



Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 8, 2017
9:00 A.M.
State Capitol, Room 423

H.B. 1184
RELATING TO AERONAUTICS

House Committee on Transportation

The Department of Transportation (DOT) **opposes** S.B. 1163 Aeronautic Administrative Rules Penalties. The current schedule of penalties should remain status quo. No proposed change should be considered until DOT develops a General Aviation Program, and revises and adopts Hawaii Administrative Rules Title 19.17-1 Small Plane Hangars.

Replacing criminal penalties for certain airport offenses addressed in Chapter 261, Hawaii Revised Statutes, or in certain, administrative rules or orders issued pursuant thereto, with a civil penalty will not effectively address the issue of non-compliant general aviation permits, storage or parking of aircraft.

The DOT is considering revoking a tenant's revocable permit or impounding aircraft if a tenant is in non-compliance with permit, storage or parking of aircraft guidelines.

Thank you for the opportunity to provide testimony.

Elizabeth L'Heureux
8195 Kula Hwy
Kula, HI 96790
(808)-445-1363
imt.elizabeth@gmail.com

Re: House Bill 1184

To Whom It May Concern:

I am a private pilot and I am in support of HB 1184.

I have been flying in Hawaii for the past few years. Although I was never cited or given an unwarranted ticket in HNL, I was witness to and also heard multiple stories of the harassment and extreme enforcement policies.

This bill will help our citizens make a livelihood out of their love for aviation without criminalizing certain activities at the airport, many which have no standing in court once they are heard. The people who are being affected by this bill are private pilots, airplane mechanics, Certified flight instructors and all those who have a love for aviation in Hawaii. The tickets that have been handed out demanding a court appearance could result in criminal penalties for non-appearance, which therefore could interfere with their livelihood and professional licensing.

Aloha and thank you for your time.

Elizabeth L'Heureux, Private Pilot

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 7:07 AM
To: TRNtestimony
Cc: lcabilesra@gmail.com
Subject: *Submitted testimony for HB1184 on Feb 8, 2017 09:00AM*

HB1184

Submitted on: 2/6/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
luz cabiles	Individual	Support	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 2:18 AM
To: TRNtestimony
Cc: DignanPG@state.gov
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/6/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Dignan	Individual	Support	No

Comments: In brief, I support a change to the HRS as I have unwittingly fallen afoul of the governing regulations by and through the activities of others. By way of background, I came to HI on active duty orders after my second deployment to Iraq. While in HI I learned to fly and purchased a small plane. The plane was always registered and I had an assigned parking spot at Dillingham Airfield. When I left the islands, I allowed a fellow pilot to use the plane. Without my knowledge or assent it was parked at HNL. I continued to maintain registration and to pay my parking for Dillingham. After leaving Oahu, I became employed with the Department of State and was sent to Embassy Abuja, Nigeria. Approximately one month before returning from Africa I received notice that my plane was parked in the wrong place and un-registered. I emailed contacts at the Airports Authority to explain the situation that the plane was registered and that I'd be returning to the island within the month to return it to its proper parking place at Dillingham. The day I returned to the US, I contacted an on field mechanic to begin the annual inspection pending my arrival. On that day, the airplane received a large orange notice of violation and someone in enforcement prohibited the mechanic from moving the plane to his hanger to commence the maintenance work. Approximately one week later, on the day I arrived in the state, my airplane was towed to an impound lot. It took almost a month to get the airplane released, but that turned out to be just the beginning of my problems. The citations issued were criminal citations. I had to engage the services of an attorney in HI who diligently worked on my behalf to get them set aside. Mercifully I had record of all the payments that I had made for parking and registration and copies of my correspondence with the airports authority. I am struck by the fact that the state thinks it appropriate to issue bench warrants for arrest without any type of sufficient notice. I am also aware that the activities at present could very likely result in a violation of the SCRA as many military members must go on temporary duty from the islands and could return to find themselves with criminal liability for what generally would be considered a minor infraction or violation. On a personal note, the possible criminal conviction for a parking violation disproportionately harms anyone reliant on maintaining a security clearance or is otherwise employed in a sensitive position. As it stands now when my clearance comes up for renewal I will have to disclose the fact that I was a criminal suspect to my investigator and try to explain the situation to the best of

my ability. I do not know what type of conduct the state is hoping to prevent by singling out small airplane owners for unduly harsh treatment but in my opinion the activities I have experienced to date are unwarranted and unjust.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 11:20 PM
To: TRNtestimony
Cc: bspencer@hawaii.rr.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/5/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Spencer	Individual	Comments Only	No

Comments: Dear Chair and Members of the committee: I strongly disagree with the intent of this proposed bill. Pilots have to spend many hours of study and practice to become certified. This bill could potentially punish a pilot for an unrelated issue to their competency as a pilot. A mis-demeanor charge could disqualify a pilot from continuing their to practice their hard earned skill. The degree of punishment for minor issues related to the status of airplane hangers does not justify the consequences. Therefore, I kindly request that this committee not pass this bill forward. Kind regards, Bill Spencer

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 8:21 PM
To: TRNtestimony
Cc: jduca@hawaii.rr.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/5/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
James Duca	Individual	Support	No

Comments: In my view as an attorney with an interest in civil aviation, this bill is necessary to correct overly harsh and disproportionate penalties for minor violations. The existing penalties can have serious and unanticipated detrimental consequences on licensed professionals, members of the armed forces and anyone needing a security clearance. The fines contemplated by the bill are all that is needed to to prevent the prohibited conduct.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 7:48 PM
To: TRNtestimony
Cc: larry@divefish.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/5/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Larry HInds	Individual	Support	No

Comments: It has been long overdue that the current policies of the DOTA be overhauled. Pilots in Hawaii do not deserve this type of excessive enforcement

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

I wish to comment on HB 1184. This bill is long overdue and the citizens of Hawaii will be better served if it is passed.

HDOT-A has long treated general aviation enthusiasts and businesses poorly. General aviation should be supported in the islands rather than condemned and threatened on a regular basis. It makes no sense that a minor perceived infraction is treated as a criminal offense. There are better ways to handle these matters.

I have vast experience operating at all the airports in Hawaii as I began flying in the islands in 1978. I also have flown at literally hundreds of general aviation airports in the mainland during that same time, and still fly actively all over the country as an air show performer, major airline pilot and FAA Designated Pilot Examiner. Nowhere else in the US is general aviation treated so poorly by the local airport authority, (with a two rare exceptions I can think of,- Chicago's Meigs Field and Santa Monica). We (Hawaii) should encourage general aviation as it can be a source of good jobs and good deeds for our citizens.

Most of my friends in Hawaii that own small airplanes or fly them as a hobby or business have left the islands in the last 5 years. My children attended Kamehameha Schools and my parents are retired in Kailua. I have very deep roots in Hawaii and love the state. I wanted to spend the rest of my life here. Now, after 39 years, I have permanently moved myself. I have moved to a state where the local government agencies appreciate general aviation rather than create such constant headwinds so that those that love flying are reluctantly forced to leave their beautiful home state.

For the sake of the citizens of Hawaii I hope the negative treatment of general aviation in Hawaii can be reversed before it is too late. This bill being passed into law would be a great first step. Our keiki deserve better. They deserve the chance to pursue flying as hobby or a career, but unless substantial changes are made at HDOT-A soon, the majority of schools, enthusiasts and businesses will have to move to the mainland.

My email is wamaero@gmail.com, and my cell is 808-391-2083. I welcome the opportunity to answer any questions you may have.

Thank you for your consideration, William Miller

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 4:56 PM
To: TRNtestimony
Cc: donmachman@aol.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/5/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Donald Machado	Individual	Support	No

Comments: I support this bill. I am a corporate jet pilot based in Hawaii. In addition, I am an attorney and find that the current penalties for violation of rules at the airports are extreme and unreasonable. As it stands now, almost every violation of a rule at the airport gets the individual or entity involved charged with a full misdemeanor forcing the party involved to retain an attorney and potentially face up to a year in jail for the criminal charge. Also, a misdemeanor conviction could potentially prevent me from being a captain on my jet when flying to international destinations. This could end my career as a pilot. That is neither fair, nor just. Don Machado, Jr. 808 349-5548

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 3:02 PM
To: TRNtestimony
Cc: babaemami@yahoo.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/5/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
bob emami	Hawaiian air charter	Support	No

Comments: I support this bill

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 11:43 AM
To: TRNtestimony
Cc: hawaiiijim@yahoo.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/5/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
William	President, EAA Hilo Chapter 1182	Support	No

Comments: I rent two hangars at Hilo airport, if I happen to somehow make a small mistake and DOT wants to cite me on it, that doesn't make me a criminal... This bill makes logical sense. 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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

SB 1163

HB 1184

Testimony Submitted by William J. Carey. I am an attorney licensed to practice in the State of Hawaii and hereby submit the following testimony in SUPPORT of SB 1163 and HB 1184.

I support this bill. I am an attorney and find that the current penalties for violation of rules at the airports are extreme and disproportionate to what the same penalty that would be assessed in other areas under the law at other locations. As it stands now, almost every violation of a rule at the airport gets the individual or entity involved charged with a full misdemeanor. Forcing the party involved to retain an attorney and potentially face up to a year in jail for the criminal charge. That is neither fair, nor just.

I can be contacted at PO Box 26059, Honolulu, HI 96825 or 808-285-7700.

Sincerely,

William J. Carey



General Aviation Council of Hawaii

Post Office Box 75623
Kapolei, Hawaii 96707
808-223-9991
www.gach.us.com

February 4, 2017

Representative Henry J. C. Aquino
Chair, House Transportation Committee
415 South Beretania Street
Hawaii State Capitol
Honolulu, Hawaii 96813

RE: HB 1184 - RELATING TO AERONAUTICS

Aloha Chair Aquino:

The General Aviation Council of Hawaii (GACH) fully supports **SB 1184** that has been referred to your committee for a hearing on February 8, 2017.

The purpose of this bill is to decouple criminal charges from a section of the Hawaii Administrative Rules (HAR) related to hangar use or parking an aircraft that ties into the Hawaii Revised Statutes (HRS). Currently, any item found or stored in a hangar that the Airports Division of the Department of Transportation ("DOTA") of the State of Hawaii deems to be a violation of their rules, results in a criminal misdemeanor charge against the person or entity that rents the hangar. The DOTA had instructed the Sheriff's Department and their own security unit to bring such charges as a crude tool of property management, rather than working with its tenants in a more civilized and rational manner. GACH has tried to work with DOTA since 2012 to change their HARs, and the corresponding HRSs, but has been unsuccessful (a copy of the most recent communication with DOTA is enclosed). In fact, we have come across no other airport in the country that levies such an extreme penalty on those who rent hangars and park aircraft on the ramp.

Currently, possession in the hangar of a set of golf clubs or a bicycle or incorrectly parking your aircraft on the parking ramp can qualify a person for a charge that could result in a permanent criminal record and up to one year in jail. In 2016, the DOTA even went as far as instituting charges against individuals for items the DOTA had *previously* approved to be stored.

To put these criminal charges into context, these are not simple parking tickets or civil infractions. These are criminal misdemeanor charges that are classified the same as, or more serious than, being charged with prostitution, committing domestic abuse, driving under the influence (DUI) or shoplifting. Moreover, the charges in question are punishable by up to a year in jail and can *destroy* the career of many professionals, not to mention give someone a criminal record for life. For example, if a professional pilot has been convicted of a misdemeanor, he can no longer fly into many countries. Furthermore, individuals who have government security clearances are now in trouble (military, reserve or DOD).

HB 1184 would bring some sanity to the current situation by simply removing the ability of the DOTA to take these extreme steps for minor violations but still allows criminal charges to be filed by DOTA for serious security-related matters.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Moore", with a long horizontal line extending to the right.

Robert Moore
President

Encl: GACH email to DOTA dated 7-31-2016

\gach-m-3.rm

Subject: Re: GACH requested HAR changes
Date: Sunday, July 31, 2016 at 16:12:52 Hawaii-Aleutian Standard Time
From: Rob Moore
To: Higashi, Ross
CC: Ford Fuchigami
BCC: Don Machado, Bill Plum, Pat McNamee

Aloha Ross,

Mahalo for your acknowledgement of my June 6 message. We have met and talked several times with both Roy and Hank but unfortunately, neither have to date been willing or able to act on any of the issues we've raised in previous conversations or letters, either at a tactical operational level, nor at a more strategic level. The challenges we face are for the General Aviation tenants, the lack of coordination of GA activities at airports statewide, or either the administration of current rules or the process necessary to change them to reflect current federal policy, increased safety, and good operating practice. We have asked since 2012 that a comprehensive review and change be made to the Hawaii Airport Administrative Rules. We have given on many occasions written recommendations to DOTA for those HAR changes which have resulted in the status quo by your staff.

The primary issue between General Aviation interests statewide and DOTA are the complete and total lack of effective communications and coordination between us. We believe a number of current policy and procedural issues can and should be socialized at multiple levels, but that first begins with effective, two way communications between parties, starting with you at the top and in conjunction with the State Attorney General office. Our organization strives to be a one-stop shop for issues held by pilots, mechanics, aircraft owners, small businesses; the entire ecosystem that allows for General Aviation operations in the state. We have the communications vehicles to discuss and represent the interests of our members at all airports on all islands, and we want to proactively address issues and establish and continuously improve bi-directional communications between all parties.

