

HB1503

HD1 SD1



NEIL ABERCROMBIE
GOVERNOR

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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION
TO THE COMMITTEE ON JUDICIARY AND LABOR
THE TWENTY-SEVENTH
REGULAR SESSION OF 2014
MARCH 28, 2014
10:00 AM

WRITTEN TESTIMONY SUPPORTING THE INTENT OF H. B. 1503, H.D. 1, S.D. 1,
RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

TO THE HONORABLE CLAYTON HEE, CHAIR,
AND TO THE HONORABLE MAILE S. L. SHIMABUKURO, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to offer written testimony supporting the intent of H. B. 1503, H.D. 1, S.D. 1, Relating to the Residential Landlord-Tenant Code. My name is Bruce B. Kim and I am the Executive Director of OCP.

H. B. 1503, H.D. 1, S.D. 1 would void provisions in rental agreements that allow for the eviction of a tenant for the use of medical marijuana, but allows for eviction if the medical marijuana is consumed by smoking and the rental agreement prohibits smoking. Exceptions are made to the voidance requirement if the rental unit is in a

Testimony on H. B. 1503, H.D. 1, S.D. 1
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condominium or planned community association that prohibits the use of medical marijuana. There is an effective date of November 1, 2014, to allow for time for rental agreement forms to be updated to be in conformance with this measure.

OCP administers the Residential Landlord-Tenant Center, and has received numerous inquiries from landlords and tenants regarding this matter. Clarification on this issue would assist us in responding to these inquiries.

Thank you for allowing us to submit written testimony today. If members of the committee have any questions, I would be happy to answer them.



Committee: Committee on Judiciary and Labor
Hearing Date/Time: Friday, March 28, 2014, 10:00 a.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Support of (and with Comments on) H.B. 1503, H.D. 1, S.D. 1, Relating to the Residential Landlord-Tenant Code

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 1503, H.D. 1, S.D. 1, but respectfully recommends that the Committee clarify the bill’s language.

While this bill clearly protects tenants who possess a medical marijuana *certification*, the language is not clear as to whether it also protects tenants who *use* medical marijuana pursuant to that certification. The bill currently states in part: “A provision in a rental agreement allowing for eviction of a tenant who has a valid certificate for the medical use of marijuana as provided in section 329-123 in any form is void...” As written, the bill prohibits the eviction of a tenant based on the tenant’s *possession* of a certificate, but does not expressly prohibit the eviction of a tenant for the tenant’s *use* of medical marijuana. The Legislature’s clear intent (as set forth in the description of the bill) is to protect the use (not just the possession), such that the ACLU of Hawaii respectfully recommends an amendment to the bill to clarify this language.

Thank you for the opportunity to testify.

Sincerely,

Daniel Gluck
Senior Staff Attorney
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.

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Chair Baker and Members of the Committee on
Commerce and Consumer Protection
March 11, 2014
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Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Friday, March 28, 2014

10:00AM

Conference Room 016
State Capitol
415 South Beretania Street

Support – HB1503– Relating to the Residential Landlord-Tenant Code

Americans for Safe Access Big Island Chapter support this bill because it will keep medical cannabis patients from being accidentally discriminated against because of the ambiguity in current law.

Oftentimes landlords explicitly state in the lease or rental agreement that no drugs are to be used in the house or apartment. However, medical cannabis patients need to use their medicine in their rental dwelling. Because it may appear that the person is using the medicine recreationally, the landlord may attempt to evict the tenant.

This bill will help renters know that they are protected in their legal use of medical cannabis while helping the landlord know to avoid unknowingly engage in discriminatory housing practices.

Please support this bill as it will save time and money for the renters as they will not have to seek redress for individual cases from the Civil Rights Commission. Mahalo.

Andrea Tischler, Chair

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: jarronn@hotmail.com
Subject: Submitted testimony for HB1503 on Mar 28, 2014 10:00AM
Date: Tuesday, March 25, 2014 9:57:42 PM

HB1503

Submitted on: 3/25/2014

Testimony for JDL on Mar 28, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Elijah Ariel	Individual	Comments Only	No

Comments: I am 59 years old and my aches and pains from old injuries continue to be a growing problem. The gymnastic neck injury that qualified me for my medical marijuana card is just part of the problem. I never reported most of my other injuries because I was so 'macho tough'. Well, as I age those injuries continue to come back to 'haunt' me and medical marijuana helps me deal with my aches and pains. PLEASE make things easier for me by making it easier for me to get my medicine. Don't do ANYTHING to make it more difficult for me to get my medicine. 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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Senate Committee on Judiciary and Labor

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

Friday, March 28, 2014

10:00AM

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State Capitol

415 South Beretania Street

Support – HB1503– Relating to the Residential Landlord-Tenant Code

Aloha Chair Hee, Vice Chair Shimabukuro and members of the Committee on Judiciary and Labor,

I'm currently looking for new housing and it's been an educational process in learning how to approach landlords. I've been open and honest about my medical condition and that I use and cultivate medical marijuana to help alleviate my symptoms.

The responses I've received from landlords range from flat out "no" and then being denied housing based upon the fact I use medical marijuana, to it's ok if you don't smoke it and give me a copy of your blue card for the file. However, many landlords don't even reply once they learn that I use medical marijuana. I don't believe it's wise to not inform the landlord and have them find out during an inspection that marijuana is being legally cultivated and having to sort it out with the landlord under that kind of circumstance.

I've learned that it's helpful to educate landlords regarding Hawaii fair housing law, the rights and limits the state has provided to me under the law, and the method of cultivating and using my medicine. Most landlords don't want smoking of any kind, including marijuana. I tell them I vaporize it that steams the plant instead of combusting it, and that I use tinctures and edibles. This in some cases wins the debate and I get an appointment to see the property.

Most leases and rental agreements state "No Illegal drugs are to be used or allowed on the premises". One argument heard from landlords is that marijuana is still illegal under federal law. I believe clarification is needed to avoid confusion and this bill is an important measure to protect medical patients from discrimination and eviction because the current available option is that a tenant must file a complaint with the Civil Rights Commission. That is a lengthy process of complaints, fact-finding, hearings, and eventually if all goes well for the renter, the right to sue and then more time in court.

This bill is good for landlords and patients alike. It protects landlords by allowing them to protect the property from smoke damage, because it provides that *if* a provision disallows smoking tobacco, smoked use of medical cannabis is not

protected. It helps renters to know that they are protected in their legal use of medical marijuana for their conditions.

We don't allow landlords to peek into medicine cabinets before renting to people. Landlords should not be able to discriminate against lease applicants or evict people for using their medicine, leaving people with a black mark on their rental history, creating an environment of fear regarding using their medicine or worse yet having to choose between their medicine and a place to live.

This bill is partly about renter's rights but it's also about educating and creating awareness to avoid conflict. Please vote to approve HB1503.

Mahalo,

Craig R. Ellenwood