

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 209  
RELATING TO DRUGS

By  
Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Monday, February 2, 2015, 09:30 AM  
State Capitol, Conference Room 016

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

Department of Public Safety (PSD) **strongly supports** Senate Bill 209 which proposes to expand the offense of Promoting a Dangerous Drug in the First Degree to include possessing one or more preparations, compounds, mixtures or substances of fifty or more capsules, tablets, ampules, dosage units or syrettes containing one or more dangerous drugs (Schedule I and II Controlled Substances).

Presently, pharmaceutical controlled substance diversion and sales on the street are huge problems both here in Hawaii and across the nation. For a person to be charged with Promoting a Dangerous Drug in the First Degree for possession of a pharmaceutical controlled substance, the suspect would have to possess one ounce or more of Schedule II pharmaceutical controlled substance. This requirement is a problem due to the fact that pharmaceutical controlled substances in Schedule II come in numerous forms: pills, capsules, as well as injectables. The following are examples on how much one ounce equates to:

188 morphine tablets, 177 OxyContin tablets, 56 Percodan tablets and if it's a schedule II stimulant drug (that requires 1 ½ ounces) like Ritalin it could equate to 283 tablets. Presently, OxyContin tablets can be sold on the street for approximately 1 dollar a milligram for OxyContin 10 milligram tablets one ounce equates 177 tablets at a street values of approximately \$1770.

For these reasons, PSD supports Senate Bill 209 that would make Section 712-1241 consistent with the other Sections of the penal code. PSD also supports the amendments to Section 712-1242(1)(a) proposed by the Department of the Prosecuting Attorney for the County of Maui to read as follows:

“(a) Possesses twenty-five [~~or more~~] to forty-nine capsules, tablets, ampules, dosage units or syrettes, containing one or more dangerous drugs, or...”

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



## Office of the Public Defender State of Hawaii



**Timothy Ho, Chief Deputy Public Defender**  
**Testimony of the Office of the Public Defender,**  
**State of Hawaii to the Senate Committee on Judiciary and Labor**

February 2, 2015, 9:30 a.m.

RE: S.B. 209: Relating To Drugs

Chair Keith-Agaran and Members of the Committee:

This measure would amend §712-1241, HRS, by making the possession of fifty or more capsules, tablets, ampules, dosage units or syrettes containing one or more dangerous drugs a class A felony.

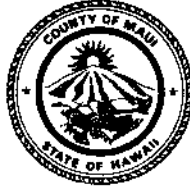
The Office of the Public Defender opposes S.B. 209.

Promoting a Dangerous Drug in the First Degree prohibits the possession and distribution of a specified amount of dangerous drugs. For example, it prohibits the possession of one ounce or more of dangerous drugs and one and one-half ounces of methamphetamine. It also prohibits the distribution of twenty-five or more capsules of a dangerous drug and an eighth of an ounce of heroin, cocaine or morphine.

The offense of Promoting a Dangerous Drug in the First Degree is clearly targeted at punishing the possession and distribution of dealership quantities of dangerous drugs. S.B. 209 will prohibit an amount of capsules, tablets, ampules, dosage units, or syrettes that is clearly not dealership quantities. In the hands of a substance abuser, fifty tablets of a narcotic drug may only last a few days. To make this class A felony will punish a substance abuser more harshly than a drug dealer charged with distribution under §712-1242, HRS.

Currently, the possession of fifty or more capsules, tablets, ampules, dosage units, or syrettes of a dangerous drug is a class B felony, punishable by up to ten years imprisonment. We believe that the current law sufficient and provides for an appropriate punishment of the above-mentioned amount of capsules, tablets, etc.

Thank you for the opportunity to comment on this bill.



DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD. K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY  
ON  
SB 209 - RELATING TO DRUGS

February 2, 2015

The Honorable Gilbert S. C. Keith-Agaran  
Chair  
The Honorable Maile S. L. Shimabukuro  
Vice Chair  
and Members  
Senate Committee on Judiciary and Labor

Chair Keith-Agaran, Vice Chair Shimabukuro and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** SB 209 - Relating to Drugs. The bill specifies that the possession of 50 or more capsules, tablets, ampules, dosage units, or syrettes containing dangerous drugs is included in Promoting a Dangerous Drug in the First Degree.

There is an increase in "pharmaceutical diversion" cases nationwide, where pharmaceutical drugs make their way onto our streets. Abuse of drugs like Oxycontin have become prevalent, even people like conservative talk radio host Rush Limbaugh. As one of our drug prosecutors stated, "Oxy is the new heroin." While distribution of 25 or more capsules, tablets, ampules, dosage units, or syrettes is included in Promoting a Dangerous Drug in the First Degree, there is no provision for the possession of large amounts of those drugs except for 25 or more capsules, tablets, ampules, dosage units, or syrettes as set forth in Promoting a Dangerous Drug in the Second Degree. The issue of possessing large amounts of these drugs needs to be addressed.