I'm pretty sure we all share a common goal of a safe, effective aviation transportation system that serves all of the citizens of the state. To the extent that we can collaborate on shared goals, streamline administration, and provide the best possible experience for the tenants and aircraft operators on all of our publicly owned airport facilities, it makes sense for us to work closely together. To do so however means a realignment of the current approach taken by DOTA staff at all levels of a primarily a regulator and landlord to an approach of a implementation partner.

In short, we want to be part of the solution to the problems we mutually face, and with our experience on the ground and in the air, we think we can help your organization make better decisions regarding aviation operations in general, and General Aviation in particular, across the state.

We would welcome a face to face meetings on a regular basis to try to put together a plan to accomplish this. We hope you can help get the conversation started, and provide the guidance necessary for productive dialog to occur. I look forward in hearing from you soon.

I have been frank on some of my comments and you can decide if you want to share this email and the effects it may have on future staff relationships.

Respectfully,

Rob Moore, President
The General Aviation Council of Hawaii (GACH)

On 7/30/16, 10:13, "Higashi, Ross" <ross.higashi@hawaii.gov> wrote:

Aloha Rob,

I apologize for not responding earlier.

In relation to the above subject, I ask that you call and work with Hank Bruckner and Roy Sakata to review your concerns in detail.

Thanks.

Ross M. Higashi
Deputy Director
State of Hawaii
Department of Transportation, Airports Division
808-838-8602

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any review, use, disclosure, or distribution by unintended recipients is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. This document is for official use only and shall not be disseminated to the public.

Aloha,

Imagine you were renting a house, and the landlord's rental agreement stated that "the garage is to be used for storage of an automobile only." Aside from your car, you kept, in the corner of the garage, a small bucket with some rags in it for cleaning your car. One day the landlord comes by and sees the garage, and informs you that you have violated the terms of the rental agreement because "the garage is to be used for storage of an automobile only," not buckets with rags. For this violation of the rental agreement, you are issued a criminal misdemeanor citation. Because you hold federal security clearance due to the nature of your profession, you now have a choice: you can accept the criminal citation, and lose your security clearance, and your job, and become unemployed, or you can fight the criminal citation in court, and hope that you win. Even if you accept the landlord's rather extreme interpretation of the rental agreement, does this not seem somewhat harsh?

For the tenants, such as myself, leasing space at Hawaii's airports for storage of their aircraft, and operation of aviation businesses, this story is not the unconvincingly wild fiction it sounds like. It is real. It is not an isolated incident. While this has not happened to me, it has to many airport tenants, many of whom I know personally, and they are not criminals, and have no criminal backgrounds. Yet they were treated as such, for infractions of lease agreements as minor as the one in my fictitious story above, such as storage of tools or equipment in rented hangars alongside an aircraft, when the lease agreement states that the hangars are for aircraft storage only.

As an airport user, I recognize that an airport is a security sensitive area, and that disregard for safety rules or security protocols cannot be tolerated. But minor infractions or points of disagreement over interpretation of lease agreements that have no safety or security impact whatsoever should be handled as civil matters, not criminal ones. We are simply asking to be treated in the same manner as a renter of a house or apartment expects to be treated. Therefore, on behalf of those leasing space and doing business at Hawaii's airports, I ask that you pass HB 1184. Thank you.

Sincerely,

Claudio Friederich

5333 Likini Street, Apt. 605
Honolulu, HI 96818
(808) 542-7796
Friederir001@hawaii.rr.com

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 11:15 PM
To: TRNtestimony
Cc: bobarthurs@me.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/4/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
bob Arthurs	EAA Chapter 1182	Support	No

Comments: It is heartwarming to see the Hawaii Airport Regulations decriminalize the obvious! For example golf clubs and bicycles found in hangars presently being a CRIMINAL offense rather than CIVIL is unbelievable! Many thanks for an obvious house cleaning measure. Robert Arthurs, CFII EAA Life Member

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Testimony

February 4, 2017

Re: HB 1184, Relating to Aeronautics
SB 1163, Relating to Aeronautics

My name is F. Michael Singer and I have been a hangar tenant at Hilo International Airport for over 15 years. I have been involved in aviation for over 40 years and only in the last 16 of those years I am able to afford to own an aircraft. The hangar is used to park and protect my 1960 Piper Comanche airplane from the harsh elements of Hawaii's environment.

I use my aircraft to travel between the islands for:

1. Primarily, Work
2. Secondary, USCG volunteer patrols
 - a. Search and rescue
 - b. Whale harassment
 - c. Boaters in distress
3. Recreation
 - a. Have lunch in Molokai
 - b. To play a round in Lanai or Maui.
 - c. Introduce inspired teenagers to aviation
 - d. Take visitors for site seeing

As for work, I am a Hawaii licensed general contractor and work in the Federal and State of Hawaii public sectors. I currently have contracts with the Federal Government at military bases Barking Sands, Kaneohe, Joint Base Pearl Harbor and Hickam, Camp Smith, and USCG Sand Island. I hold security clearances to access these bases.

The purpose of my testimony is to support HB 1184 and SB 1163 as there is certain language in the aeronautical rules and regulations that are terribly wrong, specifically the storing of unrelated aviations items in a hangar is considered a criminal offense. That would mean if I returned from a golfing trip and left my clubs, golf club bag and golfing shoes in the hangar for a few days I would be in violation of my 30 day revocable permit and it would be considered a criminal offense. This is simply asinine! You might get a chuckle out of it thinking no one is going to issue a citation, but there have been citations issued and the tenants have shown up at court to appear in front of a judge for the criminal action. THIS REALLY HAPPENS!

If there was a private airport/airpark to house my aircraft I wouldn't be writing this testimony, but there is not. Our State of Hawaii airports are not friendly by the least. Honolulu and Maui are ridiculous requiring escorts with gates under guards, chain and lock. Someone who qualifies to pilot his own aircraft and have been screened to hold an AOA Badge should not be treated like a criminal. He or she should have access to their aircraft and enjoy the benefits of owning and flying an airplane.

Let's be reasonable and stop this foolishness of overprotecting and criminalizing the people who are taxpaying upstanding citizens. They are your ears and eyes and are an asset our airports.

F. Michael Singer
P.O. Box 1719
Keaau, HI 96749
808-327-6700

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 8:53 PM
To: TRNtestimony
Cc: margotsbox@gmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/4/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Margot Taylor	Individual	Support	No

Comments: I am a professional pilot. I also fly as a hobby. I am concerned about the impact on professional and general aviation.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 8:51 PM
To: TRNtestimony
Cc: nesralyrag@hotmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/4/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Larsen	Individual	Comments Only	No

Comments: I'm Against criminal charged for parking violations related to aircraft in the ramp areas of Hawaii's airports. These should be merely civil infractions/ citations.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 8:46 PM
To: TRNtestimony
Cc: ashley_traba@yahoo.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/4/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Traba	Individual	Support	No

Comments: I am a student pilot concerned about the future of general aviation and the limitations that may be set forth for the career growth of all pilots.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 8:20 PM
To: TRNtestimony
Cc: robmoorehawaii@hotmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/4/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Moore	Individual	Support	Yes

Comments: Aloha, I am an USAF retired Colonel and an aircraft owner. Hawaii is my home. I also am a commercial pilot and a FAA Certified Flight Instructor and have owned three aviation businesses in Hawaii. I have been flying for over 48 years, all around the world and Hawaii is the least friendly location I have ever experienced for flying and owning an airplane. This is very surprising for a State so reliant on aviation and a very beautiful place to fly. Let me tell you of my unfriendly aviation experiences in Hawaii: In 2010, I owned an antique airplane location in a State T Hangar at Honolulu International Airport (HIA). The State DOTA conducted a hangar inspection which they are entitled to do which they gave notice like in years passed. In previous years, if there was any discrepancy, DOTA left you a note or call you and said correct this (like trash in your hangar, etc.). We usually corrected it immediately. In September 2010, DOTA conducted a hangar inspection of all the hangars at HIA. I was not present at the inspection. This time, DOTA left criminal citations to ALL the hangar renters when they discovered a discrepancy. I did not know I had any citations until I went to the hangar 6 days later and saw them lying on the hangar floor. The citations were for a golf cart used to move the airplane in and out of the hangar and for a bicycle in the hangar that I used to travel the ramp. These items were in the hangar during previous inspections with no comments from the DOTA. The citations stated that these items were unauthorized to have in the hangar. I later found out that the citations were criminal citations and that I had to appear in criminal court to defend myself. It took me several month, a lot of money and a lawyer to get the charges reduced to "parking tickets" equivalents and to pay a fine to a court system not equipped at the time to deal with charges like these. I and other hangar tenants tried to discuss the matter with DOT and DOTA on what it means to a pilot and a professional to have a criminal record based upon minor infractions and to stop administering this type of punishment. The reply from DOTA was that these law breakers should be punished and too bad if they have a criminal record. In 2015/6, DOTA completed another round of hangar and ramp inspections. This time, I received four citations for my airplanes that I leased to a flight school for incorrect parking. The flight school had rented seven contiguous parking spaces on the ramp and each airplane was assigned a parking spot by DOTA for administrative reasons. When student pilots would come back from a flight, they

sometimes did not get the airplane in the correct spot but always would park the airplane in one of the flight school's assigned parking. The DOTA deemed that even though the airplanes were located in the flight schools assigned parking the airplanes were not on their assigned spot and issued citations by taping the illegible copies of the citation onto the airplane. They did not notify me or the flight school of the citations. Again, I found out when a friend walking on the ramp called me to say something was taped on my airplane. I received four criminal citations for incorrect parking of my airplanes that required me to go to District Court on five separate occasions (the Prosecutor was not prepared at anytime to proceed since DOTA did not give guidance on how to handle these cases), hire a criminal lawyer at a fee of \$3500, just to get the charges dismissed. Again I tried to talk to the airport manager, DOTA and DOT as to the silliness of this approach to correct parking problems. They said that they would continue issuing criminal citations for ALL violations whether minor or not. I asked if any of them ever received a parking violation on their car for illegal parking in Honolulu. A few said yes and I asked if they expected a criminal citation for that action which they replied no. I asked the difference why a car gets a parking ticket and an airplane gets a criminal citation for the same act. They had no reply but would not change. Pilots by nature obey rules since it keeps them safe. If they make an error they correct it but they do not get a criminal citation which is career ending as a pilot (cannot fly to certain counties and cannot have an airport badge to access the airport) and most professions (like the military, lawyer, etc.). The current situation at Hawaii airports is hostile and needs to be immediately corrected. Since DOTA is unwilling to change the law, I ask our legislators to provide common sense on what should be done at our airports. Please support and pass HB1184. 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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Bill Melohn

1865 Alaweo Street
Honolulu, HI 96821

► **Committee on Transportation**

Hawaii State House of Representatives
February 4th, 2017

**In support of SB 1163 and HB1184 in the
2017 Legislative session**

Aloha!

As an airplane owner, private pilot, Member of the Coast Guard Auxiliary Aviation squadron Hawaii, and a member of the General Aviation Council of Hawaii and the Aircraft Owners and Pilots association, I would like to offer my sincere Mahalo for your consideration of SBI 163 and HB 1184 relating to Aeronautics,

Our local General Aviation aircraft owners face a difficult situation. All Public use airports in our state are owned and operated by the State of Hawaii, Department of Transportation, Airports Division, which means that the state is the sole provider of airports at which we can operate; something unique to our state of Hawaii.

DOT-A acts as both a administrator of aviation activities throughout the state, and as a landlord for those of us who base aircraft here. As an administrator, it is their responsibility to enforce the law at all public airports, and as a landlord they provide us with secure facilities to hangar or tie down our aircraft for a monthly fee under 30 day Revocable Permits.

Under the current law, aircraft owners who violate simple rules defined by the airport, for example keeping a folding bicycle in a hangar to carry to other islands, can and have been issued citations, both without warning or an opportunity to address the problem, or even a dialog with airport management about current policies, many of which are put in place without advance notice or public discussion, and defy common sense and current FAA policies.

Landlord Tenant issues are of course common throughout our state; in this case though, the Landlord is using their legal power as an Administrator to use criminal citations to handle matters more reasonably resolved through Landlord Tenant discussion and resolution. In all cases, the state retains the option to revoke the permit, which would force the removal from the entire state of the aircraft of a violating owner.

These criminal citations can have a MAJOR effect on a pilot, whose license and livelihood may depend on a clean criminal record. These are not tickets that can be resolved by simply paying a fine; one must appear in Court to defend themselves, and in the case where an airplane is owned by an LLC, that corporation must be represented by an attorney. This means significant fees even if the citation is overturned in court.

This Bill goes a long way in reducing the likelihood that minor disagreements between DOT-A and a tenant will end up in court. We hope it also strongly encourages the state to work with airport tenants to implement rules that rely on two way communication, including development and publication of a state wide system of rules and policies that are understood by pilots and DOT-A employees, compatible with FAA guidelines, and humanely and reasonably enforced.

