



## *The Judiciary, State of Hawai‘i*

### **Testimony to the House Committee on Judiciary**

Representative Scott Y. Nishimoto, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, April 4, 2017, 2:00 p.m.  
State Capitol, Conference Room 325

#### WRITTEN TESTIMONY ONLY

By  
Calvin Ching  
Deputy Chief Court Administrator, First Circuit

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**Bill No. and Title:** Senate Bill No. 1163 Senate Draft 1, Relating to Aeronautics

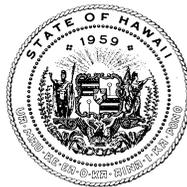
**Purpose:** Replaces criminal penalties for certain airport offenses addressed in the laws relating to aeronautics or in certain administrative rules or orders issued pursuant thereto, with a civil penalty. Takes effect on 1/7/2059. (SD1)

#### **Judiciary's Position:**

The Judiciary takes no position on the merits of Senate Bill No. 1163 SD1; however, the Judiciary is concerned by the bill's use of the term "civil penalty." The bill would amend Section 261-21, Hawaii Revised Statutes to amend certain airport offenses from a misdemeanor to a violation which would include a "civil penalty." To maintain consistency and continuity with other violations within the penal code, the Judiciary would like to suggest that the term "civil penalty" be replaced with the term "fine."

Thank you for the opportunity to testify on Senate Bill No. 1163, Senate Draft 1.

DAVID Y. IGE  
GOVERNOR



**Testimony by:**  
FORD N. FUCHIGAMI  
DIRECTOR

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

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

IN REPLY REFER TO:

April 4, 2017  
2:00 p.m.  
State Capitol, Room 325

**S.B. 1163, S.D. 1**  
**RELATING TO AERONAUTICS**

House Committee on Judiciary

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The Department of Transportation (DOT) **supports** with comments S.B.1163, S.D.1 relating to Aeronautic Administrative Rules and Penalties. Although there are incompatibilities with the degree of punishment versus the infraction, compliance must be standardized and adhered to regarding the enforcement of guidelines to be established by a General Aviation Handbook (GAH).

The GAH will define the infractions and associated penalties through a collaborative process to include, but not limited to the DOT, State Attorney's office, Federal Aviation Administration and representatives of the General Aviation community.

We appreciate the opportunity to comment on this Bill.

JUDtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Saturday, April 1, 2017 1:05 PM  
To: JUDtestimony  
Cc: robmoorehawaii@hotmail.com  
Subject: Submitted testimony for SB1163 on Apr 4, 2017 14:00PM  
Attachments: GACH Letter to Rep Nishimoto for SB1163SD1.pdf

**SB1163**

Submitted on: 4/1/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

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

Comments: Aloha Chair Nishimoto and Members of the Judiciary Committee, I have attached a letter from the General Aviation Council of Hawaii (GACH) who represent over 500 pilots and aviation businesses in the State of Hawaii. GACH FULLY SUPPORTS the passage of SB 1163 SD1. This bill will correct an injustice that DOT Airports Division has been unable or unwilling to correct for over 6 years. It is obscene to think that a professional pilot at our State Airports could receive a criminal citation for a simple violation of having a bike in the hangar to ride to the restroom or incorrectly parking an airplane without chocks. HAWAII IS THE ONLY STATE IN THE US THAT ISSUES CRIMINAL CITATIONS FOR MINOR VIOLATIONS AT AIRPORTS. DOT Harbor Division issues administrative actions for similar violations in their harbors not criminal citations like DOTA. Please correct this problem and support the passage of this bill. Thank you

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## *General Aviation Council of Hawaii*

Post Office Box 75623  
Kapolei, Hawaii 96707  
808-223-9991  
[www.gach.us.com](http://www.gach.us.com)

April 1, 2017

Representative Scott Nishimoto  
Chair, House Judiciary Committee  
415 South Beretania Street  
Hawaii State Capitol  
Honolulu, Hawaii 96813

**RE: SB 1163\_SD1 - RELATING TO AERONAUTICS**

Aloha Chair Nishimoto:

The General Aviation Council of Hawaii (GACH) fully supports **SB 1163 SD1** that has been referred to your committee for a hearing on April 4, 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 or an aircraft improperly parked that the Airports Division of Hawaii's Department of Transportation ("DOTA") deems to be a violation of their rules, results in a criminal misdemeanor charge against the person or entity that rents the hangar or parking space. GACH, during its research, did not come across any airport in the country outside Hawaii that levies such an extreme penalty on those who rent hangars and park aircraft on the ramp. GACH has tried to work with DOTA since 2012 to change their HARs, and the corresponding HRSs, but has been unsuccessful.