When we proposed this bill, we overlooked the language of Promoting a Dangerous Drug in the Second Degree. Because the proposal in this bill is to cover 50 or more dosage units, the

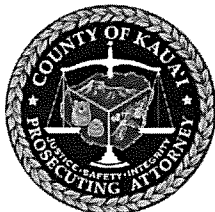
language of HRS § 712-1242(1)(a) should be amended to read: “(a) Possesses twenty-five [or more] to forty-nine capsules, tablets, ampules, dosage units, or syrettes, containing one or more dangers drugs, or”. SB 209 needs to be amended to reflect this change.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** the passage of this bill with our proposed amendment. We ask that the committee **PASS SB 211 WITH AMENDMENTS**.

Thank you very much for the opportunity to provide testimony on this bill.

**Justin F. Kollar**  
Prosecuting Attorney

**Kevin K. Takata**  
First Deputy



**Rebecca A. Vogt**  
Second Deputy

**Diana Gausepohl-White**  
Victim/Witness Program Director

**OFFICE OF THE PROSECUTING ATTORNEY**

**County of Kaua'i, State of Hawai'i**

3990 Ka'ana Street, Suite 210, Lihu'e, Hawai'i 96766  
808-241-1888 ~ FAX 808-241-1758  
Victim/Witness Program 808-241-1898 or 800-668-5734

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**TESTIMONY IN SUPPORT OF  
SB 209 – RELATING TO DRUGS**

Justin F. Kollar, Prosecuting Attorney  
County of Kaua'i

Senate Committee on Judiciary & Labor  
February 2, 2015, 9:30 a.m., Conference Room 016

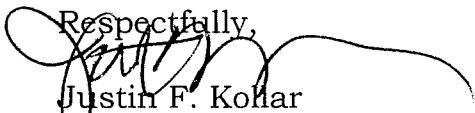
Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, **STRONGLY SUPPORTS** SB209 – Relating to Drugs. The Bill specifies that the possession of 50 or more capsules, tablets, ampules, dosage units, or syrettes containing Dangerous Drugs is included in the offense of Promoting a Dangerous Drug in the First Degree.

Pharmaceutical diversion continues to present a significant public health and safety threat in Hawai'i's communities. The current language of the Promoting a Dangerous Drug in the First Degree offense requires proof of intent to distribute the substances covered by this Bill; this Bill would include in the statute quantities of the substances that are far in excess of personal usage amounts absent evidence of distribution. We also concur with the recommendation in the Maui County Prosecutor's testimony pertaining to suggested amendments to HRS 712-1242(1)(a).

Accordingly, we are in **STRONG SUPPORT** of SB209. We request that your Committee **PASS** the Bill.

Respectfully,

  
Justin F. Kollar  
Prosecuting Attorney

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE JK-TA

February 2, 2015

The Honorable Gilbert S. C. Keith-Agaran, Chair  
and Members  
Committee on Judiciary and Labor  
State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

SUBJECT: Senate Bill No. 209, Relating to Drugs

I am Jason Kawabata, Captain of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu. The HPD supports the passage of Senate Bill No. 209, Relating to Drugs.

This bill seeks to expand the offense of promoting a dangerous drug in the first degree to include possession of fifty or more capsules, tablets, ampules, dosage units, or syrettes containing one or more dangerous drugs.

Illegal drugs are a serious problem in Hawaii. Strengthening drug laws may serve as a deterrent to discourage criminal acts.

The Honolulu Police Department urges you to support Senate Bill No. 209, Relating to Drugs.

Thank you for the opportunity to testify.

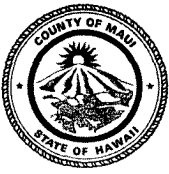
Sincerely,

A handwritten signature in black ink that reads "Jason Kawabata for".

JASON KAWABATA, Captain  
Narcotics/Vice Division

APPROVED:

A handwritten signature in black ink that reads "Louis M. Kealoaha".  
\_\_\_\_\_  
LOUIS M. KEALOHA  
Chief of Police



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE

YOUR REFERENCE

# POLICE DEPARTMENT

## COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, HAWAII 96793  
(808) 244-6400  
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TIVOLI S. FAAUMU  
CHIEF OF POLICE

DEAN M. RICKARD  
DEPUTY CHIEF OF POLICE

January 30, 2015

The Honorable Gilbert S. C. Keith-Agaran, Chair  
and Members of the Committee on Judiciary and Labor  
The Senate  
State Capitol  
Honolulu, HI 96813

Re: Senate Bill No. 209, RELATING TO DRUGS

Dear Chair Keith-Agaran and Members of the Committee:

The Maui Police Department supports the passage of S.B. No. 209.

This proposed bill expands the offense of promoting a dangerous drug in the first degree to include possessing one or more preparations, compounds, mixtures, or substances of fifty or more capsules, tablets, ampules, dosage units or syrettes containing one or more dangerous drugs.

We concur with the Maui County Department of the Prosecuting Attorney in their support of this bill and the amended language to the Hawaii Revised Statutes. This bill will help to address the possession of large amounts of these drugs that have been obtained by "pharmaceutical diversion."

The Maui Police Department asks your committee to support S.B. No. 209 with amended language to the HRS suggested by the Maui County Department of the Prosecuting Attorney.

Thank you for the opportunity to testify.

Sincerely,

*Tivoli* · TIVOLI S. FAAUMU  
Chief of Police