The continued viability of General Aviation should be a key element in the policies of DOT-A, who have been chartered by the Legislature to encourage all Aeronautical activities. GA pilots and aircraft are a vital link that ties our island state together, providing critical assets for ocean search and rescue, disaster preparation and recovery, and the means to train our future generation of pilots and aircraft technicians, critical to the economic vitality of our tourist based economy.

Mahalo!

Bill Melohn

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 2:45 PM
To: TRNtestimony
Cc: bisaacso@hawaii.edu
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/4/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Support	No

Comments: The Legislature and DOT Airports seem ignorant about the FAA defined standards for aeronautical use of airport facilities, including hangar space. This bill is a first step towards conforming to the FAA opinions, but doesn't go far enough. We must encourage aviation in Hawaii, as the state is heavily dependent on aviation for its survival, and somehow always seems to keep acting to blight aviation here. Not smart.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 1:22 PM
To: TRNtestimony
Cc: jenfister@hotmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/4/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
jennifer pfister	Individual	Support	Yes

Comments: aloha, I am a flight instructor at hnl. I am in full support of this bill. I have a lot students, some own planes. this bill affects all of us. We are in support of criminal penalties being replaced with civil penalties

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Testimony In Support of HB 1184

Dear committee members,

Please support this bill, which substitutes civil penalties for criminal penalties involving certain benign offenses occurring at Hawaii airports. In the past year, we have seen the threat of criminal prosecution of legitimate businessmen and pilots because items stored in their aircraft hangars were found to be outside the range of certain restrictive airport rules. For example, why should a hangar user be criminally prosecuted if a golf cart or a golf club is found in that hangar? In some cases, the golf cart is used by an elderly or handicapped person who may lack the physical strength to pull his or her aircraft out of and back into the hangar via bare strength. In other cases, the hangar user puts their airplane to use flying to other islands, where they play golf. To prosecute these people criminally for violations of such questionable rules is foolhardy. Do we wish to see these individuals lose their ability to practice with their professional licenses?

Please join me in supporting this very common-sense measure.

Sincerely,

Peter Forman

Airline Transport Pilot, Certified Flight Instructor

Kailua, Hawaii

Robert A. Gould
44-365 Kaneohe Bay Drive
Kaneohe, HI 96744-2664
February 4, 2017

JDLtestimony@capitol.hawaii.gov
TREtestimony@capitol.hawaii.gov

TESTIMONY ON SB 1163 and HB 1184

SUPPORT

Senators and Representatives:

I am in support of SB 1163 and HB 1184. The DOTA has taken a very confrontive approach to what should be minor infractions based on a misinterpretation of FAA requirements for hangar use at airports that receive Federal funds. Not only that, the DOTA adopted criminal liabilities as penalties for violations; liabilities that were not required by nor envisioned by the FAA in its original rules. In fact it appears at times that DOTA has a policy to eliminate General Aviation from HNL, and uses its draconian measures to support such a policy.

The FAA recognized that the 2014 rules were unnecessarily strict, and as a result the FAA modified its rules.

On June 9, 2016, the FAA issued a notice of final policy about the storage of non-aeronautical items in airport facilities designated for aeronautical use. (Attached) In that notice the FAA says "the FAA recognizes that storage of some items in a hangar that is otherwise used for aircraft storage will have no effect on the aeronautical utility of the hangar." The FAA's notice amended the definition of aeronautical use to include construction of amateur-built aircraft and provides additional guidance on permissible non-aeronautical use of a hangar."

The FAA further states that its regulations "require that its aeronautical facilities be used or be available for use for aeronautical activities. If the presence of non-aeronautical items in a hangar does not interfere with these obligations, then the FAA will generally not consider the presence of those items to constitute a violation of the sponsor's obligations."

The FAA also noted that "The FAA received more than 2,400 comments on the proposed policy statement, the majority from persons who have built or are in the process of building an amateur-built aircraft. The FAA also received comments from aircraft owners, tenants and owners of hangars, and airport operators. The Aircraft Owners and Pilots Association (AOPA) and the Experimental Aircraft Association (EAA) also provided comments on behalf of their membership."

The FAA also said “In response to the comments, the final policy deletes the criteria of “incidental” or “de minimis” use and simply requires that nonaviation storage in a hangar not interfere with movement of aircraft in or out of the hangar, or impede access to other aeronautical contents of the hangar.” And “(A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft)” and “The final policy states that a vehicle parked in the hangar, while the vehicle owner is using the aircraft will not be considered to displace the aircraft, and therefore is not prohibited.”

The FAA noted that “Storage of equipment associated with an aeronautical activity (e.g., skydiving, ballooning, gliding) would be considered an aeronautical use of a hangar.”

To further clarify the FAA’s position regarding proper use of a hangar, the FAA says “The final policy does not include any special provision for lounge areas or kitchens, either specifically permitting or prohibiting these areas. The policy requires only that any nonaviation related items in a hangar not interfere in any way with the primary use of the hangar for aircraft storage and movement. The airport sponsor is expected to have lease provisions and regulations in place to assure that items located in hangars do not interfere with this primary purpose.”

With regards to another logical use of hangars, the “FAA will consider the construction of amateur-built or kitbuilt aircraft as an aeronautical activity. Airport sponsors must provide reasonable access to this class of users, subject to local ordinances and building codes.”

The FAA recognizes that “All operating aircraft experience downtime for maintenance and repair, and for other routine and exceptional reasons. The final policy does not include an arbitrary time period beyond which an aircraft is no longer considered operational. An airport operator should be able to determine whether a particular aircraft is likely to become operational in a reasonable time or not, and incorporate provisions in the hangar lease to provide for either possibility.”

Given that the FAA has recognized that its previous rules were too strict and has modified them, Hawaii laws should also recognize this fact and make the ‘punishment fit the crime’ by making violations simple civil penalties instead of criminal liabilities.

Robert. A. Gould
254-5242
bob.gould@stanfordalumni.org

in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014-0255, dated November 25, 2014, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-7524.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on July 20, 2016.

(i) Saab Service Bulletin 2000-38-011, dated October 22, 2014.

(ii) Reserved.

(4) The following service information was approved for IBR on September 9, 2014 (79 FR 45337, August 5, 2014).

(i) Saab Service Bulletin 2000-38-010, dated July 12, 2013.

(ii) Saab Service Newsletter SN 2000-1304, Revision 01, dated September 10, 2013, including Attachment 1 Engineering Statement to Operator 2000PBS034334, Issue A, dated September 9, 2013.

(5) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE-581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email saab340techsupport@saabgroup.com; Internet <http://www.saabgroup.com>.

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on May 31, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016-13740 Filed 6-14-16; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA 2014-0463]

Policy on the Non-Aeronautical Use of Airport Hangars

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of final policy.

SUMMARY: This action clarifies the FAA's policy regarding storage of non-aeronautical items in airport facilities designated for aeronautical use. Under Federal law, airport operators that have accepted federal grants and/or those that have obligations contained in property deeds for property transferred under various Federal laws such as the Surplus Property Act generally may use airport property only for aviation-related purposes unless otherwise approved by the FAA. In some cases, airports have allowed non-aeronautical storage or uses in some hangars intended for aeronautical use, which the FAA has found to interfere with or entirely displace aeronautical use of the hangar. At the same time, the FAA recognizes that storage of some items in a hangar that is otherwise used for aircraft storage will have no effect on the aeronautical utility of the hangar. This action also amends the definition of aeronautical use to include construction of amateur-built aircraft and provides additional guidance on permissible non-aeronautical use of a hangar."

DATES: The policy described herein is effective July 1, 2017.

FOR FURTHER INFORMATION CONTACT:

Kevin C. Willis, Manager, Airport Compliance Division, ACO-100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3085; facsimile: (202) 267-4629.

ADDRESSES: You can get an electronic copy of this Policy and all other documents in this docket using the Internet by:

(1) Searching the Federal eRulemaking portal (<http://www.faa.gov/regulations/search>);

(2) Visiting FAA's Regulations and Policies Web page at (http://www.faa.gov/regulations_policies); or

(3) Accessing the Government Printing Office's Web page at (<http://www.gpoaccess.gov/index.html>).

You can also get a copy by sending a request to the Federal Aviation

Administration, Office of Airport Compliance and Management Analysis, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3085. Make sure to identify the docket number, notice number, or amendment number of this proceeding.

SUPPLEMENTARY INFORMATION:

Authority for the Policy: This document is published under the authority described in Title 49 of the United States Code, Subtitle VII, part B, chapter 471, section 47122(a).

Background

Airport Sponsor Obligations

In July 2014, the FAA issued a proposed statement of policy on use of airport hangars to clarify compliance requirements for airport sponsors, airport managers, airport tenants, state aviation officials, and FAA compliance staff. (79 **Federal Register** (FR) 42483, July 22, 2014).

Airport sponsors that have accepted grants under the Airport Improvement Program (AIP) have agreed to comply with certain Federal policies included in each AIP grant agreement as sponsor assurances. The Airport and Airway Improvement Act of 1982 (AAIA) (Pub. L. 97-248), as amended and recodified at 49 United States Codes (U.S.C.) 47107(a)(1), and the contractual sponsor assurances require that the airport sponsor make the airport available for aviation use. Grant Assurance 22, *Economic Nondiscrimination*, requires the sponsor to make the airport available on reasonable terms without unjust discrimination for aeronautical activities, including aviation services. Grant Assurance 19, *Operation and Maintenance*, prohibits an airport sponsor from causing or permitting any activity that would interfere with use of airport property for airport purposes. In some cases, sponsors who have received property transfers through surplus property and nonsurplus property agreements have similar federal obligations.

The sponsor may designate some areas of the airport for non-aviation use,¹ with FAA approval, but aeronautical facilities of the airport must be dedicated to use for aviation purposes. Limiting use of aeronautical facilities for aeronautical purposes ensures that airport facilities are available to meet aviation demand at the airport. Aviation tenants and aircraft owners should not be displaced by non-

¹ The terms "non-aviation" and "non-aeronautical" are used interchangeably in this Notice.

aviation commercial uses that could be conducted off airport property.

It is the longstanding policy of the FAA that airport property be available for aeronautical use and not be available for non-aeronautical purposes unless that non-aeronautical use is approved by the FAA. Use of a designated aeronautical facility for a non-aeronautical purpose, even on a temporary basis, requires FAA approval. See FAA Order 5190.6B, *Airport Compliance Manual*, paragraph 22.6, September 30, 2009. The identification of non-aeronautical use of aeronautical areas receives special attention in FAA airport land use compliance inspections. See Order 5190.6B, paragraphs 21.6(f)(5).

Areas of the airport designated for non-aeronautical use must be shown on an airport's Airport Layout Plan (ALP). The AAIA, at 49 U.S.C. 47107(a)(16), requires that AIP grant agreements include an assurance by the sponsor to maintain an ALP in a manner prescribed by the FAA. Sponsor assurance 29, *Airport Layout Plan*, implements § 47107(a)(16) and provides that an ALP must designate non-aviation areas of the airport. The sponsor may not allow an alteration of the airport in a manner inconsistent with the ALP unless approved by the FAA. See Order 5190.6B, paragraph 7.18, and Advisory Circular 150/5070-6B, *Airport Master Plans*, Chapter 10.

Clearly identifying non-aeronautical facilities not only keeps aeronautical facilities available for aviation use, but also assures that the airport sponsor receives at least Fair Market Value (FMV) revenue from non-aviation uses of the airport. The AAIA requires that airport revenues be used for airport purposes, and that the airport maintain a fee structure that makes the airport as self-sustaining as possible. 49 U.S.C. 47107(a)(13)(A) and (b)(1). The FAA and the Department of Transportation Office of the Inspector General have interpreted these statutory provisions to require that non-aviation activities on an airport be charged a fair market rate for use of airport facilities rather than the aeronautical rate. See *FAA Policies and Procedures Concerning the Use of Airport Revenue*, (64 FR 7696, 7721, February 16, 1999) (FAA Revenue Use Policy).

If an airport tenant pays an aeronautical rate for a hangar and then uses the hangar for a non-aeronautical purpose, the tenant may be paying a below-market rate in violation of the sponsor's obligation for a self-sustaining rate structure and FAA's Revenue Use Policy. Confining non-aeronautical activity to designated non-aviation areas

of the airport helps to ensure that the non-aeronautical use of airport property is monitored and allows the airport sponsor to clearly identify non-aeronautical fair market value lease rates, in order to meet their federal obligations. Identifying non-aeronautical uses and charging appropriate rates for these uses prevents the sponsor from subsidizing non-aviation activities with aviation revenues.

FAA Oversight

A sponsor's Grant Assurance obligations require that its aeronautical facilities be used or be available for use for aeronautical activities. If the presence of non-aeronautical items in a hangar does not interfere with these obligations, then the FAA will generally not consider the presence of those items to constitute a violation of the sponsor's obligations. When an airport has unused hangars and low aviation demand, a sponsor can request the FAA approval for interim non-aeronautical use of a hangars, until demand exists for those hangars for an aeronautical purpose. Aeronautical use must take priority and be accommodated over non-aeronautical use, even if the rental rate would be higher for the non-aeronautical use. The sponsor is required to charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes. (64 FR 7721).