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).

SB 1163 SD1 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,

Robert Moore  
President

\gach-m-3.rm

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 31, 2017 9:43 PM  
**To:** JUDtestimony  
**Cc:** nicole@novictoraviation.com  
**Subject:** \*Submitted testimony for SB1163 on Apr 4, 2017 14:00PM\*

**SB1163**

Submitted on: 3/31/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nicole Vandelaar	Novictor Helicopters	Support	No

Comments:

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JUDtestimony

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From: Joy Gold <joy@joygoldunlimited.com>  
Sent: Saturday, April 1, 2017 4:01 PM  
To: JUDtestimony  
Cc: Larry Jeffs (ljefts@aloha.net)  
Subject: SB1163sd1, Aeronautics, Hse JUD Hearing, Tues April 4 - 2:00pm  
Attachments: LJ\_SB1163sd1\_Aeronautics\_HseJUD.pdf

Aloha,  
On behalf of Larry Jeffs, owner and operator of Larry Jeffs Farms, LLC, please accept the attached testimony for:  
SB113sd1, Aeronautics  
Hse JUD Hearing  
Tues. April 4 – 2:00pm  
Room 325

Please call me at 368-1146 if there are questions about the testimony submittal.  
Thank you,  
Joy Gold

\*\*\*\*\*

Joy Gold Unlimited  
1136 Union Mall, Ste. 403  
Honolulu, Hawaii 96813  
Cell: 808-368-1146  
[www.joygoldunlimited.com](http://www.joygoldunlimited.com)

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

SB1163sd1, Relating to Aeronautics  
House Judiciary Hearing  
Tuesday, April 4, 2017 – 2:00pm  
Room 325  
Written Testimony by: Larry Jeffs  
Position: Support

Chair Nishimoto and Members of the House JUD Committee:

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.

SB1163sd1 addresses concerns raised by the general aviation community about overly harsh criminal penalties for perceived minor infractions, such as keeping non-aircraft items in a hangar otherwise used for aircraft storage. By decriminalizing certain offenses, aviators will be able to quickly resolve violations by paying a civil fine, rather than resort to contesting a case in court to avoid losing their pilot's licenses or jeopardizing their careers.

SB 1163sd1 will bring some clarity and uniformity of how certain airport offenses are administered in Hawaii. Your support of this measure is appreciated. Thank you for the opportunity to provide testimony.



421 Aviation Way  
Frederick, Maryland 21701

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

[www.aopa.org](http://www.aopa.org)



April 4, 2017

The Honorable Scott Nishimoto  
House Judiciary Committee  
Chair  
415 S Beretania St, Room # 421  
Honolulu, HI 96813

Dear Representative Nishimoto:

The Aircraft Owners and Pilots Association (AOPA) is the world's largest aviation organization representing the general aviation interests of pilots in Hawai'i. We would like to extend our strong support for Senate Bill 1163, which replaces criminal penalties for certain airport offenses with a civil penalty.

In an effort to clean up non-aeronautical commercial practices at airports around the state of Hawai'i, strict standards for hangar usage were established under the Hawai'i Revised Statutes. The unintended consequences of these strict standards were an overreaching impact on pilots, their careers and the state judicial system. Senate Bill 1163 provides a remedy for those un-intended consequences, increases state revenue and maintains fair and effective enforcement practices for airport rules and regulations.

The Hawai'i Department of Transportation Airports Division (DoTA) currently issues criminal citations for hangar and parking policy infractions resulting in misdemeanor charges for pilots. This practice is mandated under Hawai'i Revised Statutes, Section 261-21 which reads: "... any person violating this chapter, or any of the rules or orders issued pursuant thereto... shall be guilty of a misdemeanor."

