

**HB754**

Submitted on: 2/15/2013

Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
K Ornellas	Individual	Support	No

Comments: To those who enjoy the luxury of clean air, this proposed bill may not mean much to you. However, for individuals such as myself, my family, neighbors and friends who can't open our windows, play in our yards, or even walk the streets due to constant air pollution from a neighbors chronic burning, this bill could provide the means to a solution. For our health and lives PLEASE pass this. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Submitted By	Organization	Testifier Position	Present at Hearing
Lori Abbey-MacDonald	Individual	Comments Only	No

Comments: We are begging you to please ban wood burning fireplaces in subdivisions. Our friend that lives with us is now on oxygen 24/7 and the people next door to us still burn even though we have requested them not too. The police and fire dept tell me they do not have the authority to do anything because there is no law preventing this. We have four air purifiers and a Dylos air quality monitor that frequently reads in the very poor range. Maria (our friend) spent six days in the hospital due to her breathing problems. My husband and I also have numerous visits to the Dr. and ER and have to use inhalers to breathe when they burn their fireplace. They have burned all week and I expect them to do so tonight as I heard him chopping something down in his backyard. We live in a neighborhood that is bothered by this but only two other people have complained about it. We did get a petition last year sent to Mayor Carvalho, Jay Furfaro (county chairman), Dr Dileep Bal (DOH) Sen Ronald Kouchi, and Rep. Tokioka. They all were signed for on 2-17-12 the petition had 44 signatures on it. Please change the law that wood burning fireplaces are a health hazard to neighbors in subdivisions and that there are alternatives such as gas fireplaces or heaters. Thankyou,Lori Abbey-MacDonald

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
neil macdonald	Individual	Comments Only	No

Comments: I would like to thank you for considering the fact that smoke is a health hazard. Regardless if it is a pile of sticks in a back yard or a pile of sticks burning through a tube (chimney). The waste product if effecting the health and well being of neighbors or citizens should be considered a nuisance. Everybody has a right to breath fresh air. Fresh air is essential to life. If that right is violated it really needs to be stopped. There are alternatives such as propane or electric. We have personally been affected by smoke and our grandson almost died from exposure to constant smoke, if this law was in effect at that time it would have saved a trip to Kapiolani Childrens Hospital. Mahalo.

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pamela Williams	Individual	Oppose	No

Comments:

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**HB754**

Submitted on: 2/17/2013

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Troy Abraham	Individual	Support	No

Comments:

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**HB754**

Submitted on: 2/16/2013

Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Valerie Weiss	Individual	Support	No

Comments: In support of HB754 I would like to state that many occasional practices that normally are considered benign, such as plowing land or residential fireplace burning, when done continuously can constitute a nuisance as well as a health hazard. Additionally I would suggest no burn days be implemented for discretionary fireplace useage on low wind or vog days.

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**LATE**

**HB754**

Submitted on: 2/19/2013

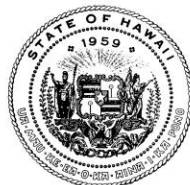
Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
jeff mair	Individual	Oppose	No

Comments: I come down with severe headaches when the burning occurs.

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STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

COMMITTEE ON JUDICIARY

H.B. 754, H.D. 1, RELATING TO HEALTH

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.  
Director of Health

February 19, 2013  
3:00 p.m.

**LATE**

1 **Department's Position:** The Department of Health appreciates the intent of this measure but  
2 respectfully raises some significant concerns.

3 **Fiscal Implications:** None.

4 **Purpose and Justification:** This bill amends three sections of the Hawaii Revised Statutes (HRS) to  
5 do the following: 1) require the counties to investigate and notify the Department of Health of any  
6 reported air pollution-related nuisance; 2) expand the definition of a nuisance to include foul odors and  
7 gases that emanate from buildings; and 3) empower the Director of Health, upon receipt of an odor or  
8 gas complaint, to enter a building or place to investigate a suspected air pollutant or nuisance.

9 HRS Section 322-4, currently allows the Department, if the Director deems it necessary for the  
10 preservation of lives or public health, to enter any land, building, vessel, or aircraft to investigate and  
11 abate any nuisance or source of foul or noxious odors and gases. If entry is refused, a warrant must be  
12 obtained from the district judge.

13 The Department recognizes that odor and gas nuisances that do not pose a health threat can be  
14 difficult to resolve, especially in areas where residences and industrial activities are in close proximity to  
15 one another and where the alleged odors are the result of legal activity. Although the proposed changes

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1 would provide the Department with expanded access to buildings to investigate the source of the  
2 nuisance, this measure does not give the Department more ability to solve the nuisance problems. These  
3 types of nuisance problems involving legal activities are very difficult to resolve and require a case-by-  
4 case assessment and cooperation from all parties involved. In many cases, nuisance problems can be  
5 better solved through good zoning and land use practices.

6 Thank you for the opportunity to testify on this bill.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**  
H.B. NO. 754, H.D. 1, RELATING TO HEALTH.

**BEFORE THE:**  
HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 19, 2013                      **TIME:** 3:00 p.m.  
**LOCATION:** State Capitol, Room 325  
**TESTIFIER(S):** David M. Louie, Attorney General, or  
William F. Cooper, Deputy Attorney General

**LATE**

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General has concerns with this bill to the extent that section 1 mandates that the counties investigate and notify the Department of Health (DOH) of any report of nuisance air pollution, without provisions for the State to share the cost of implementing the mandated investigations.

This bill authorizes the counties to adopt ordinances regulating noise, smoke, dust, vibration, or odors that constitute a public nuisance. It also requires the counties to investigate and notify the DOH if any report is made about a possible nuisance involving air pollution. It further defines nuisances and gives the DOH authority to enter and investigate a building or place upon reports of nuisances.

Section 1 of this bill mandates that the counties "shall investigate and notify the department of health of any report of an actual or suspected source of air pollution." This bill contains no appropriation for the State to share the cost to the county to implement the mandated investigations. This violates article VIII, section 5, of the Hawaii State Constitution, which states:

"If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost."

Haw. Const. art. VIII, § 5.

This violation of the Hawaii Constitution can be averted if an appropriation is added to this bill, appropriating state funds to the counties to share in the cost of the proposed mandated investigations. Or the mandated investigations found in section 1 can be amended so that the counties are just authorized, and not required, to conduct these investigations.

We therefore recommend that this Committee either amend section 1 so that the counties are authorized, and not mandated, to investigate and notify the DOH of any report of an actual or suspected source of air pollution, or add an appropriation to this bill appropriating state funds to the counties to share in the cost of the proposed mandated investigations.