The FAA conducts land use inspections at 18 selected airports each year, at least two in each of the nine FAA regions. See Order 5190.6B, paragraph 21.1. The inspection includes consideration of whether the airport sponsor is using designated aeronautical areas of the airport exclusively for aeronautical purposes, unless otherwise approved by the FAA. See Order 5190.6B, paragraph 21.6.

The Notice of Proposed Policy

In July 2014, the FAA issued a notice of proposed policy on use of hangars and related facilities at federally obligated airports, to provide a clear and standardized guide for airport sponsors and FAA compliance staff. (79 FR 42483, July 22, 2014). The FAA received more than 2,400 comments on the proposed policy statement, the majority from persons who have built or are in the process of building an amateur-built aircraft. The FAA also received comments from aircraft owners, tenants and owners of hangars, and airport operators. The Aircraft Owners and Pilots Association (AOPA) and the Experimental Aircraft Association (EAA) also provided comments on behalf of their membership. Most of the

comments objected to some aspect the proposed policy statement. Comments objecting to the proposal tended to fall into two general categories:

- The FAA should not regulate the use of hangars at all, especially if the hangar is privately owned.
- While the FAA should have a policy limiting use of hangars on federally obligated airports to aviation uses, the proposed policy is too restrictive in defining what activities should be allowed.

Discussion of Comments and Final Policy

The following summary of comments reflects the major issues raised and does not restate each comment received. The FAA considered all comments received even if not specifically identified and responded to in this notice. The FAA discusses revisions to the policy based on comments received. In addition, the FAA will post frequently asked Questions and Answers regarding the Hangar Use Policy on www.faa.gov/airport-compliance. These Questions and Answers will be periodically updated until FAA Order 5190.6B is revised to reflect the changes in this notice.

1. *Comment: Commenters stated that the FAA should defer to local government and leave all regulation of hangar use to the airport operator.*

Response: The FAA has a contract with the sponsor of an obligated airport, either through AIP grant agreements or a surplus property deed, to limit the use of airport property to certain aviation purposes. Each sponsor of an obligated airport has agreed to these terms. The FAA relies on each airport sponsor to comply with its obligations under this contract. To maintain a standardized national airport system and standardized practices in each of the FAA's nine regional offices, the agency issues guidance on its interpretation of the requirements of the AIP and surplus property agreements. It falls to the local airport sponsor to implement these requirements. The FAA allows airport sponsors some flexibility to adapt compliance to local conditions at each airport.

However, some airport sponsors have adopted hangar use practices that led to airport users to complain to the FAA. Some airport users have complained that sponsors are too restrictive, and fail to allow reasonable aviation-related uses of airport hangars. More commonly, aircraft owners have complained that hangar facilities are not available for aircraft storage because airport sponsors have allowed the use of hangars for purposes that are unrelated to aviation,

such as operating a non-aviation business or storing multiple vehicles. By issuing the July 2014 notice, the FAA intended to resolve both kinds of complaints by providing guidance on appropriate management of hangar use. The agency continues to believe that FAA policy guidance is appropriate and necessary to preserve reasonable access to aeronautical facilities on federally obligated airports. However, the final policy has been revised in response to comments received on the proposal.

2. *Comment: Commenters, including AOPA, stated that the FAA lacks the authority to regulate the use of privately owned hangars.*

Response: The FAA has a statutory obligation to assure that facilities on aeronautically designated land at federally obligated airports are reasonably available for aviation use. Designated aeronautical land on a federally obligated airport is a necessary part of a national system of aviation facilities. Land designated for aeronautical use offers access to the local airfield taxiway and runway system. Land designated for aeronautical use is also subject to certain conditions, including FAA policies concerning rates and charges (including rental rates) which were designed to preserve access for aeronautical users and to support aeronautical uses. A person who leases aeronautical land on the airport to build a hangar accepts conditions that come with that land in return for the special benefits of the location. The fact that the tenant pays the sponsor for use of the hangar or the land does not affect the agreement between the FAA and the sponsor that the land be used for aeronautical purposes. (In fact, most hangar owners do not have fee ownership of the property; typically airport structures revert to ownership of the airport sponsor upon expiration of the lease term). An airport sponsor may choose to apply different rules to hangars owned by the sponsor than it does to privately constructed hangars, but the obligations of the sponsor Grant Assurances and therefore the basic policies on aeronautical use stated in this notice, will apply to both.

3. *Comment: Commenters believe that a policy applying the same rules to all kinds of aeronautical structures, and to privately owned hangars as well as sponsor-owned hangars, is too general. The policy should acknowledge the differences between categories of airport facilities.*

Response: A number of commenters thought that rules for use of privately constructed and owned hangars should be less restrictive than rules for hangars

leased from the airport sponsor. The Leesburg Airport Commission commented that there are different kinds of structures on the airport, with variations in rental and ownership interests, and that the FAA's policy should reflect those differences. The FAA acknowledges that ownership or lease rights and the uses made of various aeronautical facilities at airports will vary. The agency expects that airport sponsors' agreements with tenants would reflect those differences. The form of property interest, be it a leasehold or ownership of a hangar, does not affect the obligations of the airport sponsor under the Grant Assurances. All facilities on designated aeronautical land on an obligated airport are subject to the requirement that the facilities be available for aeronautical use.

4. *Comment: Commenters agree that hangars should be used to store aircraft and not for non-aviation uses, but, they argue the proposed policy is too restrictive on the storage of non-aviation related items in a hangar along with an aircraft. A hangar with an aircraft in it still has a large amount of room for storage and other incidental uses, and that space can be used with no adverse effect on the use and storage of the aircraft.*

Response: In response to the comments, the final policy deletes the criteria of "incidental" or "de minimis" use and simply requires that non-aviation storage in a hangar not interfere with movement of aircraft in or out of the hangar, or impede access to other aeronautical contents of the hangar. The policy lists specific conditions that would be considered to interfere with aeronautical use. Stored non-aeronautical items would be considered to interfere with aviation use if they:

- Impede the movement of the aircraft in and out of the hangar;
- Displace the aeronautical contents of the hangar. (A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft);
- Impede access to aircraft or other aeronautical contents of the hangar;
- Are used for the conduct of a non-aeronautical business or municipal agency function from the hangar (including storage of inventory); or
- Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.

Note: Storage of equipment associated with an aeronautical activity (e.g., skydiving, ballooning, gliding) would be considered an aeronautical use of a hangar.

5. *Comment: Commenters stated the policy should apply different rules to situations where there is no aviation demand for hangars, especially when hangars are vacant and producing no income for the sponsor.*

Response: At some airports, at some times, there will be more hangar capacity than needed to meet aeronautical demand, and as a result there will be vacant hangars. The FAA agrees that in such cases it is preferable to make use of the hangars to generate revenue for the airport, as long as the hangar capacity can be recovered on relatively short notice for aeronautical use when needed. See Order 5190.6B, paragraph 22.6. The final policy adopts a provision modeled on a leasing policy of the Los Angeles County Airport Commission, which allows month-to-month leases of vacant hangars for any purpose until a request for aeronautical use is received. The final policy requires that a sponsor request FAA approval before implementing a similar leasing plan:

- The airport sponsor may request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis.
- The plan may be implemented only when there is no current aviation demand for the vacant hangars.
- Leases must require the non-aeronautical tenant to vacate the hangar on 30 days' notice, to allow aeronautical use when a request is received.
- Once the plan is approved, the sponsor may lease vacant hangars on a 30 days' notice without further FAA approval.

The agency believes this will allow airports to obtain some financial benefit from vacant hangars, while allowing the hangars to be quickly returned to aeronautical use when needed. FAA pre-approval of a month-to-month leasing plan will minimize the burden on airport sponsors and FAA staff since it is consistent with existing interim use guidance.

6. *Comment: Commenter indicates that the terms "incidental use" and "insignificant amount of space" are too vague and restrictive.*

Response: The FAA has not used these terms in the final policy. Instead, the policy lists specific prohibited conditions that would be considered to interfere with aeronautical use of a hangar.

7. *Comment: Commenter states Glider operations require storage of items at the airport other than aircraft, such as tow vehicles and towing equipment. This should be an approved use of hangars.*

Response: Tow bars and glider tow equipment have been added to the list of examples of aeronautical equipment. Whether a vehicle is dedicated to use for glider towing is a particular fact that can be determined by the airport sponsor in each case. Otherwise the general rules for parking a vehicle in a hangar would apply.

8. *Comment: Commenter states it should be clear that it is acceptable to park a vehicle in the hangar while the aircraft is out of the hangar being used.*

Response: The final policy states that a vehicle parked in the hangar, while the vehicle owner is using the aircraft will not be considered to displace the aircraft, and therefore is not prohibited.

9. *Comment: Commenters, including Experimental Aircraft Association (EAA), stated that aviation museums and non-profit organizations that promote aviation should not be excluded from hangars.*

Response: Aviation museums and other non-profit aviation-related organizations may have access to airport property at less than fair market rent, under section VII.E of the FAA Policy and Procedures Concerning the Use of Airport Revenue. (64 FR 7710, February 16, 1999). However, there is no special reason for such activities to displace aircraft owners seeking hangar space for storage of operating aircraft, unless the activity itself involves use and storage of aircraft. Accordingly, aviation museums and non-profit organizations will continue to have the same access to vacant hangar space as other activities that do not actually require a hangar for aviation use, that is, when there is no aviation demand (aircraft storage) for those hangars and subject to the discretion of the airport operator.

10. *Comment: Commenters suggest that the policy should allow a 'grace period' for maintaining possession of an empty hangar for a reasonable time from the sale of an aircraft to the purchase or lease of a new aircraft to be stored in the hangar.*

Response: The FAA assumes that airport lease terms would include reasonable accommodation for this purpose and other reasons a hangar might be empty for some period of time, including the aircraft being in use or at another location for maintenance. The reasons for temporary hangar vacancy and appropriate "grace periods" for various events depend on local needs and lease policies, and the FAA has not included any special provision for grace periods in the final policy.

11. *Comment: Commenters believe that the policy should allow some leisure spaces in a hangar, such as a lounge or seating area and kitchen, in*

recognition of the time many aircraft owners spend at the airport, and the benefits of an airport community.

Response: The final policy does not include any special provision for lounge areas or kitchens, either specifically permitting or prohibiting these areas. The policy requires only that any non-aviation related items in a hangar not interfere in any way with the primary use of the hangar for aircraft storage and movement. The airport sponsor is expected to have lease provisions and regulations in place to assure that items located in hangars do not interfere with this primary purpose.

12. *Comment: Commenters, including EAA, stated that all construction of an aircraft should be considered aeronautical for the purpose of hangar use, because building an aircraft is an inherently aeronautical activity. The policy should at least allow for use of a hangar at a much earlier stage of construction than final assembly.*

Response: The FAA has consistently held that the need for an airport hangar in manufacturing or building aircraft arises at the time the components of the aircraft are assembled into a completed aircraft. Prior to that stage, components can be assembled off-airport in smaller spaces. This determination has been applied to both commercial aircraft manufacturing as well as homebuilding of experimental aircraft.

A large majority of the more than 2,400 public comments received on the notice argued that aircraft construction at any stage is an aeronautical activity. The FAA recognizes that the construction of amateur-built aircraft differs from large-scale, commercial aircraft manufacturing. It may be more difficult for those constructing amateur-built or kit-built aircraft to find alternative space for construction or a means to ultimately transport completed large aircraft components to the airport for final assembly, and ultimately for access to taxiways for operation.

Commenters stated that in many cases an airport hangar may be the only viable location for amateur-built or kit-built aircraft construction. Also, as noted in the July 2014 notice, many airports have vacant hangars where a lease for construction of an aircraft, even for several years, would not prevent owners of operating aircraft from having access to hangar storage.

Accordingly, the FAA will consider the construction of amateur-built or kit-built aircraft as an aeronautical activity. Airport sponsors must provide reasonable access to this class of users, subject to local ordinances and building codes. Reasonable access applies to currently available facilities; there is no

requirement for sponsors to construct special facilities or to upgrade existing facilities for aircraft construction use.

Airport sponsors are urged to consider the appropriate safety measures to accommodate aircraft construction. Airport sponsors leasing a vacant hangar for aircraft construction also are urged to incorporate progress benchmarks in the lease to ensure the construction project proceeds to completion in a reasonable time. The FAA's policy with respect to commercial aircraft manufacturing remains unchanged.

13. *Comment: Commenter suggests that the time that an inoperable aircraft can be stored in a hangar should be clarified, because repairs can sometimes involve periods of inactivity.*

Response: The term "operational aircraft" in the final policy does not necessarily mean an aircraft fueled and ready to fly. All operating aircraft experience downtime for maintenance and repair, and for other routine and exceptional reasons. The final policy does not include an arbitrary time period beyond which an aircraft is no longer considered operational. An airport operator should be able to determine whether a particular aircraft is likely to become operational in a reasonable time or not, and incorporate provisions in the hangar lease to provide for either possibility.

