

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU

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MELVIN N. KAKU
DIRECTOR

HIROKAZU TOIYA
DEPUTY DIRECTOR

February 14, 2018

The Honorable Scott Y. Nishimoto, Chair
The Honorable Joy A. San Buenaventura, Vice-Chair
Committee on Judiciary
House of Representatives
State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Nishimoto, Vice-Chair San Buenaventura, and members of the Committee:

SUBJECT: Comments on House Bill 2693 Relating to Public Safety

I am Melvin N. Kaku, director of the Department of Emergency Management (DEM), City and County of Honolulu (City). HB 2693 proposes adding a new section to Chapter 127A, Hawaii Revised Statutes that requires businesses and homeowners to provide shelter upon a missile threat alert and to provide those shelters with immunity.

Immunity for private property owners who provide access to land, shelter or subsistence during emergencies or disasters without expectation or remuneration is already addressed by HRS section 663-10.7, which already includes the coverage of all man-made and natural hazards.

Thank you for the opportunity to provide comments for this bill.

Sincerely,

A handwritten signature in blue ink that reads "Melvin N. Kaku". The signature is stylized and includes a large loop at the end.

Melvin N. Kaku
Director



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 15, 2018**

Re: HB 2693 HD 1 RELATING TO PUBLIC SAFETY

Good morning Chairperson Nishimoto and members of the House Committee on the Judiciary. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide not-for-profit trade organization committed to supporting the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

The Retail Merchants of Hawaii SUPPORTS HB 2693 HD1 Relating to Public Safety. It is our understanding that the last time many businesses and the community practiced ongoing duck and cover nuclear bomb drills was in the 1960s. Since then many businesses only have “suspicious packages,” active shooter, bombs and bomb threat policies that calls for evacuation. January 13th was a wakeup call for everyone in business and the community to update or formulate a comprehensive pre and post plan for a missile threat.

Retailers want to be good citizens and help to ensure the safety of not only our workers but our customers and the community as well during a crisis where there are only minutes to seek shelter. This bill provides immunity to businesses who provide shelter to the public and this is an incentive for businesses to open their doors to the public without the fear of being sued.

We are however very opposed to the language regarding fines and are concerned what the intent and is meant by the language “omissions” as we do not want to intentionally cause gross negligence due to omission. Many of our retail members have glass store fronts that at times can be a couple of stories high and many retailers are not located in buildings that are reinforced with concrete or rebar to withstand a missile attack. Sheltering people in areas that may cause harm should the walls and glass be blown in is not a safe and viable option.

We are also wondering if we would be able to close our doors for safety reasons. What if we are filled to capacity? How long would we have to shelter people as many retailers are not equip with food and water? There are a lot of unanswered questions. It is unfortunate that businesses, especially retailers are the target of many frivolous and often time fraudulent liability lawsuits. We want to be sure that not only those who we shelter are safe, but so is the businesses from lawsuits and fines for trying to be good citizens.

Mahalo for this opportunity to testify.

HB-2693-HD-1

Submitted on: 2/14/2018 1:51:36 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawaii	Support	No

Comments:

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY



TESTIMONY ON HOUSE BILL 2693 HD1, A BILL RELATING TO PUBLIC SAFETY

Before the House Committee on
JUDICIARY

By

BRIGADIER GENERAL MOSES KAOIWI
Interim Administrator, Hawaii Emergency Management Agency (HI-EMA)

Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

The Hawaii Emergency Management Agency (HI-EMA) *supports* House Bill 2693 HD1.

House Bill 2693 HD 1 proposes adding a new section to Chapter 127A, Hawaii Revised Statutes that prohibits places of public accommodation from denying shelter to any person when an emergency alert advises the public to immediately seek shelter. This prohibition shall remain in effect until a federal, state, or county emergency management official advises that the emergency condition no longer exists. It provides for a civil penalty for denying shelter and designates the Department of the Attorney General as the investigating agency for such complaints. It provides immunity for private property owners who provide access to land, shelter or subsistence during emergencies or disasters without expectation of remuneration.

Thank you for the opportunity to provide this in SUPPORT of House Bill 2693 HD1.

