

**Bernard P. Carvalho, Jr.**  
Mayor



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**Testimony Relating to Special Management Areas**  
**SB 1182**

**By Michael A. Dahilig**  
**Director of Planning, County of Kauai**

The Kauai Planning Department **OPPOSES** the addition of the definition of "Parked lunch wagons or food trucks" as "structures". The department also **OPPOSES** the addition of the term "placement" to the definition of "Development" in Section 205A-22, Hawaii Revised Statutes.

Although the intent of this Bill is understood and appreciated, prior to taking legislative action the following should be vetted:

The County of Kauai considers food trucks as a "Use" relative to the Special Management Area Rules and Regulations. By defining parked food trucks as structures, this conflicts with the definition of "Structure" in our Comprehensive Zoning Ordinance. This may also conflict with both Public Works Building and Engineering Divisions requirements for permitting these licensed motor vehicles as "structures".

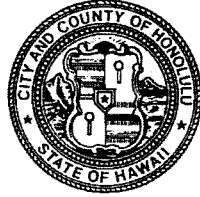
Per the Comprehensive Zoning Ordinance, a "Structure" means anything constructed or erected which requires location on the ground or which is attached to something having location on the ground, excluding vehicles designed and used only for the transportation of people or goods, and excluding utility poles and towers constructed by a public utility.

The term "placement" can be too broadly defined to include numerous uses within the Special Management Area and would be difficult to enforce.

Additionally, a provision for the cost of enforcement should be considered prior to adoption of this Bill.

DEPARTMENT OF PLANNING AND PERMITTING  
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KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

February 15, 2017

The Honorable Karl Rhoads, Chair  
and Members of the Committee on  
Water and Land  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Committee Members:

Subject: Senate Bill No. 1182  
Relating to Special Management Areas

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 1182, which would add a new definition of parked lunch wagons or food trucks to apply in special management areas (SMA). This measure would define "parked lunch wagons or food trucks" as "structures" for SMA development and shoreline setback purposes.

The DPP understands and appreciates the intent of this Bill. However, the coastal zone is not always adversely impacted by food trucks. They can have positive impacts, too, such as promoting entrepreneurship and, as such, contribute to Oahu's economy.

We respectfully note that the proposed definition of "lunch wagons and food trucks" is problematic. Mobile food trucks are not "structures" according to the City's Building Code. Creating a new definition of "structure" may cause confusion. Additionally, the new definition that includes a food truck being "parked at the same site without being moved off the site for a period of at least 72 hours" contradicts State law requiring food trucks be moved every 24 hours. From the City's perspective, their movement is already difficult to determine and enforce, regardless of how often they are requested to move.

The counties have the ability to regulate food trucks under SMA regulations. They could be determined to have "cumulative impacts," per HRS 25-1.3(3), or "significant effect," HRS 25-1.3(4). We are already looking into this and will be

The Honorable Karl Rhoads, Chair  
and Members of the Committee on  
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Hawaii State Senate  
Senate Bill No. 1182  
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developing a regulatory approach to food trucks, and would be happy to keep you apprised of our efforts.

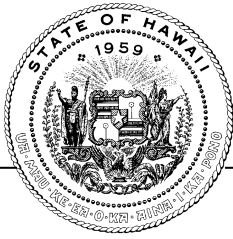
In sum, we ask that this Bill be deferred.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy K. Sokugawa". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kathy K. Sokugawa  
Acting Director



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**DAVID Y. IGE**  
GOVERNOR

**LEO R. ASUNCION**  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**SENATE COMMITTEE ON WATER AND LAND**  
Wednesday, February 15, 2017  
3:00 PM  
State Capitol, Conference Room 414

in consideration of  
**SB 1182**  
**RELATING TO SPECIAL MANAGEMENT AREAS.**

Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Water and Land.

SB 1182, Relating to Special Management Areas, amends HRS § 205A-22 by adding a definition of “Parked lunch wagon or food truck,” amends the definition of “Development” in a special management area (SMA) to include placement of any structure, and amends the definition of “Structure” in relation to shoreline setbacks to include parked lunch wagons or food trucks. The intent of SB 1182 is to regulate parked lunch wagons or food trucks to meet the requirements of SMA use and shoreline setbacks.

The SMA permit was established in 1975 with the enactment of Act 176, known as the Shoreline Protection Act. The purpose of SMA permit is to enact special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided.

OP respectfully offers the following comments on this measure:

1. Page 1, lines 4-17, amends HRS § 205A-22 under Part II of HRS Chapter 205A by adding a definition of “Parked lunch wagon or food truck” to apply in SMAs. We do not think it is appropriate to add the definition of a specific structure or activity, such as “parked lunch wagon or food truck” to HRS § 205A-22, which generally defines “development” and “not development” in SMAs. Whether or not a specific structure or an action is a development in the SMA and/or requires an SMA permit, should be assessed and determined by the respective county SMA authorities. Please note that placement of a parked lunch wagon or food truck in the SMA is not on the list of “not development” under HRS § 205A-22.

2. Page 2, line 16, adds “placement” of any structure to the definition of “Development”. We support this amendment to clarify the definition of development in the SMA, which guides the county planning departments to assess whether a proposed structure and action such as “parked lunch wagon or food truck” is a development.
3. Page 6, lines 3-4, amends the definition of “Structure” in relation to shoreline setbacks under Part III of HRS Chapter 205A to include “parked lunch wagon or food truck”. The purpose of shoreline setbacks is to locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, minimize loss of improvements due to erosion, and provide a buffer zone to reduce a risk of coastal hazards.

Structures are prohibited in the shoreline area without a variance except as provided in HRS § 205A-44(b), which allows permitted minor structures in the shoreline area that do not affect beach processes or artificially fix the shoreline, and do not interfere with public access or public views to and along the shoreline.

We do not think it is appropriate to add “parked lunch wagon or food truck” specifically defined by SB 1182, to the definition of “Structure” in relation to shoreline setbacks. Whether placement and operation of a parked lunch wagon or food truck shall be allowed without a variance should be assessed by the respective county planning departments on a case-by-case basis.

Thank you for the opportunity to testify on this measure.