

# SB151

Measure Title: RELATING TO CONDOMINIUMS.

Report Title: Condominiums; Associations; Rules and Regulations; Smoking; Prohibitions; Owners; Lease Agreements

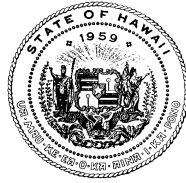
Description: Enables condominium associations to adopt rules and regulations that require unit owners to prohibit smoking inside a condominium unit as part of a lease agreement.

Companion: HB267

Package: None

Current Referral: CPH

Introducer(s): K. RHOADS, BAKER



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB0151  
RELATING TO CONDOMINIUMS**

SENATOR ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH  
Hearing Date: February 23, 2017                      Room Number: 229

1    **Fiscal Implications:** None.

2    **Department Testimony:** The Department of Health (DOH) supports this measure as a public  
3    health approach to protect dwellers of condominiums and housing corporations from exposure to  
4    secondhand smoke (SHS). SB0151 proposes to amend §514B-105, Hawaii Revised Statutes.  
5    Currently, the law implies that that condominium associations may adopt rules and regulations  
6    that require unit owners to prohibit smoking by renters. This measure inserts language that  
7    explicitly allows associations the option to adopt policies that require unit owners to prohibit  
8    smoking inside the rental unit as part of the lease agreement.

9                      Individuals who live in multi-unit housing are especially susceptible to involuntary  
10    exposure to SHS both in Hawaii and the United States. According to data from the 2013-2014  
11    National Adult Tobacco Survey, tobacco use was slightly higher among those living in multi-unit  
12    housing (24.7%) versus those living in single family homes (18.9%).<sup>1</sup> This survey also showed  
13    that among those living in multi-unit dwellings with no smoking rules, approximately 34.4%  
14    experienced incursions of SHS from neighbors or somewhere in the building.<sup>2</sup> Hawaii's  
15    relatively high volume of multi-unit housing dwellers, as compared to the rest of the nation  
16    (38.1% Hawaii vs. 26.0% U.S.), leaves many in vulnerable situations when choosing to live in  
17    condominiums.<sup>3</sup> Passing this measure could help to decrease the threat of being exposed to SHS.

18                     SHS exposure is causally linked to adverse health outcomes among non-smokers  
19    including heart disease, stroke, and lung cancer in adults, and increased risk of severe asthma  
20    attacks, respiratory infections, ear infections, and sudden infant death syndrome (SIDS) in

1 children.<sup>4,5</sup> As smoke-free policies in public places, such as worksites, bars, restaurants, parks  
2 and beaches, are now the norm, much of the remaining involuntary exposure to SHS occurs in  
3 private places including homes and cars. Smoke-free housing policies, therefore, are warranted  
4 and needed.

5         The only way to effectively eliminate exposure is to prohibit tobacco use altogether. The  
6 American Society of Heating, Refrigerating, and Air-Conditioning Engineers states that  
7 ventilation and other air filtration technologies cannot eliminate all the health risks caused by  
8 SHS exposure.<sup>6</sup> According to the Center for Energy and the Environment, depending on outside  
9 temperature conditions, up to 65% of the air is shared between units in apartment buildings.<sup>7</sup>  
10 SHS can potentially affect all other units in a building.

11         Smoke-free multi-unit housing is a rapidly growing movement in Hawaii and across the  
12 country with the most protection currently experienced by persons living in public housing. The  
13 2014 Legislature enacted, Act 91, a groundbreaking law that prohibits smoking in all public  
14 housing across the state, and in the fall of 2016, the U.S. Department of Housing and Urban  
15 Development announced new uniform no smoking restrictions which will cover all public  
16 housing nationwide.<sup>8</sup>

17         While great gains have been made in the public housing sector, the affordable and  
18 market-rate sector lack adequate comprehensive protections against SHS. The DOH supports  
19 this measure as a step toward comprehensive protections against secondhand smoke exposure for  
20 those living in condominiums.

21         Thank you for the opportunity to provide testimony.

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<sup>1</sup> Nguyen, K. H., Ms, MPH, Gomez, Y., MPH, Homa, D. M., PhD, & King, B. A., PhD, MPH. (2016). *Tobacco Use, Secondhand Smoke, and Smoke-Free Home Rules in Multiunit Housing*. *American Journal of Preventive Medicine*, 51(5), 682-692. <http://dx.doi.org/10.1016/j.amepre.2016.05.009>

<sup>2</sup> Ibid.

<sup>3</sup> United States Census Bureau. *Quick Facts: Hawaii*. <http://www.census.gov/quickfacts/table/PST045216/15> <sup>4</sup> U.S. Department of Health and Human Services. *Let's Make the Next Generation Tobacco-Free: Your Guide to the 50<sup>th</sup> Anniversary Surgeon General's Report on Smoking and Health (2014)*. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/consumer-guide.pdf>

<sup>5</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking—The 50 Years of Progress: A Report of the Surgeon General (2014)*.