### **The Issue**

There are several concerns with current Hawai'i DoTA enforcement practices impacting Hawaii pilots, including the far reaching impact of misdemeanor offences, one of which is having to report such offences on the Federal Aviation Administration (FAA) on a medical certification. The FAA regulations require pilots to report any criminal citations on FAA Form 8500-8, question 18-W; "History of non-traffic convictions, (misdemeanors and felonies.)" Airline pilots, military servicemen, and corporate pilots flying recreationally, or leasing a hangar, face career ending consequences if issued a criminal citation by the Hawai'i DoTA.

Subsequently, if issued a criminal citation pilots are advised not to pay the fine or plead guilty to a misdemeanor but rather, are advised to fight the charge in court in an attempt to have the violations reduced. Many of these are hangar/parking infraction cases that cause delays and undue burden and cost on the Hawaii court system. Litigating a \$200 fine can end up costing thousands of dollars for pilots and tens of thousands for the state.

### **FAA Policy Clarification**

On the 15<sup>th</sup> of June, 2016 the FAA issued a notice of final policy clarifying the non-aeronautical use of airport hangers. Regarding storage of non-aeronautical items, "the FAA recognizes that storage of some items in a hangar this is otherwise used for aircraft storage, will have no effect on the aeronautical utility of the hangar." This "common sense policy" allows pilots to store miscellaneous items in their hangars as long as aircraft can still use the hangar unimpeded.



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### **State Comparison**

Hawai'i is the only state issuing misdemeanor for hangar policy violations. Every other state in the nation issues civil penalties and fines allowing the proper enforcement of aviation regulations; speedy collection of fines; and a safe atmosphere for pilots to admit mistakes without being condemned by them.

### **Senate Bill 1163**

Senate Bill 1163 will reduce non-security infractions of aviation regulations from a misdemeanor to a violation. This will:

1. Align Hawai'i aviation enforcement practices with FAA standards and nationally recognized enforcement practices,
2. Pilots will be able to pay fines quickly without fear of endangering their careers, and having a permanent criminal record,
3. The timely payment of these fines will result in increased revenue for the state and decrease in court costs.

We thank you and appreciate your introduction of this important bill. These necessary changes to the Hawai'i 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](mailto:Melissa.McCaffrey@aopa.org)

Very truly yours and Mahalo,

Melissa McCaffrey, Western Pacific Regional Manager

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, April 2, 2017 11:07 AM  
**To:** JUDtestimony  
**Cc:** pattherealpilot@aol.com  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/2/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick E. McNamee	Individual	Support	No

Comments: Important bill to pass. Affects future federal funding of the Hawaii airports system.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, April 2, 2017 5:08 AM  
**To:** JUDtestimony  
**Cc:** lubbersbeware@hotmail.com  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/2/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Adam Thomas Townley-Wren	Individual	Support	Yes

Comments: The effects of criminalizing minor infractions have been devastating upon the aviation industry in the state of Hawaii. Many many fine individuals have simply left the state forever over this, Some of them born and raised here for decades. Those of us who remain live in fear of the DOTAs overzealous and utterly unthinking enforcement of rules they don't even fully understand themselves. Of the hundreds of citations written by various airport authorities we are aware of no convictions. This means that NO CRIMES HAVE BEEN COMMITTED yet the DOTA continues to cause people to show up in court and spend thousands in legal defense while they hide behind a statute claiming they have no alternative enforcement options. If a tenant gets on their bad side they have demonstrated they are vindictive and petty and have no qualms about writing frivolous criminal citations. The fact that DOTA now uses deputized Securitas agents to write citations that could potentially END the careers of military and airline pilots over a single golf club is unconscionable. Removing the criminality of these minor infractions would serve to actually enforce the airport rules more effectively. The courts will never sign off on a year imprisonment or a \$50,000 fine for these types of infractions but the airport could handle these disputes with administrative actions like every other airport in the nation. If you break the rules, you loose your lease or your security badge. It's really that simple.

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# F. Michael Singer

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P.O. Box 1719, Keaau, HI 96749-1719 | 808-327-6700 | [m.singer@heartwoodpacific.com](mailto:m.singer@heartwoodpacific.com)

April 1, 2017

State of Hawaii  
State Legislature

Re: SB1163

I support Senate Bill 1163 for the following reasons:

1. It stops the foolishness of criminalizing stand-up citizens;
2. It is a step in the right direction by bringing sound common sense to our airports;
3. It removes a layer of stigma of how unfriendly general aviation is here in Hawaii;
4. And it sends out a positive message to the general aviation community nationally thereby making improvements to future growth.

Sincerely,

F. Michael Singer

Pilot, aircraft owner and hangar tenant in Hilo, Hawaii

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, April 1, 2017 2:57 PM  
**To:** JUDtestimony  
**Cc:** kieferj001@hawaii.rr.com  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/1/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joseph T Kiefer	Individual	Support	No

Comments: I received a criminal citation because my aircraft was tied down in the wrong space. Problem is it was in fact in the space for which I had a valid and current permit but DOTA's records were in error. By the time there gave me a letter admitting the citation was issued in error the citation had been referred to the courts and I had to hire a lawyer for \$500 to have the citation dismissed. There is just simple no reason to impose criminal sanctions for this sort of minor issues which could have been resolved by a phone call or letter.

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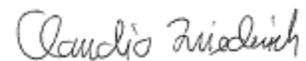
Aloha,

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. SB 1163 would correct this injustice, and would not impose any costs on the state or any agency, nor lead to any loss of revenue to any entity.

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 SB 1163. Thank you.

Sincerely,



Claudio Friederich

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

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, April 1, 2017 8:37 AM  
**To:** JUDtestimony  
**Cc:** bisaacso@hawaii.edu  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/1/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Isaacson	Individual	Support	No

Comments: Aviation is extremely important to Hawaii and should be supported whenever possible. Aligning Hawaii's statutes with current FAA practice will help encourage aviation, large and small, in the state. We need aviation to exist economically.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, April 1, 2017 7:50 AM  
**To:** JUDtestimony  
**Cc:** n34212@gmail.com  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/1/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Daniel	Individual	Support	No

Comments: Thank you for taking the time to receive my testimony. I am an airport tenant. I have found that the State Department of Transportation Airports Division Office of Property (mis) Management has generally treated general aviation clients not as customers, but rather as their enemies. Three retired airline pilot friends have "voted with their feet" and left Hawaii, one of them said "we do not have that many flying years left to waste them doing battle with the Airports Division". Talented mechanics have also left due to Property Management's overbearing style. Their incompetence and arrogance has cost the State hundreds of millions in delayed and mishandled projects not only on Oahu, but on the neighbor islands as well. Not only the Hawaiian Airlines Maintenance Building, but the new Air Cargo Building in Hilo remains unoccupied. It is always a non negotiable take it or leave it bad contract. Brian Daniel

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, April 3, 2017 6:36 AM  
**To:** JUDtestimony  
**Cc:** randy@douglasaircraftinc.com  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/3/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

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

Comments: Please remove the heavy handed government intrusion into the lives of aviators. The Airports Division ironically dislikes all non commercial aviators and tries to punish them just for being involved in general aviation. The real criminals are the DOT employees abusing their power.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, April 3, 2017 2:26 AM  
**To:** JUDtestimony  
**Cc:** ronpbilek@hawaiiantel.net  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/3/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ronald Bilek	Individual	Support	No

Comments: Please pass this bill to decriminalize the penalties at Hawaii airports. Pilots should not be charged with criminal citations for minor parking violations at Hawaii airports.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, April 3, 2017 9:36 AM  
**To:** JUDtestimony  
**Cc:** garrick@garrickgoo.com  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/3/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Garrick Goo	Individual	Support	No

Comments: I write in unequivocal support of SB 1163. As one of many general aviation pilots in Hawaii who have owned small aircraft stored in hangars leased from the Department of Transportation, I cannot imagine that it was the intent of the Legislature to so extremely punish hangar tenants for simply having a flat tire or leaving sports equipment in the hangar. General aviation pilots in Hawaii are typically ordinary people of average means with small aircraft whose ages are usually measured in decades, not years. But we all share a common love of flying in an island state that lends fabulous scenery when flying and, to commend the DOT, otherwise very local-style welcoming attitudes by airport staff and vendors when flying into our State's airports. Please help us to fix these poorly written laws that very disproportionately punish individuals for minor infractions of non-criminal, administrative rules.