14. *Comment: Commenter suggests that the FAA should limit use of hangars on an obligated airport as proposed in the July 2014 notice. Airport sponsors frequently allow non-aeronautical use of hangars now, denying the availability of hangar space to aircraft owners.*

Response: Some commenters supported the relatively strict policies in the July 2014 notice, citing their experience with being denied access to hangars that were being used for non-aviation purposes. The FAA believes that the final policy adopted will allow hangar tenants greater flexibility than the proposed policy in the use of their hangars, but only to the extent that there is no impact on the primary purpose of the hangar. The intent of the final policy is to minimize the regulatory burden on hangar tenants and to simplify enforcement responsibilities for airport sponsors and the FAA, but only as is consistent with the statutory requirements for use of federally obligated airport property.

Final Policy

In accordance with the above, the FAA is adopting the following policy statement on use of hangars at federally obligated airports:

Use of Aeronautical Land and Facilities

Applicability

This policy applies to all aircraft storage areas or facilities on a federally obligated airport unless designated for non-aeronautical use on an approved Airport Layout Plan or otherwise approved for non-aviation use by the FAA. This policy generally refers to the use of hangars since they are the type of aeronautical facility most often involved in issues of non-aviation use, but the policy also applies to other structures on areas of an airport designated for aeronautical use. This policy applies to all users of aircraft hangars, including airport sponsors, municipalities, and other public entities, regardless of whether a user is an owner or lessee of the hangar.

I. General

The intent of this policy is to ensure that the federal investment in federally obligated airports is protected by making aeronautical facilities available to aeronautical users, and by ensuring that airport sponsors receive fair market value for use of airport property for non-aeronautical purposes. The policy implements several Grant Assurances, including Grant Assurance 5, *Preserving Rights and Powers*; Grant Assurance 22, *Economic Nondiscrimination*; Grant Assurance 24, *Fee and Rental Structure*; and Grant Assurance 25, *Airport Revenues*.

II. Standards for Aeronautical Use of Hangars

a. Hangars located on airport property must be used for an aeronautical purpose, or be available for use for an aeronautical purpose, unless otherwise approved by the FAA Office of Airports as described in Section III.

b. Aeronautical uses for hangars include:

1. Storage of active aircraft.
2. Final assembly of aircraft under construction.
3. Non-commercial construction of amateur-built or kit-built aircraft.
4. Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
5. Storage of aircraft handling equipment, *e.g.*, towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.

c. Provided the hangar is used primarily for aeronautical purposes, an airport sponsor may permit non-aeronautical items to be stored in hangars provided the items do not

interfere with the aeronautical use of the hangar.

d. While sponsors may adopt more restrictive rules for use of hangars, the FAA will generally not consider items to interfere with the aeronautical use of the hangar unless the items:

1. Impede the movement of the aircraft in and out of the hangar or impede access to aircraft or other aeronautical contents of the hangar.
2. Displace the aeronautical contents of the hangar. A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft.
3. Impede access to aircraft or other aeronautical contents of the hangar.
4. Are used for the conduct of a non-aeronautical business or municipal agency function from the hangar (including storage of inventory).
5. Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.

e. Hangars may not be used as a residence, with a limited exception for sponsors providing an on-airport residence for a full-time airport manager, watchman, or airport operations staff for remotely located airports. The FAA differentiates between a typical pilot resting facility or aircrew quarters versus a hangar residence or hangar home. The former are designed to be used for overnight and/or resting periods for aircrew, and not as a permanent or even temporary residence. *See* FAA Order 5190.6B paragraph 20.5(b)

f. This policy applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at the occupant's own expense while holding a ground lease. When land designated for aeronautical use is made available for construction of hangars, the hangars built on the land are subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.

III. Approval for Non-Aeronautical Use of Hangars

A sponsor will be considered to have FAA approval for non-aeronautical use of a hangar in each of the following cases:

a. *FAA advance approval of an interim use:* Where hangars are unoccupied and there is no current aviation demand for hangar space, the airport sponsor may request that FAA Office of Airports approve an interim use of a hangar for non-aeronautical purposes for a period of 3 to 5 years. The FAA will review the request in accordance with Order 5190.6B

paragraph 22.6. Interim leases of unused hangars can generate revenue for the airport and prevent deterioration of facilities. Approved interim or concurrent revenue-production uses must not interfere with safe and efficient airport operations and sponsors should only agree to lease terms that allow the hangars to be recovered on a 30 days' notice for aeronautical purposes. In each of the above cases, the airport sponsor is required to charge non-aeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis. (64 FR 7721).

b. *FAA approval of a month-to-month leasing plan:* An airport sponsor may obtain advance written approval month-to-month leasing plan for non-aeronautical use of vacant facilities from the local FAA Office of Airports. When there is no current aviation demand for vacant hangars, the airport sponsor may request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis. The plan must provide for leases that include an enforceable provision that the tenant will vacate the hangar on a 30-day notice. Once the plan is approved, the sponsor may lease vacant hangars on a 30-day notice basis without further FAA approval. If the airport sponsor receives a request for aeronautical use of the hangar and no other suitable hangar space is available, the sponsor will notify the month-to-month tenant that it must vacate.

A sponsor's request for approval of an interim use or a month-to-month leasing plan should include or provide for (1) an inventory of aeronautical and non-aeronautical land/uses, (2) information on vacancy rates; (3) the sponsor's procedures for accepting new requests for aeronautical use; and (4) assurance that facilities can be returned to aeronautical use when there is renewed aeronautical demand for hangar space. In each of the above cases, the airport sponsor is required to charge non-aeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis. (64 FR 7721).

c. *Other cases:* Advance written release by the FAA for all other non-aeronautical uses of designated aeronautical facilities. Any other non-aeronautical use of a designated aeronautical facility or parcel of airport land requires advance written approval from the FAA Office of Airports in accordance with Order 5190.6B chapter 22.

IV. Use of Hangars for Construction of an Aircraft

Non-commercial construction of amateur-built or kit-built aircraft is considered an aeronautical activity. As with any aeronautical activity, an airport sponsor may lease or approve the lease of hangar space for this activity without FAA approval. Airport sponsors are not required to construct special facilities or upgrade existing facilities for construction activities. Airport sponsors are urged to consider the appropriate safety measures to accommodate these users.

Airport sponsors also should consider incorporating construction progress targets in the lease to ensure that the hangar will be used for final assembly and storage of an operational aircraft within a reasonable term after project start.

V. No Right to Non-Aeronautical Use

In the context of enforcement of the Grant Assurances, this policy allows some incidental storage of non-aeronautical items in hangars that do not interfere with aeronautical use. However, the policy neither creates nor constitutes a right to store non-aeronautical items in hangars. Airport sponsors may restrict or prohibit storage of non-aeronautical items. Sponsors should consider factors such as emergency access, fire codes, security, insurance, and the impact of vehicular traffic on their surface areas when enacting rules regarding hangar storage. In some cases, permitting certain incidental non-aeronautical items in hangars could inhibit the sponsor's ability to meet obligations associated with Grant Assurance 19, *Operations and Maintenance*. To avoid claims of discrimination, sponsors should impose consistent rules for incidental storage in all similar facilities at the airport. Sponsors should ensure that taxiways and runways are not used for the vehicular transport of such items to or from the hangars.

VI. Sponsor Compliance Actions

a. It is expected that aeronautical facilities on an airport will be available and used for aeronautical purposes in the normal course of airport business, and that non-aeronautical uses will be the exception.

b. Sponsors should have a program to routinely monitor use of hangars and take measures to eliminate and prevent unapproved non-aeronautical use of hangars.

c. Sponsors should ensure that length of time on a waiting list of those in need of a hangar for aircraft storage is minimized.

d. Sponsors should also consider including a provision in airport leases, including aeronautical leases, to adjust rental rates to FMV for any non-incidentally non-aeronautical use of the leased facilities. In other words, if a tenant uses a hangar for a non-aeronautical purpose in violation of this policy, the rental payments due to the sponsor would automatically increase to a FMV level.

e. FAA personnel conducting a land use or compliance inspection of an airport may request a copy of the sponsor's hangar use program and evidence that the sponsor has limited hangars to aeronautical use.

The FAA may disapprove an AIP grant for hangar construction if there are existing hangars at the airport being used for non-aeronautical purposes.

Issued in Washington, DC, on the 9th of June 2016.

Robin K. Hunt,

Acting Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2016-14133 Filed 6-14-16; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 660, 801, and 809

[Docket No. FDA-2013-N-0125]

RIN 0910-AG74

Use of Symbols in Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is issuing this final rule revising its medical device and certain biological product labeling regulations to explicitly allow for the optional inclusion of graphical representations of information, or symbols, in labeling (including labels) without adjacent explanatory text (referred to in this document as "stand-alone symbols") if certain requirements are met. The final rule also specifies that the use of symbols, accompanied by adjacent explanatory text continues to be permitted. FDA is also revising its prescription device labeling regulations to allow the use of the symbol statement "Rx only" or "R only" in the labeling for prescription devices.

DATES: This rule is effective September 13, 2016.

FOR FURTHER INFORMATION CONTACT: *For information concerning the final rule as it relates to devices regulated by the Center for Devices and Radiological Health (CDRH):* Antoinette (Tosia) Hazlett, Center for Devices and Radiological Health, Food and Drug Administration, Bldg. 66, Rm. 5424, 10903 New Hampshire Ave., Silver Spring, MD 20993-0002, 301-796-6119, email: Tosia.Hazlett@fda.hhs.gov.

For information concerning the final rule as it relates to devices regulated by the Center for Biologics Evaluation and Research: Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

The final rule explicitly permits the use of symbols in medical device labeling without adjacent explanatory text if certain requirements are met. The medical device industry has requested the ability to use stand-alone symbols on domestic device labeling, consistent with their current use on devices manufactured for European and other foreign markets. The final rule seeks to harmonize the U.S. device labeling requirements for symbols with international regulatory requirements, such as the Medical Device Directive 93/42/EEC of the European Union (EU) (the European Medical Device Directive) and global adoption of International Electrotechnical Commission (IEC) standard IEC 60417 and International Organization for Standardization (ISO) standard ISO 7000-DB that govern the use of device symbols in numerous foreign markets.

Summary of the Major Provisions of the Regulatory Action in Question

FDA has generally interpreted existing regulations not to allow the use of symbols in medical device labeling, except with adjacent English-language explanatory text and/or on in vitro diagnostic (IVD) devices intended for professional use. Under the final rule, symbols established in a standard developed by a standards development organization (SDO) may be used in medical device labeling without adjacent explanatory text as long as: (1) The standard is recognized by FDA under its authority under section 514(c) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d(c)) and the symbol is used according to the specifications for use of the symbol set

Howard Word
8195 Kula Hwy.
Kula, HI 96790
(808)-722-2316
hword@mac.com

Re: House Bill 1184

To Whom It May Concern:

My name is Howard Word and I have lived in Hawaii for the past 40 years and have been a pilot here since 1986.

I am in support of HB 1184. As a pilot in good standing it is of great value to pass this bill, as criminal penalties imposed for what should be categorized as a civil penalty is absurd. The DOTA, especially in Honolulu, has been increasingly hostile to general aviation pilots and mechanics, and I would like to share a few examples of the growing harassment shown to me by individuals who's salary is paid by my tax dollars.

I have rented airplane hangers over the years, at an enormous expense, and a few years ago there were tickets passed out like candy at the Honolulu general aviation hangers. These tickets could result in criminal convictions that would jeopardize my pilot's license and therefore my livelihood. The tickets had NO standing, there was NO reason for these tickets to be issued; however if it was essential for me to appear in court.

The first ticket that I was given was having my truck parked at the hanger, with its current ramp sticker, while I had flown to another island for business. This ticket required a court appearance. The date on the ticket was so poorly written, that when I appeared at the courthouse no one could tell me what was going on or where I had to be. Finally they told me to come back in a few weeks as the date was incorrect; they even had a hard time deciphering the handwriting. Needless to say, the experience was stressful as the potential outcome for not showing up to the hearing had severe penalties for me as a pilot.

I also was given an unwarranted ticket for a golf cart in my hanger, which also displayed a current AOA sticker. There were other pilots who had golf carts who received tickets, while some did not. When I arrived at the hearing there were 4 other pilots, 2 who were attorneys, and the judge allowed us to speak together. Within minutes, the judge dismissed the case, as the carts were legal and there was no reason to be issued a ticket. This ticket could have resulted in criminal penalties had I not shown up for the court hearing.

I have never had so much as a parking ticket. I am an abiding citizen, taxpayer, and pilot in good standing and I was being harassed and wrongfully given tickets and had to show up in court like a criminal. I was extremely fed up with the treatment at Honolulu GA, that it made my decision to move to Maui that much easier.

I fly to Oahu regularly and I have been harassed for not having a HNL badge. This is completely ridiculous as I am a pilot, recognized by the FAA, and have a badge from my home airport, OGG. I was threatened to not be let back in to the General Aviation area and back to my airplane that was legally parked in the transient parking spot, as I gave up my hanger in HNL. I don't know of any other state that requires different badges for one county and another. Essentially, all one needs to have access to general aviation is a pilot's license.

Many of my fellow pilots, friends and mechanics have moved to the mainland. They continue to be involved in general aviation in their new locations, happy to be away from the harassment. General Aviation in the state of Hawaii is heading downhill as our mechanics and pilots are leaving. The functionality of aviation in Hawaii is essential as our counties are separated by ocean, and the beauty of our islands is second to none.