Moses Kaiwi: moses.kaoiwi@hawaii.gov; 808-733-4300

LATE

HB-2693-HD-1

Submitted on: 2/15/2018 12:24:59 AM
Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	Individual	Support	No

Comments:

LATE



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON JUDICIARY
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 325
THURSDAY, FEBRUARY 15, 2018 AT 2:00 P.M.**

To The Honorable Scott Y. Nishimoto, Chair;
The Honorable Joy A. San Buenaventura, Vice Chair; and
Members of Committee on Judiciary;

TESTIMONY IN OPPOSITION OF HB 2693 RELATING TO PUBLIC SAFETY

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce. I am writing share our opposition to HB 2693.

We have all gone through a very frightening event and understand that many people have already learned from the day we received the false missile alert. It was clear that some businesses did not have proper policies and protocols in place, but have since clarified, changed or established new policies and procedures. We understand the intent of this bill is to protect the public, but we don't believe that responsibility should first fall on businesses and public accommodations. First, we think the state should look at using all government offices and state and county controlled resources (for example: offices, community centers, schools, auditoriums, etc.) as designated public shelters in the event of an emergency alert. The state should map out the locations of all state and county shelters first then look for gap areas with no shelters and see what businesses and public accommodations would fill those gaps so there are shelters in every 10-15 min walking distance area. The state could then approach businesses and public accommodations in those gap areas to be a designated shelter partner with a plan and protections in place for the business. The state would also ensure that partner business locations are large and reliable enough to hold many people and the state should provide resources for the business to have on hand. Finally, the state could distribute the maps to all residents and visitors so everyone is prepared and knowledgeable on where to go in the event of an emergency alert.

In addition, if a mandate to businesses and places of public accommodations is passed, more protections need to be given to businesses. Currently the bill protects businesses, agents, and employees by not holding them "civilly liable for the death of or injury to persons, or property damage, that results from any act or omission in the course of providing shelter." While this is a start, we believe that all businesses, agents, employees and patrons should not be held liable under any circumstances and that businesses should also be protected against theft or damage to the facility. All protections must be clear as businesses should not have to file damages and other occurrences under their business insurance, fight any liability issues or lawsuits, or be required to pay any legal expense since the state is mandating this. Further, if the state is planning to indemnify not only itself, but all businesses and public accommodations, how can it commit to that when the state is essentially bankrupt due to its unfunded liabilities? Where would the resources come from to reimburse affected businesses?



MAUI

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VOICE OF BUSINESS

Testimony to the House Committee on Judiciary
February 15, 2018
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In addition, if a mandate to businesses and places of public accommodations is passed, more protections need to be given to businesses. Currently the bill protects businesses, agents, and employees by not holding them “civilly liable for the death of or injury to persons, or property damage, that results from any act or omission in the course of providing shelter.” While this is a start, we believe that all businesses, agents, employees and patrons should not be held liable under any circumstances and that businesses should also be protected against theft or damage to the facility. All protections must be clear as businesses should not have to file damages and other occurrences under their business insurance, fight any liability issues or lawsuits, or be required to pay any legal expense since the state is mandating this. Further, if the state is planning to indemnify not only itself, but all businesses and public accommodations, how can it commit to that when the state is essentially bankrupt due to its unfunded liabilities? Where would the resources come from to reimburse affected businesses?

While the state may create a clear plan related to its operations, we also want to point out a few things that could occur that businesses and shelters would have to consider, such as:

- Someone could have a serious contagious disease.
This year, there have been an alarming number of flu fatalities and in the event of an emergency, the flu (or other contagious disease) could spread and cause fatalities if the public is seeking shelter in a small area for an extended period without medical attention or needed resources.
- Someone who is armed could enter the shelter.
A dangerous situation could arise and escalate quickly while fear and tensions are high.
- Businesses and public accommodations have no way of knowing the morality, health, and mental state of the people who are entering their locations for shelter and the risk of something going wrong is much higher in an emergency. These scenarios need to be discussed and protections must be put in place.
- The state should first consult organizations who are prepared and experienced in dealing with such scenarios, like the Red Cross, to create a plan for designated shelters, business partners and the public.

Given the recent scare, people felt the government was not prepared and are reacting, but this bill is trying to address those immediate concerns prematurely, before a process is created to build an appropriate plan. We would like to see the state first work to bring groups together to begin the dialogue and start building a system now so an appropriate plan and possible bill can be brought forth later. We fully support the state addressing this issue by creating a plan and are happy to work with the state in bringing businesses together and educating the community on that plan. Therefore, we ask that this bill be filed. If the committee feels they cannot file the bill at this time, we ask that the bill be amended to create a process to begin building a plan and bringing groups together before creating a mandate.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui’s unique community characteristics.