

HB33



DOWNTOWN NEIGHBORHOOD BOARD NO. 13

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
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**Testimony of
Thomas Smyth, Board Member**

**Before the
Committee on Judiciary and Labor
Wednesday, March 19, 2014, 10:00 am Room 016
On
HB 33 Relating to Public Order**

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

The Downtown Neighborhood Board strongly supports HB 33 that removes the 2014 sunset date from Act 75, SLH 2010 to make permanent the prohibition against urinating or defecating in public in the Downtown area.

As we testified previously on the many bills that preceded Act 75, this prohibition of the most direct violation of the rights of those who live, work and visit in our neighborhood to a sanitary and safe area continues to be needed.

We recognize that there not enough public restroom facilities in our neighborhood. While largely a City & County responsibility to create and operate these facilities, they have been reluctant to spend the money to build, maintain and secure this type of facility. Ironically there are more public restrooms here in the State Capitol, generally open every day, then there are in entire Downtown and Chinatown area.

We also are very aware that homeless persons could be affected by this continuing prohibition. But just as they may assert their “right” to relieve themselves, they must also recognize their “responsibility” to do so out of the public eye. We know that many of the homeless are not willing to live in a shelter which has sanitary facilities, but those individuals do not have the right to impose on others.

Thank you for the opportunity to provide this testimony.





Committee: Committee on Judiciary and Labor
Hearing Date/Time: Wednesday, March 19, 2014, 10:00 a.m.
Place: Conference Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 33, Relating to Public Order

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

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to H.B. 33, Relating to Public Order, which removes the repeal date of Act 75, Session Laws of Hawaii 2010 (requesting that the police department prepare a report on enforcement of a ban on urinating and defecating in public in the downtown area).

The ACLU of Hawaii has concerns about any law that criminalizes public urination and defecation if there are no restrooms available to the general public within a reasonable distance. As the Ninth Circuit found in *Jones v. City of Los Angeles*, 444 F.3d 1118, 1132 (9th Cir. 2006), *vacated pursuant to settlement*, 505 F.3d 1006 (9th Cir. 2007), criminalization of basic human functions in the absence of options for shelter violates the Eighth Amendment prohibition against cruel and unusual punishment. Moreover, the ACLU of Hawaii cautions that discriminatory enforcement of any such law could give rise to an Equal Protection challenge.

Thank you for this opportunity to testify.

Sincerely,

Lois K. Perrin
Legal Director
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.

American Civil Liberties Union of Hawai'i
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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: lynnehi@aol.com
Subject: Submitted testimony for HB33 on Mar 19, 2014 10:00AM
Date: Sunday, March 16, 2014 11:49:19 AM

HB33

Submitted on: 3/16/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	downtown neighborhood board	Support	No

Comments: The Downtown Neighborhood Board #13 supports this bill, which would remove the sunset provision of the urination act. The Board worked with former representative Ken Hiraki to get the law established. It worked with the prosecutor's office in defining boundaries. Most important, this is an effective and needed tool to keep our streets free from the smell and visual impact of urine and feces. Recently I observed a man, lying down on a bus stop bench, with urine flowing from him onto the street, sidewalk, and the bench. That created a mess, and who knows how many people later sat on the bench prior to it being cleaned. When I boarded the bus I reported it to the driver. Scenes like this hurt the business community the residential community, and tourists. lynne Matusow, secretary, Downtown NB #13, c/o Honolulu Hale, 4th floor, 531-4260

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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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: jlee16@gmail.com
Subject: Submitted testimony for HB33 on Mar 19, 2014 10:00AM
Date: Sunday, March 16, 2014 2:47:00 PM

HB33

Submitted on: 3/16/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Lee	Individual	Oppose	No

Comments: I respectfully urge the committee to vote in opposition to HB 33. Making this prohibition permanent not only disproportionately penalizes people experiencing homelessness, but is ultimately counterproductive. This law punishes people who have nowhere else to go and gives them no opportunity to fulfill their "responsibility" to use restrooms. It is our responsibility as a community to ensure everyone has access to basic facilities, but until we do, then it is unfair and degrading to penalize those who cannot afford a place to live. Citations and arrests will do nothing to help people experiencing homelessness and are not effective at forcing these individuals into emergency shelters. Please allow this law to lapse by voting no on HB 33. Thank you.

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Senator Clayton Hee - Chairman
Senate District 23
Hawaii State Capitol, Room 407
Honolulu, Hawaii

Reference: HB 33
HB 1498
HB 1660
HB 2409

Dear Senator Hee,

It has come to my attention that these reference bills are of a constitutional nature. As a tax payer for 49 years I am wondering what are my constitutional rights regarding these bills. As I understand, these bills go on constitutional rights for the homeless; however, I think this is wrong. All of these people, which I can testify to have either have been thrown out of their homes, messed up by substance abuse or have chosen this lifestyle.

You folks talk about constitutional rights for the homeless, where is my constitutional rights as a tax payer versus homelessness. These people do not contribute to the State in any way, shape or form!!!! So, therefore I am wondering do we have a double edge sword here???? The way I am thinking I am a voter and a tax payer _____ how rude! I am being dealt in this manner, when our constitution says, "FOR THE PEOPLE AND BY THE PEOPLE"?

Sincerely,

A handwritten signature in black ink, appearing to read "L. Ditchen". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

L. Ditchen

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: babyjean@hotmail.com
Subject: Submitted testimony for HB33 on Mar 19, 2014 10:00AM
Date: Monday, March 17, 2014 11:12:19 PM

HB33

Submitted on: 3/17/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ronnie Perry	Individual	Oppose	No

Comments: I OPPOSE this bill. These bills do nothing to address the problem of homelessness, instead it makes things worst by criminalizing activities that are natural. The city and State needs to provide housing and address income inequality that causes people not to be able to secure housing for themselves. Please OPPOSE this bill. Mahalo, Ronnie Perry

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