I am proud to be a pilot and I am in support of HB 1184. I hope this letter does not fall on deaf ears and this testimony will make a difference.

Mahalo,

Howard Word

**LARRY JEFTS
PO BOX 27
KUNIA, HAWAII 96759
(808) 688-2892**

HB1184, Relating to Aeronautics
House TRN Hearing, Wednesday, Feb. 8, 2017 – 9:00 am
Testimony by: Larry Jefts
Position: Support

Chair Aquino and Members of the House TRN Committee:

Appreciation is expressed for HB 1184. I am a licensed pilot and aircraft owner. I have been flying for many years and have flown throughout the state, across the nation and other countries. Over the years, I have observed what seem to be arbitrary and overly harsh penalties for certain airport offenses. HB1184 will bring some clarity and uniformity of how certain airport offenses are administered in Hawaii.

Thank you for the opportunity to provide testimony.

quinlan1 - Neil

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 8:55 AM
To: TRNtestimony
Cc: mahoe7779@hotmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM
Attachments: HB1184.pages

Categories: Green Category

HB1184

Submitted on: 2/7/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Vincent W. Mulford, Jr	Individual	Support	No

Comments: SUPPORT HB 1184

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Michael K. Fujimoto

66-1453 E. Ko Uka Place, Kamuela, HI 96743

Cell: 808-936-2373 Fax: 808-885-1514

Michael.fujimoto@hpmhawaii.com

February 7, 2017

RE: House Bill 1184

Honorable Representative Henry J. C. Aquino, Chair and Committee on Transportation Members:

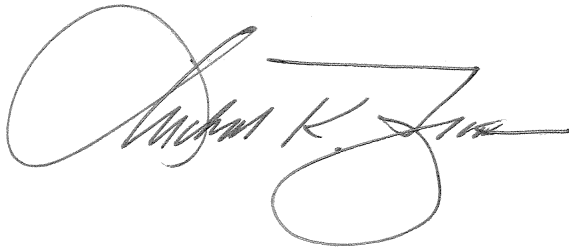
I have been a general aviation pilot in Hawaii for the past 37 years and have appreciated the use of the State of Hawaii airport facilities.

However, the DOTA's excessive and harsh enforcement policies are unnecessary and inappropriate and need to be changed.

Thus, I urge your passage of House Bill 1184.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael K. Fujimoto". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

My name is David Bettencourt, 735 Bishop Street, Suite 304, Honolulu, Hawaii 96813. Contact 521-3491 or airlaw@pixi.com. I began flying in 1960 and I was admitted to practice law in Hawai'i in October 1970 subsequent to graduating from the University of California's Boalt Hall School of Law. I personally have previously received a citation for having a few surfboards and sailboards in my hangar, asserted to be a misdemeanor offence. I was travelling with my wife in north-western Viet Nam along the border of Laos when I received notice of pending hearings on SB 1163 and this companion HB 1184; I was not be able to attend all of the hearing on SB 1163, and also may not be able to provide testimony personally in this hearing due to scheduling conflicts. I am providing support to the concept embodied in those two bills that penal sanctions and proceedings are unwarranted, but strenuously disagree with the dangerous assumption and concession made in testimony on SB 1163 that current statutory and regulatory provisions provide for any kind of penal jurisdiction to allow the DOT-A any valid penal enforcement powers. I cannot let stand any concession that passage of SB 1163/HB 1184 "replaces criminal penalties" on anything other than the claimed authority to utilize H.R.S. § 261-21 to enforce hangar rules as provided by HAR 19-17.1. HAR 19-17.1-20 specifically references H.R.S. § 261-21 to authorize penal sanctions, but fails to designate which category of conduct (and thus penalty) is involved. Although I contend there are constitutional defects in DOT-A's claiming such authority, these regulations and statute are on the books and require legislative correction as opposed to litigation expensive to all parties and the judiciary.

What is more troubling is that DOT-A's assertion of penal jurisdiction where the administrative rules not only did not assert authority under H.R.S. 261-21, but instead restricted its assertion of penalties under H.R.S. § 261-12. The great majority of citations issued during 2016 were for parking violations, not hangar violations, making clear the DOT-A's intent to now interpret all of its rules (regardless of the language of the "Penalty" clause) as criminally enforceable. No Hawai'i appellate court decision has ever authorized the form of penal jurisdiction claimed by DOT-A. I have been representing aviators in judicial and non-judicial forums for forty-five years, in addition to public participation protecting the rights of citizens to require that all three branches of their government. I have conducted extensive research into the history and legality of various forms of enforcement actions commenced by or on behalf of the DOT-A in defending the great majority of citations issued during 2016. Several of the judges who

have faced the issues raised by the methodology and legality of the DOT-A citation process have strongly “suggested” to all parties that we should attempt to correct, legislatively or administratively, the language that has generated so many legal issues. I agree that legislative action is the correct process, but believe that the language is inappropriate in seeking to decriminalize what has always been recognized as non-aeronautical forms of commerce by “persons engaged in commercial activities at public airports.”

Our lack of penal jurisdiction argument was simple. DOT-A’s own administrative rule-making process (requiring notice and publication pursuant to H.A.P.A.) never claimed or asserted (in the rule-making and rules applicable to aeronautical entities) that it would be seeking authorization to seek penal sanctions (of any severity) pursuant to H.R.S. § 261-21, as each set of aeronautical administrative rules had only claimed non-penal enforcement authority pursuant to H.R.S. § 261-12. HAR Chapter 13 is merely one of fifteen different sets of rules, eleven (including the HAR Chapters 19-20.1, 19-26.1, 19-30) which do purport to authorize criminal penalties under HRS § 261-21, while the four sets of rules (including HAR Chapter 19-13) that relate most closely to federally protected aeronautical activities do not.

Two jurists engaged in virtually gymnastic leaps of logic to judicially exploit a non-obvious reference as authority to trump the actual language of the rule itself. They and others suggested the solutions did not lie within the judicial system, but any concession that this judicial conduct may create a criminal offense in violation of the Hawai’i Supreme Court’s recognition of constitutional restraints on its judicial power in *State v. Ching*, 62 Haw. 656, 619 P.2d 93 (1980), would not just affect aviators but would extend governmental power in numerous other areas by ignoring the actual language of agency rules. Compliance with H.A.P.A.’s mandates has always generated inherent conflicts between effective government operations and the rights of citizens to rely on the actual words of written rules rather than what the agency “fine-print” reviews might generate.

The legislature should clearly eliminate any such penal authority against aviators or aeronautical entities, in addition to specifically requiring the agencies to set forth in detail their non-penal enforcement powers and procedures. At this time, due to the extreme differences in enforcement interests and procedures, it should presently limit

the penal sanctions available for enforcement against “persons engaged in commercial activities at public airports” as those are all non-aeronautical activities.

Hawaii HB No. 1184 and SB No. 1163

1. My name is William L Miller. I have been a resident of Hawaii for about 32 years. I am a registered and participating voter living in Kailua.
 - a. My aviation experience
 - i. consists of 28 ½ years in Naval Aviation Maintenance including serving on two aircraft carriers.
 - ii. 24 years of Federal Aviation Administration Operations Safety Inspector/pilot. About 12 years of that time was in management. I retired as Manager of the Honolulu Flight Standards District Office in May 2010.
 - iii. Our office was responsible for aviation safety and compliance with the volumes of Federal Aviation Regulations, and oversight of pilot, aircraft and airline certification and enforcement, and aircraft accident investigations. Some of our regulations were less than perfect; However, I hope we never came across to the public as being so far out with reality as is this criminal penalty by the State DOT Airports Division.
 - iv. I obtained my private pilot certificate in 1964 and continued flight training throughout the next 50 years. I WAS NOT A MILITARY PILOT. But instead worked in the civil aviation industry to pay my way and used part of my GI bill in paying for more extensive training.
 - v. I am certified by the FAA as an airframe and power plant mechanic, a ground school instructor and a flight instructor for both single and multi-engine airplanes. I also hold an airline transport pilot certificate for both single and multiengine airplanes. The training, time and expenses to reach this level of FAA certification are said by many to equate to or exceed the requirements of a Master's Degree in many professional fields. It is a certificate that I am quite proud of.
 - vi. I retired from all this in May 2010, and only conduct occasional recreational flying at this time. My interest here is not for me but for the protection of others.
 - b. I have provided the above to show that I have been around general aviation basically all of my adult life. Including various assignments and training in the military and civil aviation.
 - c. So I come to this committee urging you to review and forward this bill. Please note the proposal does NOT ask to drop the infractions but to change the criminal penalty to a civil penalty. The criminal penalty can destroy a young pilot or mechanics dreams, aspirations, and possible careers in the aviation community.
 - d. Fortunately I have never encountered anything like Hawaii Revised Statutes Chapter 261 which provides for criminal penalties for petty infractions which has been used by the Airports Division to write personnel up for items which should be handled at an administrative level. The most egregious example that I know of is a Fixed Base Operator (FBO) similar to an automotive service station was cited and had to go to court for the DOT Airports Inspection Team finding 2/3beer containers in a large trash can located by the Gas pumps for people to deposit their rubbish. This is a non-attended pump- no one knows who

put the containers in the trash (could have been done by anyone with access to the airport) -i.e. State Airport Maintenance Crew, airport contractors, movie maker personnel, or yes even a non-flying airman or passenger- but who? The owner of the trash can was cited with a criminal penalty as the containers were found in trash cans he provided. He hired an attorney and went to court and the charge was thrown out. An embarrassment to him and a big waste of time and money- not only for him but for the State Employees (inspectors) involved, and therefore us the taxpayers.

- e. I am retired now so this bill as written will not have a direct impact on me if I can walk a tight rope when at the state airports. However, it can have a huge impact on the many young current and upcoming FAA certificated airmen and mechanics who depend on their certificates for the livelihood of their families.
- f. The law has affected many of our airmen who have given up and left the state for the sole reason of avoiding such enforcement. My son (a Delta Pilot) who soloed at the age of 16 at the old Naval Air Station Barbers point in 1979, and has been living here most of his life, just gave up and has moved to the mainland rather than take the chance on being cited with a criminal citation. Many others have done the same in the last couple years. Cliff; Collin; Gene Wilky, and several others are considering moving at this time. .
- g. There has been no infraction, that I am aware of, that has anything to do with aviation safety or security. The penalties do not fit the crimes.
- h. In summary, the DOT policy of issuing criminal citations is terrible. No other state that we know of has such a law in place. And I have traveled into many airports throughout our great country.
- i. With all this said, once again I urge you to take action to decriminalize this law. In the meantime I urge those conducting the inspections to use some common sense when conducting the airport inspections.
- j. Finally I would recommend the State Airports Division be held accountable to write the "Airport Handbook." They are now demanding General Aviation Council Hawaii (GACH) personnel write the handbook in order for them, the State DOT Airports Division, to support the decriminalization of this statute. DOT airports is required to comply with Federal Aviation Administration (FAA) Airport Compliance Manual - order 5190. 6B. that order requires the sponsor (HI State DOT) to have policies and procedures such as this in place. This could be done with the input and assistance of GACH or write it together in an effort of collaboration. I was told the Handbook is to be approved by the State DOT Airports, and if history is an indicator, the Handbook if written by GACH will be difficult to get approval.

Thank you for your time and consideration of this important improvement to the everyday operation of Aviation in Hawaii.

William L Miller
Kailua, HI. 96734
808 551-3207

EXCERPTS FROM FAA ORDER 5190.6B

FAA Airport Compliance Manual

Provided for reference only.

