



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2012**

---

**ON THE FOLLOWING MEASURE:**  
S.B. NO. 2496, RELATING TO LANDOWNER LIABILITY.

LATE TESTIMONY

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Thursday, February 2, 2012                      **TIME:** 9:30 a.m.  
**LOCATION:** State Capitol, Room 016  
**TESTIFIER(S):** David M. Louie, Attorney General, or  
Caron Inagaki, Deputy Attorney General

---

Chair Hee and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill but has concerns that the bill is vague and overly broad. Also, because some of the terms are not clearly defined, it may result in unintended consequences.

This bill seeks to allow a person to be held personally liable in damages for injury or trespass, whether direct or indirect, including the diminution of property valuation, to the person or property of another person proximately caused by the maintenance of a property nuisance that, among other things, constitutes "visual blight" or is offensive to the senses.

What constitutes "visual blight" or what is offensive is subjective and not clearly defined. What one person considers offensive or to be "visual blight" may not be viewed the same way by anyone else.

Moreover, the bill has the potential to impose liability on what are currently legitimate and valid uses of personal property.

There are many considerations on how to accomplish the goals intended by this bill and we would recommend further review and discussion.

DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonorolulu.org>

LATE TESTIMONIAL

PETER B. CARLISLE  
MAYOR



TIMOTHY E. STEINBERGER, P.E.  
DIRECTOR

MANUEL S. LANUEVO, P.E., LEED AP  
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.  
DEPUTY DIRECTOR

IN REPLY REFER TO:  
WAS 12-23

February 1, 2012

The Honorable Clayton Hee, Chair  
and Members of the Committee on  
Judiciary and Labor  
State Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill 2495, Relating to the Penal Code and  
Senate Bill 2496, Relating to Landowner Liability

The City and County of Honolulu, Department of Environmental Services, **opposes** Senate Bill (SB) 2495, Relating to the Penal Code, and Senate Bill (SB) 2496, Relating to Landowner Liability, in their current form.

Both bills are related to "maintaining a property nuisance" with SB 2495 identifying certain conditions of maintaining a property nuisance as a misdemeanor, and SB 2496 providing for personal liability for those same conditions of maintaining a property nuisance.

The bills are overly broad and do not take into consideration appropriately zoned, permitted, and designated uses that would result in the property nuisance conditions being met. For example, as written, these bills would appear to apply to city refuse convenience centers, refuse transfer stations, landfills, baseyards, wastewater treatment plants and pumping stations, and construction baseyards, all of which are appropriately designated and permitted uses that exist for the public benefit.

If these bills were to proceed, they need to be clarified as to what limited properties are to be affected.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy E. Steinberger".

**Timothy E. Steinberger, P.E.**  
Director

NATHAN T. NATORI  
Direct (808) 275-0155  
nathan@natorilaw.com

1005 BISHOP STREET #1360  
HONOLULU, HAWAII 96813

LATE TESTIMONY

February 1, 2012

Chair Clayton Hee  
Senate Committee on Judiciary and Labor  
415 South Beretania Street, Room 407  
Honolulu, Hawaii 96813

**Re: Senate Bill No. 2496 (Relating to Landowner Liability)**

Dear Chair Hee:

My name is Nathan Natori and I represent Insurance Auto Auctions (“IAA”), a licensed motor vehicle dealer which handles the sale of damaged and theft-recovered vehicles for the insurance industry. IAA opposes Senate Bill No. 2496 because it would characterize IAA’s existing business at the Campbell Industrial Park as a property nuisance, with associated penalties.

#### Salvage Vehicle Auctions

After an accident, if the car is not drivable, the car is typically transported to a repair facility or a towing and storage facility. If an insurance adjuster determines that the vehicle is a total-loss, the vehicle is then transported to a salvage auction where it is stored for some period of time until the proper title is received and the car is sold.

Salvage vehicle auctions and auto dismantling yards play an important role in the lawful disposal of wrecked vehicles. These industries have been providing local employment, consumer service, and environmental conservation for many decades. Salvage auctions and automobile dismantling yards are already subject to rigorous state and local licensing requirements.

#### Potential Violations Under Senate Bill No. 2496

Because IAA is in the business of selling “totaled” vehicles for the insurance industry, the auction vehicles many times are a mess, and could be considered a visual blight to some. Section 663- \_\_\_(c)(1) basically provides that a person commits the offense of maintaining a property nuisance if the person stores wrecked motor vehicles and the vehicles can be seen by anyone nearby. This provision would affect businesses such as salvage auctions, body shops, towing and storage facilities, auto recyclers, rental car companies and probably others.

February 1, 2012  
Page 2



ATTORNEYS

The exception in Section 663-\_\_\_(c)(3) does not resolve the problem because while IAA is located in an industrial zone, it is not operating a junk yard or automobile dismantling yard. The author of the bill probably intended this carve out of industrial zoned businesses to apply to the entire proposed new section, but the language of the bill fails to do so as there is no general exemption.

For the reasons described above, IAA opposes Senate Bill No. 2496 and requests it be held, or at minimum amended as follows:

On page 4, after line 22 add:

(10) Nothing in this section shall apply to:

(a) an auction that handles the disposition of abandoned, wrecked or dismantled motor vehicles or boats or vessels; or

(b) a person who holds a license in an automotive-related business, which license has been issued by the state or any county or city in the state.

Please feel free to contact me should you have any comments or questions regarding the above.

Very truly yours,

**Natori Law Office LLLC**

Nathan T. Natori