

LATE TESTIMONY

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STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

No. _____

TESTIMONY ON **SENATE BILL 40 SD1**
A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE

by

Jodie Maesaka-Hirata, Interim Director
Department of Public Safety

Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Wednesday February 23, 2011, 9:00 AM
State Capitol, Room 016

Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

The **Department of Public Safety (PSD)** supports the intent of **Senate Bill 40 SD1** that proposes to make pseudoephedrine and pseudoephedrine containing products a Schedule V controlled substance. The Legislature passed Act 184 in 2008 that mandated all retail distributors selling products, mixtures, or preparations containing pseudoephedrine electronically report all retail sales data to the Narcotics Enforcement Division (NED) on a monthly bases.

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. This tracking system has a few shortcomings, unlike Hawaii's electronic prescription monitoring program, this system that reports all controlled substance prescription data the pseudoephedrine-tracking program does not report information relating to persons purchasing just under the 3 grams a day or 9 gram a month limits. Presently, most of the sales of pseudoephedrine containing products are sold at pharmacies and many of the non-pharmacy retail distributors no longer carry products containing pseudoephedrine, but are now selling over the counter pseudoephedrine PE products that cannot be utilized to manufacture methamphetamine.

PSD would like to recommend an amendment to Senate Bill 40 SD1 Section 1 to read as follows:

"(c) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers[-]:

Pyrovalerone; and

(1) Pseudoephedrine and pseudoephedrine containing products."

Section 2:

(3) For purposes of a controlled substance in schedule V, in the case of a drug containing pseudoephedrine, as classified under schedule V by a pharmacist, without a prescription, under the following circumstances:

(A) The quantity dispensed is limited to an amount adequate to treat the patient during a short period of time and does not exceed 3.6 grams per day; and no more than 9 grams in a thirty-day period;

(B) Prior to dispensing the drug, the pharmacist enters the patient's name, identification number and signature into a log that:

(i) Is maintained by the pharmacy as a complete and accurate record of all of patients who were administered drugs containing pseudoephedrine without a prescription;

(ii) Includes the date the drugs described in clause (i) were dispensed, the names, identification numbers, address, signatures of the patients, and the quantities of the drugs administered; and

(iii) Is reported as required by Part VIII of this Chapter and maintained for at least five years."

Senate Bill 40 SD1 if enacted would allow pharmacies to report all sales on Hawaii's electronic prescription monitoring program, saving on the reporting of

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data on two separate systems as well as allow the NED to monitor all sales, not just those under the existing State and Federal regulations for 3 grams a day or 9 gram a month limits.

For these reason, PSD strongly supports the passage of Senate Bill 40 SD1 with the proposed amendments. Thank you for the opportunity to testify on this matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

LATE TESTIMONY

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THE HONORABLE CLAYTON HEE, CHAIR
SENATE JUDICIARY AND LABOR COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i

February 23, 2011

RE: S.B. 40, S.D. 1; RELATING TO PSEUDOEPHEDERINE.

Chair Hee, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in support of S.B. 40, S.D. 1.

The purpose of this bill is to reclassify pseudoephedrine as a schedule V drug, which may only be dispensed with a prescription.

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.

The policy of reclassifying pseudoephedrine as a Schedule V Drug rather than as a List 1 Chemical is to better regulate it as a prescriptive drug rather than an "over the counter drug" that is not accessible to customers because of its use in illegal manufacturing of methamphetamine or crystal meth that is sold in the black market. Methamphetamine has shown to be dangerous to one's physical and mental health. With pseudoephedrine as a Schedule V Drug, it is subject to requirements for registration, labeling, identification, record keeping, filing of reports, etc. Violations of these requirements are subject to criminal and civil penalties.

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. 1. Thank you for this opportunity to testify.



HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

1050 Bishop St. Box 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

DATE: Wednesday, February 23, 2011 TIME: 9:00 A.M. PLACE: CR 016

TO: COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair; Senator Maile S.L. Shimabukuro, Vice Chair

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

RE: SB 40 SD1 RELATING TO PSEUDOEPHEDRINE

Chairs & Committee Members:

In opposition.

HFIA **opposes** this measure despite serious improving amendments 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). The schedule V changes may have unintentionally required all schedule V drugs to warrant a written prescription as opposed to a simple “call in” prescription, which may cause administrative burden for other non-related drugs. This law will not create real time tracking that is as comprehensive and up to date as the one that is being offered for free by the over the counter industry.

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.

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

Hearing on Thursday, February 23, 2010

RE: Testimony IN STRONG SUPPORT of SB40 – Relating to Pseudoephedrine

Aloha Senators,

My name is Linda Puppolo.

I am writing to you in support of **SB40** which I refer to as the “Stop the Meth” Bill.

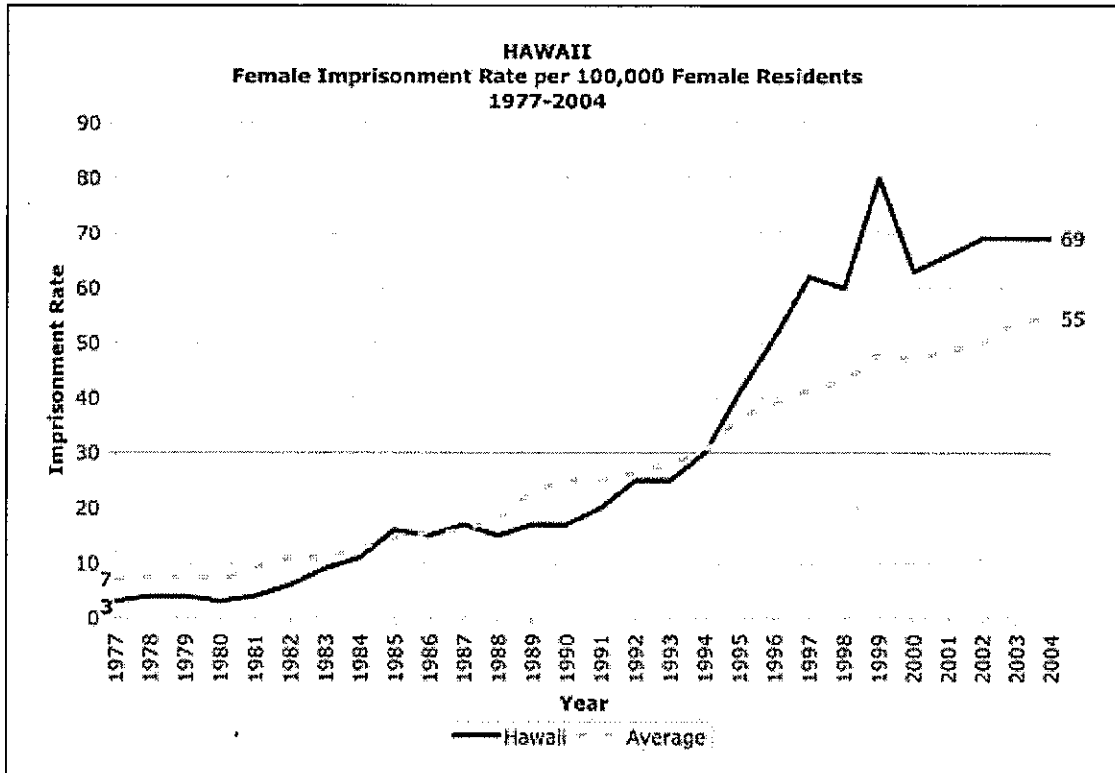
I am a Maui County resident and intended to attend the hearing for this bill as I believe it is imperative that it becomes law in Hawaii. I was in a very serious accident yesterday and as a result; I cannot fly tomorrow from Maui and my heart aches that I am not able to beg to have this bill become law. **AND I WOULD BEG.**

I believe that on Maui most of the “first-time” users are coerced by small time dealers that are “cooking” their own product. Since my daughter has been a Meth Addict for almost ten years and currently dealing; I have first-hand knowledge of many young people that are currently destroying their lives using this “fiend”. I have personally confronted dealers and although there is evidence this drug comes from “super labs”; the geographic isolation of the Hawaiian Islands makes the “cooking” of the product more viable than on the mainland. There are thousands of recipes for Meth on the internet and believe “cooking” is prevalent on Maui and the Big Island.

All methods of producing Meth involve pseudoephedrine (sinus & allergy over the counter medicines) or ephedrine (asthma medicine). Federal and State laws allow only 9 grams a month to any one individual. The dealers typically send out young people (mostly girls) to “farm” in the stores to buy these over the counter medicines by using fake IDs, going from store to store and asking others to buy for them. They wait around

Between 1977 and 2004, Hawaii's female prison population grew by 3,029% with an average annual percent change of 15.2% per year.

Through the late 1970s and entire 1980s, Hawaii's female imprisonment rate was consistently at or below average, relative to other states. In the mid to late 1990s, however, Hawaii's female imprisonment rate began to increase quite dramatically, so that by 2004 its rate was substantially higher than the average across states. In 1977, Hawaii was one of the least punitive states in terms of female imprisonment (ranked 45th); by 2004, Hawaii had climbed to a rank of 16th.



National Geographic has named Meth, “the world’s most dangerous drug”. The main reasons are the following:

- Meth attacks the central nervous system directly affecting both the brain and the spinal cord. The Meth molecule closely resembles the chemical in the brain that gives pleasure, Dopamine, and tricks the brain into giving pleasure to its victim at a rate much higher than the body’s natural production and inhibits any future natural production severely.
- In the brain, Meth, actually attacks the part of the brain that controls impulse control and decision-making ability. In short, it is a “fiend” that protects its own longevity by destroying the very thing that could control it; good decision-making and control over actions.
- The production of Meth is extremely lucrative to both the pharmaceutical companies that sell pseudoephedrine (more is used in production of Meth than by cold sufferers) and the drug dealers that “cook it”. And use is increasing at an alarming rate. There has been an 87% increase in use by 10th graders in Hawaii.
- There are 1.4 million “known” Meth users in the United States enabling the pharmaceutical industry gross revenues of \$600 million annually in the US from the sale of pseudoephedrine. Unfortunately, drug dealers don’t pay taxes so we really don’t know how much they earn.
- If one carton of Sudafed costs \$6 and the other chemicals used in the cooking might raise the cost to \$10 per batch of materials that make \$300 of Meth. METH = MONEY
- Once addicted, Meth addicts most often hurt their own families including theft, fraud, physical abuse, child neglect & abuse, murder and just daily heartbreak. 43% of all emergency room visits are related to Meth addiction.
- The economic cost directly related to Meth addiction in Hawaii (judiciary, treatment, medical, welfare, etc.) is \$500 million and in the US approx. 23 billion. No Meth—No furloughs?

- One pound of Meth = 5 pounds of toxic waste from the chemicals used to “cook” it. And Meth addicts and dealers are not known to follow EPA directions on where to dump toxic waste.
- Meth is produced in houses, cars, barns and in the pristine rain forests of Hawaii. The addicts, dealers and “cookers” often leave these locations uninhabitable, destroyed and dangerous. I’ve seen it with my own eyes.
- The average Meth “cook” teaches **TEN OTHERS** how to do it and almost all users deal it at some time.
- A typical recipe for Meth can be found on the internet. The chemicals and methods are dangerous. The list of chemicals are as follows:
 - tincture iodine containing iodine, sodium, alcohol
 - pseudoephedrine
 - road flares or match tips
 - drain cleaner
 - white distilled vinegar
 - Lye containing sodium hydroxide
 - brake cleaner containing trichloroethylene

Now look at that list again and imagine that the child that you nurtured and loved is putting those chemicals every day into her body quickly destroying all decision-making ability, her health, her teeth, her relationships, her Mommy-ness (My Grandson, Isaiah’s words), her home, her car, her job, her self-esteem, her emotions, her creativity and maybe her life.