1. Para 1-5. The Airport Compliance Program is designed to protect the public interest in civil aviation.
2. 1.6. Scope. This Order provides guidance, policy, and procedures for conducting a comprehensive and effective FAA Airport Compliance Program to monitor and ensure airport sponsor compliance with the applicable federal obligations assumed in the acceptance of airport development assistance
3. **3.1. Introduction. In general, property agreements require the sponsor to: Operate the airport in the public interest, and etc.---**
4. 3.12. Land Conveyance Federal Obligations. b. The airport sponsor will operate the airport, together with its appurtenant areas, buildings, and facilities regardless of whether they are on the land being conveyed, as a public use airport on fair and reasonable terms and without unjust discrimination.
5. Chapter 5. Complaint Resolution
 - a. 5.2. Background. Under 14 CFR § 13.1, any person who knows of a violation of federal aviation laws, regulations, rules, policies, or orders may report the violation to the FAA informally as a "report of violation." Section 13.5 provides for formal complaints to the FAA for matters not covered by 14 CFR Part 16.
6. 7.9. Local Rules and Procedures. One of the most important functions of local regulations is to control the use of the airport in a manner that will eliminate hazards to aircraft and people and structures on the ground.
 - a. As in the operation of any public service facility, there should be adequate rules covering vehicular traffic, sanitation, security, crowd control, access to certain areas, and fire protection. The sponsor is also expected to control services such as fueling aircraft, storing hazardous materials, and spray painting at a public airport to protect the public.
7. Chapter 9. Unjust Discrimination between Aeronautical Users
 - a. Next, the sponsor must ensure that the terms imposed on aeronautical users of the airport, including rates and charges, are reasonable for the facilities and services provided
8. 11.2. Restrictions on Self-servicing Aircraft.
 - a. Aircraft owners must be permitted to fuel, wash, repair, and otherwise take care of their own aircraft with their own personnel, equipment, and supplies. At the same time, the sponsor is federally obligated to operate the airport in a safe and efficient manner.
 - b. **The sponsor should design its self-service rules and regulations to ensure safe operations, preservation of facilities, and protection of the public interest.** Examples of such rules and regulations include safe practices for handling, storage, and application of paint and fuel. The safety of operations at a self-service fueling location -- such as the one shown below -- will depend greatly upon the airport's minimum standards and rules and regulations

established for both the provider and the users. A sponsor may require the owner or operator to confine aircraft maintenance, servicing, and fueling operations to appropriate locations with equipment appropriate for the job being done

9. 11.5. Restricted Service Activities. The sponsor may require an aircraft owner or operator to:
 - a. Observe reasonable rules and regulations---
10. c. Limit equipment, personnel, or practices that are unsafe, unsightly, or detrimental to the public welfare or that would affect the efficient use of airport facilities by others.
11. **11.6. Reasonable Rules and Regulations. The sponsor should design its self-service rules and regulations to ensure safe operations, preservation of facilities, and the protection of the public interest. Examples** of such rules and regulations **may** include:
 - a. c. Restricting hangars to related aeronautical activities.
 - b. 11.7. Restrictions Based on Safety and Location.
12. 12.6. Agreements Involving an Entire Airport.
 - a. a. Contracts to Perform Airport Maintenance or Administrative Functions. The sponsor has the ultimate responsibility for the management and operation of the airport in accordance with federal obligations and cannot abrogate these responsibilities.
13. 14.3. Restricting Aeronautical Activities. Grant Assurance 22, Economic Nondiscrimination, also provides for a **limited exception**: “the airport sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is reasonable and necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.”
14. Chapter 21. Land Use Compliance Inspection 21.1. Introduction. This chapter provides guidance for conducting land use inspections at federally obligated airports. It is the responsibility of the FAA airports district offices (ADOs) and regional airports divisions to conduct a minimum of two (2) land use inspections annually per region for general aviation (GA) airports, and to resolve issues identified during the inspections.



February 7, 2017

VIA EMAIL/WEB PORTAL UPLOAD

Re: Testimony in support of HB 1184 to replace criminal penalties for certain airport offenses with civil penalties

To whom it may concern:

My name is Ethan R. Okura. I am an attorney licensed to practice law in the State of Hawaii and the State of New York. I am also a licensed private pilot with the Federal Aviation Administration. I am writing testimony in support of HB 1184 which must be passed to restore justice, fairness, and reasonableness to the state of the law in this narrow area.

The relevant Hawaii Revised Statutes Section 261-21 provides for FULL criminal misdemeanor penalties for any and all violations of rules relating to safety measures, practices, or requirements; or the licensing and regulation of persons engaged in commercial activities at public airports.

On its surface that sounds reasonable, but it has begun to be enforced in such a manner as to be completely unreasonable, unjust, and against the spirit of the intention of that law.

The airport management has been wielding this law as a weapon against private pilots, aircraft mechanics, and the general aviation community in general. In the past 2 to 3 years they have sent teams of enforcement agents including sheriffs to the South Ramp T-Hangars where most General Aviation and private pilots keep their aircraft to “crack down” on the tenants renting hangar spaces. Every single pilot whom I know who rents a hangar received at least one criminal citation and some received as many as six for trivial matters that should not be and in essence are not criminal activities.

Many of these criminal citations were issued for simple things like a missing registration sticker or having items “unrelated to aviation activities” in the hangars, such as: House plants, golf clubs, and bicycles. It has been a regular practice for pilots to have these types of items in their hangars for decades. When flying to a neighbor island to play golf for a day, golf clubs will be in the hangar/airplane. Bicycles are used by many pilots to get around the large expanse of the South Ramp more efficiently. (It can take 10 minutes to walk from one end of the hangar buildings to the other where the restrooms are located). Please note that bicycles ARE allowed on the airport property and are ok to ride around the South Ramp, and yet airport administration

or the Sheriffs enforcing the rules have used this HAR to issue citations for all manner of minor “infractions” that have been common practice for many years but only recently have been interpreted to be in violation of the rules—presumably as a property manager’s negotiating tactic to raise hangar rents to unreasonable rates.

The biggest problem with having these violations classified as misdemeanors is that this can ruin the clean criminal record of a good citizen for life! If I had not been able to successfully challenge the citation that was issued for my hangar, for the rest of my life I would have had to state that I had been charged with a misdemeanor whenever asked by a licensing board—which could prevent me from being admitted to the bar in another State, or prevent me from obtaining a real estate broker’s license, or affect my ability to get a new job or to become a judge.

To put it in perspective: Someone who is cited for driving drunk for the first time is charged with a lesser degree of crime than someone who has a house plant in his hangar for fresh air (or whatever new policy the administration comes up with next to change the decades-long established existing practices at the airport.)

I do not have access to hard data to support my belief, but I would like to see the Airport Sheriffs produce records of recent citations issued and what they were for. I imagine that the overwhelming supermajority of citations (upwards of 95%) are not for anything that jeopardized the safety or security of the airport, which this law was intended to protect.

Please pass this bill HB 1184 to correct the inappropriate, harsh, even draconian punishment attached to what is in essence, not criminal activity. There is no need or benefit to attaching misdemeanor status to these violations. The appropriate punishment for violations of this nature should be at most a civil penalty, if anything.

Thank you,



Ethan R. Okura

President
Okura & Associates

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 2:04 AM
To: TRNtestimony
Cc: daderider@gmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/7/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Marita Byrnes	Individual	Support	No

Comments: My husband has been a pilot for many years. He and I are both concerned about the seriousness of criminal penalties imposed for minor infractions relating to the use of the airport hangars. He is an emergency department physician and does not want something like this on his record that could interfere with license renewal for example.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

The Plum Law Office

A Law Corporation

700 BISHOP STREET, SUITE 2100
HONOLULU, HAWAII 96813
TELEPHONE (808) 528-0050
FACSIMILE (808) 524-3355
wplum@plumlaw.com

February 7, 2017

**RE: HB 1184 RELATING TO AERONAUTICS
HEARING 2-8-17 @ 9:00 A.M.
TESTIMONY IN SUPPORT**

Dear Chair, Vice Chair, and Committee Members:

I write in support of HB 1184.

For background, I am a lawyer, pilot, and co-owner of a general aviation aircraft. I have been a hangar licensee for about 10 years and before that, a tie down space licensee for about 15 years, all at the Honolulu International Airport's South Ramp. I utilize my plane for business and personal transportation to all islands. I am also a board member of the General Aviation Council of Hawaii ("GACH"), however this testimony is in my individual capacity.

1. **What is General Aviation?** "All aviation other than military and commercial airlines." (website of GAMA - The General Aviation Manufacturers Association). That usually includes operation of small planes, helicopters, flight instruction schools, air ambulance services, aerial photography, search and rescue services, tour and sightseeing services, non-regularly scheduled aircraft passenger, charter services, cargo services, and business aircraft.

2. **Why is this bill needed and how did we get to this point?** The reasons are many. Some are below.

a) The primary reason is the severity of the penalty for violations of the airport rules that affect general aviation is extreme and greatly disproportionate to the penalty that would be even be considered if the same event or violation in question was committed at any other public location. Most violations end up being charged as full criminal misdemeanors, subject to a year in jail, and creating a host of complications and inequities that will be discussed later. Simply put, the current penalty structure is unfair, unreasonable, and excessive.

b) A close second, is the fact that the Hawaii State Department of Transportation, Airports Division ("DOTA") has wielded the power they have with a passion and have used it over the last few years as a substitute for proper property management techniques that the rest of the world (aka the private sector) would use to deal with the same situations.

For instance, if a private property owner/landlord does not like the fact that a tenant has a cat in the apartment, or a commercial tenant has parked a car in the wrong location, the landlord simply gives the tenant fair warning of the violation and if it is not corrected, the landlord terminates the lease. In the DOTA's world, if the cat is not removed, or the car is not parked elsewhere, a uniformed Sheriff is dispatched to charge the tenant with a full misdemeanor. In fact, in all most all situations, no warning is even given. As a side note, I have represented in my practice, a number of residential and commercial property landlords and managers of operations that have many people come onto their properties everyday, and I can say without hesitation, that I have never seen a set of properties more mis-managed than the Hawaii airport facilities across this state.

c) A third reason is despite years of requests, emails, letters, and meetings with DOTA management, attempts to correct the situation via amendments to the Hawaii Administrative Rules ("HAR") for the Airports, DOTA has failed to follow up on their promises to meet with the general aviation community and to act in good faith. For reference, the misdemeanor charges brought against pilots and other who use airport facilities are a result of the Hawaii Administrative Rules ("HAR") containing provisions requiring that the penalty for most violation of airport rules be the penalties provided for under Hawaii Revised Statutes ("HRS") §261-21. Other than parking your car improperly, ALL other violations under HRS §261-21 are full misdemeanor violations.

3. **When is a crime, a misdemeanor crime?** Misdemeanors carry a penalty of imprisonment of up to one year. An example of a misdemeanor crime, besides violating an airport rule, is being a "peeping tom." For comparison, a petty misdemeanor is a first time drunk driving charge or shoplifting a bag of candy at Longs Drug.

4. **Why is being charged with a misdemeanor a big deal?** If a person is confesses to a misdemeanor charge or is convicted, that person now has a lifetime criminal record. We are talking about one level below a felony. If that person holds security clearance at his job (say DOD civilian or military), that person may loose his or her clearance and his or her job, if the person is a pilot, a doctor, a lawyer, a nurse, a real estate agent or anyone else who

must complete forms every so many years to keep a license, they

February 7, 2017

Page 3

must often tell the licensing authority if they have committed a crime. That can cause problems for those holding those licenses or attempting to obtain one of those licenses. Additionally, having a criminal record can bar a person from entry into some countries. For pilots, the impact is significant. Canada for instance, will not allow a pilot to act as a captain with a misdemeanor record. Even if the person managed to bargain with the prosecutor to reduce the crime down to a lesser crime, if that person is ever "asked" if they were "charged" with a misdemeanor, that person will have to answer "yes."

5. **What can get a person charged with a misdemeanor at the Hawaii airports?** Try keeping a fishing rod in your hangar. Under HAR §19-17.1-16, you would be a criminal. Even if you legitimately used your fishing rod to fish on other islands that you travelled to in your plane. That is considered by definition under that HAR, a *safety violation*.

On a more personal note, my hangar partner and I had some boxes stored in the back of our hangar. The boxes were kept there because the space was unused and the boxes in no way hampered the ability of our plane to exit or enter the hangar. The boxes had been there for 7 years. About 3 years ago, the DOTA announced an inspection. Thinking the inspection was nothing more than the many other inspections we had experience, we thought nothing of it.

Shortly after the inspection, I went to the hangar to fly the airplane. I found inside, sitting a desk, a yellow slip of paper. As it turns out, the paper was a criminal charge against one of the two of us for storage of the boxes. Think about it. Are some boxes in a hangar really worse than driving drunk or shoplifting? Are boxes in a hangar really on the same level as peeping into bedroom windows at 2:00 am?

As it further turns out, the inspection was not like all the others. This time a posse of uniformed Sheriffs officers swept through all the hangars and wrote as many criminal charges as they could think of. On our end, we were shocked. We had no trouble with our prior inspections and had we known that the boxes were an issue or been given some notice, we would have removed them. We also found out the Sheriff's Department, under direction of the DOTA, did this state wide and literally wrote hundreds, if not thousands of charges against pilots, plane owners, hangar licensees, and others with aviation businesses.

February 7, 2017
Page 4

On top of that, what the Sheriff's found as a violation varied greatly from one hangar to another. This arbitrary and inconstant application of the rules by the DOTA has led to an overall fear by pilots and others that one day what might be an acceptable activity, the next day might not, and vice-versa.

Once charged, my hangar partner had to retain a criminal attorney to represent him. Moreover, the yellow slip was not completed properly, something the Sheriff's Department has been incapable of doing do this day (I share office space with a criminal attorney and have seen dozens of these charges), nor was it served properly (misdemeanor charges need to be personally served - not left on some table or stuck in the tail of a plane sitting on the ramp outside). Notwithstanding the fact that the DOTA, the Prosecutors office, and the Sheriffs Department are well aware of these service defects, I have not heard of one person being personally served over the last 3 years. These inspections using Sheriff Department officers continue regularly until this day.

Conclusion. Pilots and others who use the airport need your help. This bill needs to be passed. The DOTA has refused to make changes at the administrative level and I can see why; they like the power they have. It is a power no private sector property manager or business operator has. One key DOTA person of authority even told me, when I questioned what the DOTA was doing, that he was "the new sheriff in town."

Without your help, honest and otherwise law abiding people are going to continue to be subject to worrying about ending up with a criminal record, not to mention the \$1,000 to \$5,000 or more many have spent on attorneys to try to deal with these charges. According to the national Airplane Owners and Pilots Association ("AOPA"), Hawaii is the ONLY state in the country that makes a rule violation of these types at an airport a criminal act. Putting that fact aside, common sense alone says this picture is not right.