<sup>6</sup> American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). (2010). <https://www.ashrae.org/about-ashrae/position-documents>

<sup>7</sup> Minnesota Live Smoke-Free. *The Case for Smoke-Free Multi-Housing (Presentation), (2011)*.

[http://www.mnsmokefreehousing.org/documents/presentations/CPPW1\\_Case\\_for\\_Smoke\\_Free\\_Housing\\_MN.pdf](http://www.mnsmokefreehousing.org/documents/presentations/CPPW1_Case_for_Smoke_Free_Housing_MN.pdf)

<sup>8</sup> U.S. Department of Housing and Urban Development. *Smoke-Free Public Housing and Multifamily Properties*.

[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/healthy\\_homes/smokefree](https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/smokefree)



Hearing on 2-1-17

**Testimony in Strong Opposition to Senate Bill 151**

Dear House CPH,

The Hawaii Smokers Alliance STRONGLY OPPOSES SB 151) relating to unfair special interest attacks on constituents that live in condo and enjoy tobacco.

We oppose the bill because it works to remove democratic freedom of choice from condo owners. As it stands and should stand the board needs a majority vote of owners to change its bylaws. Senate Bill 151 sets a dangerous precedence in condo law that the votes of the owners shouldn't matter.

As the law currently stands the board may *"Regulate any behavior in or occupancy of a unit which violates the declaration or bylaws or unreasonably interferes with the use and enjoyment of other units or the common elements by other unit owners "* . This means that the board already has the power to ban smoking provided that ACTUAL PROOF of unreasonable inference exists and provided that the OWNERS ACTUALLY ARE PUSHING FOR THIS. **SB151 makes it possible for boards to BAN SMOKING WITHOUT PROOF THAT ANYONE IS ACTUALLY BOTHERED BY IT.**

Hawaii Smokers Alliance has already received multiple complaints in 2016 alone from condo owners that the paid professional lobby ring known as "Tobacco Free Hawaii" was attempting to make "back room deals" with condo boards to circumvent the will of the majority of condo owners. The reason for SB151 is to get around the fact that smoking seldom interferes with other condo owners unless a common unfiltered ventilation system exists. The owners don't need the law changed to prohibit smoking only Tobacco Free Hawaii does in buildings where they don't even live and have no right to interfere with.

Therefore, I strongly urge the Chair and this Committee to oppose this undemocratic and unfair special interest promoted bill.

Sincerely,

Michael Zehner, Co-chair of the Hawaii Smokers Alliance.

808-952-0275. Hawaiiismokersalliance.net

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 20, 2017 9:21 AM  
**To:** CPH Testimony  
**Cc:** richard.emery@associa.us  
**Subject:** Submitted testimony for SB151 on Feb 23, 2017 09:30AM

**SB151**

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Emery	Associa	Oppose	No

Comments: I am not a smoker. It is my belief that current Fair Housing Laws prohibit rules that discriminate between a tenant and an owner. I prefer that the Bill be amended to allow boards to prohibit smoking on lanais.

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**Hawaii Council of Associations  
of Apartment Owners**  
**DBA: Hawaii Council of Community Associations**  
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 22, 2017

Senator Roslyn Baker, Chair  
Senator Clarence Nishihara, Vice-Chair  
Senate Committee on Commerce, Consumer Protection and Health


Re: Testimony expressing concerns on  
SB151 RELATING TO CONDOMINIUMS  
Hearing: Thursday, February 23, 2017, 9:30 a.m., Conf. Rm. #229

Chair Baker, Vice-Chair Nishihara and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA). This organization represents the interests of condominium and community association members.

HCAAO takes no position on this bill and notes that HUD has taken a position that renters cannot be treated differently than owners so if an owner is able to smoke in his or her unit because of the prohibition against the Board regulating private behavior that occurs in the unit, then the legislature should not be enacting laws that would result in different rights as between owners and renters who wish to smoke inside their units.

If you have any questions, please feel free to contact me. Thank you for the opportunity to testify on this matter.

  
Jane Sugimura  
President

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 6:27 AM  
**To:** CPH Testimony  
**Cc:** dustinandrewsoahu@gmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dustin Andrews	Individual	Oppose	No

Comments:

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**Sent:** Tuesday, February 21, 2017 5:45 AM  
**To:** CPH Testimony  
**Cc:** jchangworld@gmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jessica Chang	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 20, 2017 8:06 PM  
**To:** CPH Testimony  
**Cc:** jason.park1@aol.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jason Park	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 20, 2017 5:10 PM  
**To:** CPH Testimony  
**Cc:** lynnehi@aol.com  
**Subject:** Submitted testimony for SB151 on Feb 23, 2017 09:30AM

**SB151**

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lynne matusow	Individual	Oppose	No

Comments: Please accept this as testimony in opposition to this bill. I am a condo owner and board member. I am a non-smoker who does not like anyone smoking around me. I agree with the health reasons stated in the bill. But this bill goes too far. You either need a blanket prohibition or none at all. This bill would allow associations to tell unit owners that they cannot lease to smokers. It does not say that no one should smoke in their units, only those who have leases. Either make it applicable to everyone or kill it. Lynne Matusow 60 N. Beretania, #1804 Honolulu, HI 96817 531-4260

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 20, 2017 2:12 PM  
**To:** CPH Testimony  
**Cc:** timlemke20@yahoo.com  
**Subject:** Submitted testimony for SB151 on Feb 23, 2017 09:30AM

**SB151**

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tim Lemke	Individual	Oppose	No

Comments: First I'd like say that I'M A NON-SMOKER and I OPPOSE SB-161. The government needs to respect condo owners right to privacy.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 20, 2017 1:08 PM  
**To:** CPH Testimony  
**Cc:** neo777@graduate.org  
**Subject:** Submitted testimony for SB151 on Feb 23, 2017 09:30AM

**SB151**

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bill Patterson	Individual	Oppose	No

Comments: I will remember next November how you voted on this.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 20, 2017 11:57 AM  
**To:** CPH Testimony  
**Cc:** pipelinemax@outlook.com  
**Subject:** Submitted testimony for SB151 on Feb 23, 2017 09:30AM

**SB151**

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kimo Cruz	Individual	Oppose	Yes

Comments: What ever happened to the democratic process where the owner and tenant get to reach an agreement on their own destiny? There's no way I could obey something like sb151 if it became law.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 20, 2017 11:33 AM  
**To:** CPH Testimony  
**Cc:** anthony\_orozco@yahoo.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anthony Orozco	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 2:35 PM  
**To:** CPH Testimony  
**Cc:** chevryriderhhh@gmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Wells	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 8:28 PM  
**To:** CPH Testimony  
**Cc:** wintersnicholas@rocketmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nicholas Winters	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 8:20 PM  
**To:** CPH Testimony  
**Cc:** alex.abe@aol.com  
**Subject:** Submitted testimony for SB151 on Feb 23, 2017 09:30AM

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alex Abe	Individual	Oppose	No

Comments: This is Alex and I strongly oppose this condo ban bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 8:12 PM  
**To:** CPH Testimony  
**Cc:** lila.mower@gmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lila Mower	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 7:49 PM  
**To:** CPH Testimony  
**Cc:** kathyk323@hotmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathy Kim	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 6:49 PM  
**To:** CPH Testimony  
**Cc:** bigcoopatroopa@gmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Cooper	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 6:06 PM  
**To:** CPH Testimony  
**Cc:** freedom1979hi@gmail.com  
**Subject:** Submitted testimony for SB151 on Feb 23, 2017 09:30AM

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cindy Nettles	Individual	Oppose	No

Comments: People's homes are NOT a public space, so the legislature needs to stop pushing others to invade it.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 5:50 PM  
**To:** CPH Testimony  
**Cc:** mypurpleplanet@outlook.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lani Hernandez	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 21, 2017 4:56 PM  
**To:** CPH Testimony  
**Cc:** darkkittywhitty@gmail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Monika Lopez	Individual	Oppose	No

Comments:

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**Richard J. Port**  
**1600 Ala Moana Blvd. #3100**  
**Honolulu, Hawaii 96815**  
**Tel 808-941-9624**  
**e-mail: [portr001@hawaii.rr.com](mailto:portr001@hawaii.rr.com)**

**Measure:** SB 151 Relating to Condominiums

**Date and Time of Hearing:** 9:30 a.m. Thursday, February 23, 2017

**Committee:** The Committee on Commerce, Consumer Protection & Health

Aloha Senator Baker and Members of your Committee,

I am testifying in opposition to SB 151. I am a life-long non-smoker and support current restrictions to smoking in and around association common elements. However, it is unreasonable to restrict smoking within owner units, especially if there had never been a prohibition when that owner purchased his/her unit.

I do recognize that sometimes the vapor from someone who is smoking can travel to other units, but there are other approaches available to handling this issue, including property managers notifying an owner that the owner's smoking is causing problems to another owner and/or the Board inviting an owner to meet with the Board in order to determine if the owner can help resolve this problem amicably.

Thank you for this opportunity to testify in opposition SB 151.

Richard Port

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 22, 2017 9:09 AM  
**To:** CPH Testimony  
**Cc:** lovemyhello@kittymail.com  
**Subject:** \*Submitted testimony for SB151 on Feb 23, 2017 09:30AM\*

**SB151**

Submitted on: 2/22/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rebecca Powell	Individual	Oppose	No

Comments:

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**SB151**

Submitted on: 2/22/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sabrina Spencer	Individual	Oppose	No

Comments: More unfair discrimination!

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