number, and require the purchaser's signature in a logbook.

(c) Beginning January 1, 2012, a retailer shall, before completing a sale under this section, electronically submit the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI). Absent negligence, wantonness, recklessness, or deliberate misconduct, any retailer utilizing the electronic sales tracking system in accordance with this subdivision shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection and shall be immune from liability to any third party unless the retailer has violated any provision of this subsection in relation to a claim brought for such violation.

(d) If a retailer selling a nonprescription product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the retailer shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as the retailer is able to comply with the electronic sales tracking requirement.

(e) NADDI shall forward state transaction records in NPLEx to the appropriate state agency weekly, and provide real-time access to NPLEx information through the NPLEx online portal to law enforcement in the state as authorized by the agency.

(f) This system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits set forth in this section. The seller shall not complete the sale if the system generates a stop sale alert. The system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if they do not complete a sale. Each instance in which the override function is utilized shall be logged by the system.

(g) A violation of any provision of this section is a Class A misdemeanor, punishable by fine only. If a product is dispensed in violation of subsection (a), the owner or operator of the wholesale or retail establishment dispensing the product shall be in violation of subsection (a).

(h) This section does not apply to a person who obtains the product pursuant to a valid prescription.

(i) This section shall supersede any local laws or ordinances regulating sales of products containing pseudoephedrine or ephedrine.

CPCtestimony

From: Shannon Wood [swood@hoku.com]
Sent: Tuesday, March 29, 2011 6:26 PM
To: CPCtestimony
Subject: SB 40 SD2 HD1 -PROPOSED HD1 - RELATING TO PSEUDOEPHEDRINE

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Rep. Robert Herkes, Chair
Rep. Ryan Yamane, Vice Chair

COMMITTEE ON JUDICIARY

Rep. Gilbert Keith Agaran, Chair
Rep. Karl Rhoads, Vice Chair

2 pm

Wednesday, March 30, 2011
Conference Room 325

SB 40 SD2 HD1 -PROPOSED HD1 - RELATING TO PSEUDOEPHEDRINE

Requires electronic tracking of distribution of pseudoephedrine or any drug containing pseudoephedrine. Requires a report to the Legislature prior to the 2012 Regular Session. Effective July 1, 2012. (proposed SD 40 HD2)

STRONGLY OPPOSE ALL VERSIONS OF THE BILL

I am presenting this testimony in **STRONG OPPOSITION** to any version of **SB 40** as an individual and not on behalf of any organization.

The first reason I oppose this bill is that it violates my privacy and interferes with my ability to deal with certain health issues. What will happen to the information about my purchasing *Sudafed*? Where will it be stored? Can it be accessed by any state employee? What is the purpose for identifying me as a purchaser.

If you are serious about this bill, then work with the *Congressional* delegation to restrict or even ban the sale of pseudoephedrine at the national level.

The second reason I oppose this bill is the cost to pharmacies as well as to state government to make sure that the sales are tracked.

The third reason I oppose this bill is that it is nothing more than a *looks-like-we're-doing-something-about-meth-labs* when, in fact, meth usage is not only down but also whatever is being sold illegally here in Hawai'i comes from Mexico, Central & South America, and China. According to a retired high-ranking *Honolulu Police Department* officer speaking to me off the record, it's been at least two years since a local meth lab using locally-purchased products has been taken out.

In fact, the product is pretty much brought in *ready-2-use*, not as raw materials. It's safer to sell it this way.

The fourth reason I oppose all versions of this bill is that we need to address health rather than public safety issues when it comes to drug addiction. People who are addicted to legal and illegal drugs need to be helped - not imprisoned. The money to put this law into effect could be used to help perhaps as many as 100

addicts.

Please hold this bill and look at real solutions - not something to make Hawai'i taxpayers think that lawmakers are really doing something about meth addiction problems.

Shannon Wood
P.O. Box 1013
Kailua, HI 96734
808/224-4496 or 808/223-4481
swood@hoku.com