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, April 4, 2017 1:41 AM  
**To:** JUDtestimony  
**Cc:** daderider@gmail.com  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/4/2017

Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marita Byrnes	Individual	Support	No

Comments: I am writing in support of the bill SB1163SD1 to help reduce the criminal charges (misdemeanor) for a hangar infraction. Several of my friends and spouse are pilots and this seems overly punitive to give pilots a criminal record for a hangar discrepancy. Please do whatever you can to pass this bill. Mahalo! Marita Byrnes, Honolulu HI

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, April 4, 2017 1:27 AM  
**To:** JUDtestimony  
**Cc:** ROBBON1@YAHOO.COM  
**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

Submitted on: 4/4/2017  
Testimony for JUD on Apr 4, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
robert bonham	Individual	Support	No

Comments: Testimony for SB1163SD1. I am an airplane owner and emergency physician. I use my plane routinely to fly to neighbor islands to lecture and teach paramedic classes as medical director for KCC EMS training. I share a hangar with several other professionals who are also pilots. We all feel intimidated and surprised by the State of Hawaii airports division ability to give us criminal citations for discrepancies in hangar issues. The State of Hawaii Airports Division goes out of its way to penalize pilots, stifle air commerce (by not supporting aviation) and by hindering efforts to rectify this bureaucratic flaw. Quite simply those in charge do not seem to care. We are the only state to hand out criminal citations (misdemeanors) for discrepancies in hangar matters. I support SB1163 and please help us correct this situation. Sincerely, Robert Bonham, MD Emergency Physician Honolulu, HI 96817

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, April 4, 2017 12:08 AM  
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**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

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**SB1163**

Submitted on: 4/4/2017

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
linda m. douglas	Individual	Support	Yes

Comments: I support this bill. This bill brings sanity and reasonableness to the enforcement of airport rules. No longer will an individual be charged with a full misdemeanor for violations that in any other part of the state, there would be a simple fine.

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**LATE**

# The Plum Law Office

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April 3, 2017

Rep. Scott Y. Nishimoto, Chair  
House Judiciary Committee  
State of Hawaii

**RE: SB 1163 RELATING TO AERONAUTICS  
HEARING 4-4-17 @ 2:00 P.M.  
TESTIMONY IN SUPPORT**

Dear Chairs, Vice Chairs, and Committee Members:

I write in **support** of **SB 1163**.

**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 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. The Hawaii State Department of Transportation, Airports Division ("DOTA") has refused to make or support any changes.

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**b)** A close second, is the fact that DOTA has wielded the power they have without regard to the consequences of those they charge 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 criminal 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 landlords and managers of businesses that have many people come onto their property 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 HAR's 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 misdemeanor violations.

**3. When is a crime, a misdemeanor crime?** Misdemeanors carry a penalty of imprisonment of up to one year, a fine of up to \$2,000 and the right to have a jury trial. An example of a misdemeanor crime, besides violating an airport HAR, is being a "peeping tom." For comparison, a petty misdemeanor is a first time drunk driving charge or shoplifting a bag of candy bars 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 lose 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 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 traveled 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. 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 charged hundreds, if not thousands, of pilots, plane owners, hangar licensees, and others, with aviation businesses, with criminal misdemeanors under HRS 261-21.

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.

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Once charged, my hangar partner had to retain a criminal attorney to represent him. Moreover, the yellow slip was not completed properly, nor was it served properly.<sup>1</sup> 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.

**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. Without your help, honest and otherwise law abiding individuals 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

sb1163-3.wjp

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<sup>1</sup> Something the Sheriff's Department has been incapable of doing to this day. I know, I share office space with a criminal attorney and have seen dozens of these slips. Moreover, 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.

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
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**To:** JUDtestimony  
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**Subject:** Submitted testimony for SB1163 on Apr 4, 2017 14:00PM

**SB1163**

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ti Nguyen	Individual	Support	No

Comments: Please pass this bill as criminal citations being issued for minor violations committed at Hawaii airports are not legitimate.

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