“Pseudoephedrine is the head of the fiend and the only way to kill that fiend is to cut off the head.”

At the hearing of SB586/SB40, many testimonies in support of the bills were lost. I am so very disappointed that I cannot be there to support it tomorrow and afraid that again this testimony will be lost or not even read. Below is a poem that I wrote to demonstrate the daily pain I feel with the loss of my precious daughter to the “fiend”. I am raising my eight year old Grandson, Isaiah, and with my love for him; I beg one more time. Please control these substances and slow down the flow.

MISSED

I miss you every single day

I think about where you stay

I can't seem to let you go

Late at night I'm pretty low

I think about your drug dealing friends

**I wonder when the nightmare ends
They tell me to just forget you
But I will always love my Q
The fiend is winning; you've lost your mind
It's got your soul, you can't be kind
That beautiful girl I nurtured and loved
Seems bound to float to heavens above**

**Do you even think of your son?
Or feel badly when the day is done?
Do you really want to die?
Or go to jail, or make me cry?
I don't understand that much is true
No drug could have kept me away from you
And because your son deserves the same
I take your place, but not your name
Although I am very pissed
Just know that you are sorely missed**

Thank you also for hearing this bill and allowing me this time to testify. Please have a heart and stop the production of this drug.

Mahalo Nui Loa,

Linda Ruth Puppolo

Email: lrwerner@hotmail.com
Phone: 808-283-8390

LATE TESTIMONY

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

Hearing on Wednesday, February 23, 2010

RE: Testimony IN STRONG SUPPORT of SB40 – Relating to Pseudoephedrine

Aloha Senators,

My name is Darren Gibo.

I am writing to you in support of SB40 which I refer to as the “Stop the Meth” Bill.

I am a Maui County resident and cannot attend the hearing.

I believe that on Maui most of the “first-time” users are coerced by small time dealers that are “cooking” their own product. Since my daughter has been a Meth Addict for almost ten years and currently dealing; I have first-hand knowledge of many young people that are currently destroying their lives using this “fiend”. I have personally confronted dealers and although there is evidence this drug comes from “super labs”; the geographic isolation of the Hawaiian Islands makes the “cooking” of the product more viable than on the mainland. There are thousands of recipes for Meth on the internet and believe “cooking” is prevalent on Maui and the Big Island.

All methods of producing Meth involve pseudoephedrine (sinus & allergy over the counter medicines) or ephedrine (asthma medicine). Federal and State laws allow only 9 grams a month to any one individual. The dealers typically send out young people (mostly girls) to “farm” in the stores to buy these over the counter medicines by using fake IDs, going from store to store and asking others to buy for them. They wait around outside the stores for someone who will buy some Sudafed or similar over-the-counter drugs; sometimes all day; sometimes with their babies in tow. That is why prescription use only would cut the flow, however they (drug dealers) will find a way around this. I truly believe we have to make this by prescription only, hopefully this will deter meth manufacturing. One meth dealer off the streets might not sound like much, but I’ll take one anyway and just maybe one of our ohana, friends, neighbors, etc will not have access to this evil devil.

National Geographic has named Meth, “the world’s most dangerous drug”. The main reasons are the following:

- Meth attacks the central nervous system directly affecting both the brain and the spinal cord. The Meth molecule closely resembles the chemical in the brain that gives pleasure, Dopamine, and tricks the brain into giving pleasure to its victim at a rate much higher than the body’s natural production and inhibits any future natural production severely.
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Darren K. Gibo

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