Thank you.

Sincerely,



William J. Plum

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 8:41 PM
To: TRNtestimony
Cc: prambaut@earthlink.net
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/6/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Rambaut	Individual	Support	No

Comments: This bill will have a salutary effect on General Aviation and airport safety in Hawaii. While not condoning violations of airport rules it will promote cooperation between airport users and the State by eliminating disproportionate penalties for minor or inadvertent infractions.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 6:27 PM
To: TRNtestimony
Cc: lia@goldwings-supply.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/6/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Lia Hunt	Goldwings Supply Service, Inc.	Support	No

Comments: Please correct this ridiculous citation. Most of the time the issuance is a misunderstanding that can be easily remedied or an error by the DoT. A felony can sideline a pilot and aircraft mechanic and get AOA badges revoked.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

COMMERCE LAW CORPORATION
PO Box 10219
HONOLULU, HI 96816

February 6, 2017

Dear Honorable Committee Members:

RE: HB 1184

I support this bill. I am an attorney and FAA Licensed Remote Pilot, Certification No. 3914802, and find that the current penalties for violation of rules at the airports are extreme and disproportionate to what the same penalty that would be assessed in other areas under the law at other locations.

According to how things currently stand, almost every violation of a rule at the airport gets the individual or entity involved charged with a full misdemeanor. Forcing the party involved to retain a lawyer and potentially face up to a year in prison for a criminal charge is neither just nor fair.

I support this bill and find the current use of the criminal statutes by DOTA to be excessive and penalties for violation of DOTA's rules disproportional to any violations that may have occurred.

Aloha,

COMMERCE LAW CORPORATION

A handwritten signature in black ink, appearing to read "Mark Mukai".

Mark Mukai
President

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 5:35 PM
To: TRNtestimony
Cc: buzzpax@yahoo.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/6/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
L W P	Individual	Support	No

Comments: Passage of this bill is critical to the future of general aviation in Hawaii.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 5:07 PM
To: TRNtestimony
Cc: nspcurtis@gmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/6/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Curtis Michael Ague	Individual	Support	No

Comments: I WAS BURNED, I GOT 3 TICKETS FOR PARKING ON THE HONOLULU AIRPORT BECAUSE I DID NOT PARK IN A DESIGNATED SPOT WITH A 2016 STICKER. I SHOWED UP FOR COURT EXPECTING TO PAY A FINE. I ENDED UP HAVING TO RETURN 10 TIMES & TWO ROUNT TRIPS FROM THE MAINLAND. THE JUDGE TOLD ME I NEEDED AN ATTORNEY, I WAS SHOCKED, I HAD BEEN CHARGED WITH A MISDEMEANOR. I COULD LOOSE MY PILOTS LICENSE. THE PENALTY DOES NOT MATCH THE CRIME. THIS IS ABSOLUTELY RIDICULOUS. I LEARNED THAT THIS IS THE ONLY STATE IN THE COUNTRY THAT TREATS THE FLYING PUBLIC THIS WAY. AS IT TURNS OUT, THERE IS NO LISTED PENALTY FOR PARKING ON THE AIRPORT, THEY HAD TO APPLY A MOVING VIOLATION TO TRY TO CONVICT ME. MY ATTORNEY POINTED THIS OUT AND THE ENTIRE THING WAS THROWN OUT. I'M A FREE MAN. I AM PACKING MY AIRPLANE UP IN A CONTAINER AND SHIPPING OUT OF HAWAII.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

quinlan1 - Neil

From: Robert Clancey <robert.clancey@gmail.com>
Sent: Tuesday, February 7, 2017 8:00 AM
To: TRNtestimony
Subject: Testimony for House Bill 1184 relating to aeronautics

Good Morning;

I am submitting brief testimony for my support of passage HB 1184 as it relates to aeronautics.

I strongly affirm that criminal offenses should be **REPLACED** for certain airport offenses with civil penalties or no penalty if applicable.

(For example having a non-aviation item in ones airplane hanger such as a bicycle or couch should **NOT** be a criminal offense with the defendant risking a **criminal** record which could become permanent and jeopardize career etc.)

This is far too draconian and has resulted in some serious threats to ones career and livelihood!!!!!!

I humbly ask for support in passage of this bill to decriminalize certain airport offenses under Hawaii redivide status chapter 261

Kind regards,

Robert Clancey

Testimony for House Bill No. 1184

I am writing to express strong support for House Bill No. 1184, to decriminalize minor civilian airport violations. It is clear that the imposition of criminal penalties for certain minor airport violations, relating to parking for example, poses an excessive burden to pilots, flight crew, and airport personnel. Pilots particularly are among the most outstanding professional classes in the State of Hawaii. Their work is characterized by high levels of responsibility, a commitment to professional excellence, as well as public and human safety. Excessive criminalization measures in the airport environment carry severe and unfair consequences for pilots. The threat of potential criminalization is not only extremely detrimental to a pilot's flying career; it may conceivably hinder their ability to focus on the intense demands of flight safety. Excessive criminalization of pilots for minor civil violations ultimately reduces airport safety by forcing pilots to divide their attention ineffectively. In this scenario, pilots are essentially forced to make choices between the necessary flight related tasks, and say for example, parking time limits. This system is not only harmful to pilots and airport safety; ultimately, it is economically harmful to the local aviation industry. Replacing criminal penalties for minor airport violations with appropriate civil penalties will accomplish two important objectives. First, it will enable pilots to fully focus on the demands of strengthening airport and flight safety. And second, it will fundamentally encourage pilots remain in the aviation industry in here locally, rather than seeking alternative employment elsewhere.

Thank you,

Julia Graham

FAA REPAIR STATION # UWKR917L
East West Avionics, Inc.
90 Nakolo Place Suite #210
Honolulu, Hawaii 96819
Phone: (808) 798-4024
eastwestavioncs@gmail.com
www.eastwestavionics.com



To Whom It May Concern:

The fact that regulatory violations at the airport are considered criminal misdemeanors is extreme and ridiculous. Example: An aircraft owner has his aircraft tied down in a rented stall. He comes to the airport on the weekends to maintain and fly his aircraft as he's busy through the week, and why not, this is one of the freedoms of this country that I personally went to a war to defend. One Wednesday, his nose tire leaks out and goes flat. After all, the sun here is hard on plastics and rubber. On Thursday, the ramp control is driving by and spots the tire and leaves a citation on the window. The person comes to the airport on Saturday as his usual day and now discovers he has a criminal misdemeanor violation for a tire that went flat. He would have been better off if he went on a shoplifting spree and drove home drunk since that is a petty misdemeanor. This is the only airport in the world that this would be a criminal violation. Well maybe North Korea or Russia. This form of punishment is too extreme as we are protected against by the Eighth amendment to the constitution. The punishment does not fit the crime, wait a minute, there is no crime yet it's being punished as one.

As a business owner and Chief Technician for an avionics repair facility, the only one in the State, I can attest to the difficulty in bringing talent in from the outside. In case you haven't considered the ramifications in violating small operator out of existence, the cost will be enormous to the State's economy. Let's consider pilot training. If you don't train new pilots locally, soon the airlines the State depends on for local dominance of the local airline industry will be undermined if not completely compromised. Take it from experience in trying to bring outside labor in at wages most places want to pay in this State, including Hawaiian Airlines. People love to visit Hawaii, living here is another story when you tell them you'll pay the same here as a mainland job for an extreme hike in cost of living. That generally ends the interview. You can pay higher wages for pilots and maintenance but that will translate into local carriers not maintaining competitive pricing with mainland carriers. Guess what happens then...Aloha.

If it is made too difficult to operate an aircraft in the state, the people with aircraft take them away or get rid of them. I've seen several aircraft go in the last year alone. The one common statement for the majority is that the state is making it too hard to keep an aircraft in a place that's already difficult to maintain the aircraft. I agree. This island state should be embracing aviation not chasing it away.

Sincerely,

Pat Rhodes

Owner and President of East West Avionics, Inc.



421 Aviation Way
Frederick, Maryland 21701

T. 301-695-2000
F. 301-695-2375

www.aopa.org

Tuesday, February 7, 2017

The Honorable Henry Aquino
House Transportation Committee
Chair
415 S Beretania St, Room # 213
Honolulu, HI 96813

Dear Representative Aquino:

The Aircraft Owners and Pilots Association (AOPA) is the world's largest aviation organization representing the general aviation interests of pilots in Hawaii. We would like to extend our support for House Bill 1184, which replaces criminal penalties for certain airport offenses with a civil penalty.

HB1184 aligns Hawaii Administrative Rules with recently released Federal Aviation Administrations (FAA) guidelines regarding aircraft hangar use. Which clarifies the FAA's policy regarding storage of non-aeronautical items in airport facilities designated for aeronautical use.

Hawaii is the only state issuing citations for hangar infractions which qualify offenders for charges resulting in a permanent criminal record. These are not simple parking tickets or civil infractions; these are criminal misdemeanor charges. Chapter 261, as written, contains sweeping language at the expense of local pilots. Currently, a set of golf clubs or a bike in an airplane hangar are enough to result in charges under the statute.

If a professional pilot has been convicted of a misdemeanor, he must declare so on his aviation medical forms (specifically section 18W) and job applications and can no longer fly into several countries. Most impactful is those individuals who have chosen to serve our country and hold government security clearances (military, reserve or DoD). These charges can and do result in the loss of clearances effectively costing them their jobs.

There are times when the decision to determine the penalties of an offense is difficult and any determination will be sure to incense one group or another. This is not one of those times. Instead, this is one of those rare instances when the answer is so distinct that it is incredible prior action has not already been taken.

We thank you and appreciate your introduction of this important bill. These necessary changes to the Hawaii Revised Statutes is a step in the right direction in rectifying the extreme situation at hand. If you have any questions or require additional information, please do not hesitate to contact me at 301-695-2228 or Melissa.McCaffrey@aopa.org

Very truly yours and Mahalo,

Melissa McCaffrey, Western Pacific Regional Manager

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 4:48 PM
To: TRNtestimony
Cc: vbakke@yahoo.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM

HB1184

Submitted on: 2/7/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Victor Bakke	Individual	Support	No

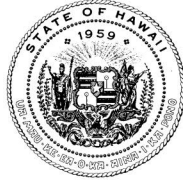
Comments: I support this bill. I am a criminal defense attorney and have handled many cases, including some of the very first ones filed a few years ago, related to the DOTA's highly aggressive tactics surrounding the airport rules. Some of my clients have had to spend thousands of dollars in fees to defend themselves in court and against the criminal misdemeanor charges brought against them. A person accused of a misdemeanor, such as those my clients have been charged with, face having a criminal record for life. This is both unreasonable and unjust. Additionally, the Sheriffs Department regularly mis-charges my client relative to the crime my client has been accused of committing. The offenses, as charged, are serious matters, equivalent to being charged with abuse of a household member. By passing this bill, some sanity will be brought to the current situation.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

DAVID Y. IGE
GOVERNOR

LATE



REVISED

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 8, 2017
9:00 a.m.
State Capitol, Room 423

H.B. 1184
RELATING TO AERONAUTICS

House Committee on Transportation

The Department of Transportation (DOT) opposes of H.B. 1184 as the purpose of this Act is to replace criminal penalties for certain airport offenses addressed in chapter 261, Hawaii Revised Statutes, or in certain administrative rules or orders issued pursuant thereto, with a civil penalty.

The Criminal Citation was established by State Legislature. Every Hawaii Administrative Rule (HAR) violation cannot be classified as a criminal citation. DOT cannot completely delete criminal citations as this action would decimate justice and order. Management and legal counsel should review the existing HAR Title 19 to determine which violations could be viewed as criminal citations. The supplement to this proposal should require the General Aviation Council of Hawaii (GACH) to develop a General Aviation Handbook in cooperation with DOT before May 1, 2017. DOT will not support any effort to decriminalize the criminal citations unless GACH develops the General Aviation Handbook.

.

Thank you for the opportunity to provide testimony.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 8, 2017 8:10 AM
To: TRNtestimony
Cc: bspencer@hawaii.rr.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM



HB1184

Submitted on: 2/8/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Spencer	Individual	Support	No

Comments: Dear Chair and Members of the committee: I strongly support the intent of this measure to DE-CRIMINALIZE and make harder the ability of airport managers to cite hangar lessees. I previously submitted testimony in opposition, but that was incorrect. If possible I kindly request the Sergeant-at-Arms to remove my previous testimony and substitute my testimony here in support of HB 1184. Thank you, Bill Spencer

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 8, 2017 8:10 AM
To: TRNtestimony
Cc: boppermann@hotmail.com
Subject: Submitted testimony for HB1184 on Feb 8, 2017 09:00AM



HB1184

Submitted on: 2/8/2017

Testimony for TRN on Feb 8, 2017 09:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie Oppermann	Individual	Support	No

Comments: Dear Chair and Members of the Committee: I support the bill with the following proviso: those impacted should have clear understanding of what actions specifically constitute a violation of safety measures, practices or requirements; airport security measures or requirements; and licensing and regulation. Otherwise, this bill is too vague to implement. Bonnie Oppermann

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov