

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 655, SD2
A BILL RELATING TO MEDIA ACCESS

PRESENTATION TO
THE HOUSE COMMITTEE ON PUBLIC SAFETY (PBS)

BY

VERN T. MIYAGI
Administrator, Hawaii Emergency Management Agency

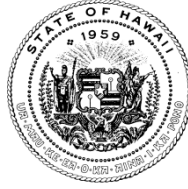
Aloha Chair Takayama, Vice-Chair LoPresti, and Members of the Committee.

I am Vern T. Miyagi, Administrator, Hawaii Emergency Management Agency. I am providing testimony in support of the intent of SB 655, SD2.

SB 655 SD2 addresses my previous concerns about the original SB 655 as noted in my previous testimony.

Thank you for the opportunity to provide this testimony **supporting the intent of SB 655, SD2.**

Vern T, Miyagi; vern.t.miyagi@hawaii.gov; 808-733-4300



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

March 16, 2017
10:00 a.m.
State Capitol, Room 312



**S.B. 655, S.D. 2
RELATING TO MEDIA ACCESS**

House Committee on Public Safety

The Department of Transportation (DOT) **supports** the intent of S.B. 655 relating to media access. DOT believes in transparency and providing accurate information to the public. The amendments in SD2 help address concerns over safety, liability and logistical issues with the broad media access.

The bill references using a “pool” system when “full access cannot be reasonably granted.” DOT notes parameters for the pool system should be established, as is the case in other situations utilizing a pool. For example, a pool system is often used in courtrooms where one photographer and one videographer is allowed to record the proceedings. However, if the judge calls the attorneys to the bench, media is not allowed to listen to those conversations. There are also documentation restrictions, for example, jurors are not allowed to be photographed or identified. Similar parameters should be established when allowing journalists access into secured areas. These parameters would help prevent sensitive information from being released to the general public before the appropriate time. For instance, the identity of a victim could be revealed before authorities have the chance to notify next of kin.

DOT appreciates the language adding the “State, counties and any designated emergency management authority shall not be responsible for providing copies, equipment, telephone or internet access, or any other logistical support, including sharing or distribution of content, associated with media access in closed emergency areas.”

Thank you for the opportunity to provide this testimony.

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813
PHONE: (808) 723-8960 • FAX: (808) 524-3439

KIRK CALDWELL
MAYOR



MELVIN N. KAKU
DIRECTOR

PETER J.S. HIRAI
DEPUTY DIRECTOR

March 15, 2017

The Honorable Gregg Takayama, Chair
The Honorable Matthew S. LoPresti, Vice Chair
Committee on Public Safety
House of Representatives
State Capitol
415 South Beretania Street, Room 312
Honolulu, Hawaii 96813

Dear Chair Takayama, Vice Chair LoPresti, and Members:

SUBJECT: S.B. 655, SD2, Relating to Media Access

I am Melvin Kaku, Director of the Department of Emergency Management (DEM), City and County of Honolulu (City).

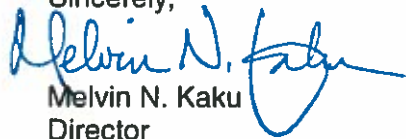
DEM supports **S.B. 655, SD2**, as currently amended, which allows the news media to access areas that are closed pursuant to emergency management powers of the governor and mayor.

When a disaster impacts a community, the short and long term effects can include hazardous, dangerous, and even deadly circumstances. If an area that is deemed to be dangerous or under dangerous conditions, access to those areas is restricted to first responders and emergency personnel to ensure the security and safety of area residents. If residents cannot access these restricted areas due to the dangerous conditions, then the news media should not expect to be granted access either. In addition, allowing news media free access to restricted areas could place them in great danger, and could endanger the lives of emergency responders should the news media representative(s) get into trouble and require rescue.

Additionally, the U.S. Supreme Court has ruled in the past that the press did not have a constitutional right of access greater than that afforded to the public.

If S.B. 655, SD2, is further amended and language is changed, we would have concerns for this bill and would be opposed to it. I urge your committee to take our support to **S.B. 655, SD2**, as it is currently amended into consideration. Thank you for the opportunity to testify.

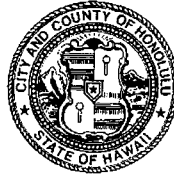
Sincerely,


Melvin N. Kaku
Director

DEPARTMENT OF CUSTOMER SERVICES
CITY & COUNTY OF HONOLULU
DIVISION OF MOTOR VEHICLE, LICENSING AND PERMITS
ADMINISTRATION
P.O. BOX 30300
HONOLULU, HAWAII 96820-0300

KIRK CALDWELL
MAYOR

LATE



SHERI T. KAJIWARA
DIRECTOR

RANDY M. LEONG
DEPUTY DIRECTOR

CHASE MASUDA
ACTING LICENSING ADMINISTRATOR

TESTIMONY OF PRESTON KO, ASSISTANT LICENSING ADMINISTRATOR
CITY AND COUNTY OF HONOLULU, DEPARTMENT OF CUSTOMER SERVICES
Thursday, March 16, 2017, 10:00 a.m., Conference Room 312

SENATE Bill 1039 SD2, "RELATING TO PUBLIC SAFETY"

Position: Comments

TO: The Honorable Greg Takayama, Chair
and Members of the Committee on Public Safety

The City and County of Honolulu has no objections to the intent of S.B. No. 1039 SD2 which will allow the examiner of drivers of each county to waive the fees to qualified Hawaii born inmates applying for a civil identification card or the replacement of an unexpired driver license.

However there are a few concerns that the bill needs to address in order to ensure that the State of Hawaii remains in compliance with Federal REAL ID rules:

- The application for a civil identification card or temporary driver license must be accompanied by the required documentation to prove legal presence (e.g., birth certificate), social security number, and Hawaii principal residence address; and
- A temporary driver license should be issued instead of a temporary permit as long as it is issued within 1 year instead of within six months of the driver license expiration date as stated in the bill, and should be issued for a period not to exceed sixty (60) days instead of at least six months. We recommend the following amendment to the bill to revise the wording in the second sentence of Subsection (d) to read:

"If the replacement civil identification card or replacement driver's license issued is within ~~six months~~ one (1) year of expiration, the examiner of drivers of the respective county of issue may also issue a temporary ~~permit driver license or civil identification card~~, valid for ~~at least six months~~ a period not to exceed 60 days after the inmate's release date, to assist the inmate in the inmate's transition."

In addition, we recommend that bill's provision in Subsection (d) for a "free of charge by waiving all fees" driver license or civil identification card be amended to provide for a one-time waiver of the fees. This is intended to encourage responsible behavior in protecting and securing the issued driver license or civil identification card and discourage redundant applications from being submitted.

We have concerns on the loss of revenue and operational impact to our agency but cannot address this until the Department of Public Safety can provide a count of the projected number of inmates that would be qualify under this bill.

Thank you for the opportunity to provide comments on SB 1039 SD2.

Sincerely,

A handwritten signature in black ink, appearing to read "Preston P. H. K. Ko". The signature is stylized with large, rounded letters and a prominent initial "P".

Preston P. H. K. Ko
Assistant Licensing Administrator

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO S.B. 655, SD2**

March 16, 2017
10:00 a.m.
CR 312

To: Chairman Gregg Takayama and Members of the House Committee on Public Safety.

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to part of S.B. 655, SD2, relating to Media Access. This opposition only applies to overbroad immunity given to the State and counties.

S.B. 655, SD 2 regulates news media access to areas that are closed due to emergency. The bill gives the State and counties blanket immunity from all liability “arising from media representatives entering a closed area.” This immunity is overly broad because it applies to any injury or property damage no matter how negligent or reckless the State or county may be in any particular circumstance. Government is only responsible for injury or damage when it is negligent – which is unreasonable conduct under the circumstances. Sound public policy requires that government be expected to act in a reasonable manner under the circumstances. The presence of an emergency is a circumstance to be considered. Unrestricted immunity only condones the state or counties to conduct themselves unreasonably. Therefore, we request that the following sentence be **deleted** in its entirety from **page 16, lines 4-7**: **“The State and counties shall not be held liable for any injury or damage to person or property arising from media representatives entering a closed emergency area.”**

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.



PO Box 1920

Hilo, Hawaii 96721

<http://www.bigislandpressclub.org>

Ph: (747) 444-BIPC Email: info@bigislandpressclub.org

LATE

Chairman Takayama and committee members:

The Big Island Press Club supports SB 655 to restore access to the media that was denied by Act 111.

The public depends on journalists accessing closed areas to provide accurate reporting on communities hit by disasters.

We ask that the requirement that journalists be “credentialed” be removed since it’s not clear who is responsible for issuing credentials.

Sincerely,

Lara Hughes, president

Tom Callis, board member



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Hilo, Hawaii 96721

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Lara Hughes, president

Tom Callis, board member



March 16, 2017

COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair; Rep. Matthew S. LoPresti, Vice Chair; and Committee Members
Public Hearing, March 16, 2017, 10:00 a.m., Conference Room 312, State Capitol

TESTIMONY OF WILLIAM F. ANONSEN
MANAGING PARTNER/PRINCIPAL – THE MARITIME GROUP
IN SUPPORT of S.B. 655 SD2 with AMENDMENTS (NEWS MEDIA ACCESS-EMERGENCIES)

My name is William F. Anonsen, the Managing Partner/Principal of The Maritime Group and chair of the Hawaii Advisory Council on Emergency Management. I respectfully submit this testimony in support of SB 655 SD2 with comments and amendments for the committees' consideration. Any proposed provisions that would permit access to news media into an emergency area that is closed pursuant to emergency management authority powers, should be structured and conducted in such a manner that will not negate first responders and law enforcement's ability to enforce restricted areas and safety zones and could potentially hamper response and recovery efforts.

In keeping with the media news reporting rights under the 1st Amendment of the U.S. Constitution, and dissemination of helpful information to the public, providing media access as soon as practical must be balanced without creating safety hazards, security concerns, or interfering with emergency response teams.

During an emergency, first responders and law enforcement personnel typically are focused on 3 priorities:

- 1.) Preservation of life; During an initial response to an emergency, all available assets are focused on rescue and lifesaving efforts. During this time, media access needs to be controlled in the interest of safety of first responders and victims in defined restricted operational areas.
- 2.) Preservation of property; After rescue efforts have been exhausted, emergency responders will work to make the scene safe and focus their efforts on limiting harm to individuals or damage to other property. During this phase, limited and escorted media access may be available, however as each emergency incident/scene is different they needs to be evaluated on a case-by-case basis.
- 3.) Recovery and return to normal operations; Recovery and clean-up efforts for incidents vary based upon their complexity. After any incident, operations may be suspended for a period of time until safety inspections and clean-up efforts are completed. During this phase, media access may be available, however as each emergency incident/scene is different they needs to be evaluated on a case-by-case basis.

Comments and amendments for consideration:

The bill in its current form contains contradictory and unclear language.

For example:

Page 15, lines 18-21 to Page 16, lines 1-2; would permit unlimited media access “(d) Nothing in this section shall prevent a duly authorized credentialed representative of any news service, newspaper, radio station, television station, or online news distribution network, under the supervision of designated emergency management personnel, from entering an area closed pursuant to this section;”

Page 16, lines 9-11; is a contradictory statement to previous stated language,” The decision regarding media access shall be at the sole discretion of the designated emergency management authority for the affected jurisdiction.”

Proposed additional language to be incorporated into the bill:

As a general policy, media access shall be generally permitted access into emergency areas on a conditional basis, but only after designated responding emergency management personnel have made a general safe entry and access determination. The designated emergency management authority for the affected jurisdiction shall make this determination based on emergency response best practices and procedures. and shall at all times retain the authority to limit access when and where the governing authority has determined may be warranted. The designated emergency management authority for the affected jurisdiction may withdraw and/or terminate previously granted conditional access at any time, when or if conditions change which may create a potential safety hazard(s), security concern(s) and/or may interfere with emergency response efforts, which may necessitate the evacuation for an affected area.

In instances where it is deemed that concurrent access to multiple media may be determined by emergency management personnel not prudent or cannot be reasonably granted, emergency management personnel shall have the sole authority and judgmental option to consider whether a pool writer, photographer and videographer, can be provided safe entry and access.

Media access to an incident shall be conditional, limited and escorted media access may be available, however as each emergency incident is different, access accommodations shall be evaluated on a case-by-case basis. The emergency management authority for the affected jurisdiction shall have the sole authority to determine whether such access shall be accompanied by designated emergency management personnel or whether news media personnel should be allowed access unaccompanied.

Although providing news media access should not be unreasonably withheld, access must prudently be balanced without creating safety hazards, security concerns, or interfering with emergency response team’s efforts under the sole authority and discretion of the designated emergency management authority for the affected jurisdiction.

Mahalo for the opportunity to offer comments for the committee’s consideration

Respectfully,

William F. Anonsen

Managing Partner/Principal

(and as chair/member – Hawaii Advisory Council on Emergency Management)

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