

DAVID Y. IGE  
GOVERNOR



Testimony by:  
FORD N. FUCHIGAMI  
DIRECTOR

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

IN REPLY REFER TO:

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

February 6, 2017  
9:00 a.m.  
State Capitol, Room 016

**S.B. 1163  
RELATING TO AERONAUTICS**

Senate Committee(s) on Judiciary and Labor & Transportation and Energy

The Department of Transportation (DOT) **opposes** S.B. 1163 Aeronautic Administrative Rules Penalties. The current schedule of penalties should remain status quo. No proposed change should be considered until DOT develops a General Aviation Program, and Revises and Adopts Hawaii Administrative Rules Title 19.17-1 Small Plane Hangars

Replacing criminal penalties for certain airport offenses addressed in Chapter 261, Hawaii Revised Statutes, or in certain administrative rules or orders issued pursuant thereto, with a civil penalty will not effectively address the issue of non-compliant general aviation permits, storage or parking of aircraft.

The DOT considering to impose revoking a tenant's revocable permit or impounding aircraft if a tenant is in non-compliance of permit, storage or parking of aircraft guidelines.

Thank you for the opportunity to provide testimony.

# **The Plum Law Office**

---

## **A Law Corporation**

700 BISHOP STREET, SUITE 2100  
HONOLULU, HAWAII 96813  
TELEPHONE (808) 528-0050  
FACSIMILE (808) 524-3355  
wplum@plumlaw.com

February 5, 2017

**RE: SB 1163 RELATING TO AERONAUTICS  
HEARING 2-6-17 @ 9:00 A.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.

February 5, 2017  
Page 2

b) A close second, is the fact that the Hawaii State Department of Transportation, Airports Division ("DOTA") has wielded the power they have with a passion 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 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 property landlords and managers of operations 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 Hawaii Administrative Rules ("HAR") 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. An example of a misdemeanor crime, besides violating an airport rule, 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 loose 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

February 5, 2017

Page 3

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 travelled 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 (are some boxes in a hangar really worse than driving drunk or shoplifting? Are boxes in a hangar really on the same level as spying through a bedroom window at 2:00 am and being charged with being a peeping tom?).

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 literally wrote hundreds, if not thousands of charges against pilots, plane owners, hangar licensees, and others with aviation businesses.

February 5, 2017  
Page 4

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. This might sound a bit funny, if the stakes for person getting charged were not so high.

Once charged, my hangar partner had to retain a criminal attorney to represent him. Moreover, the yellow slip was not completed properly, something the Sheriff's Department has been incapable of doing do this day (I share office space with a criminal attorney and have seen dozens of these charges), nor was it served properly (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). 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. These inspections using Sheriff Department officers continue regularly until this day.

**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. One key DOTA person of authority even told me, when I questioned what the DOTA was doing, that he was "the new sheriff in town."

Without your help, honest and otherwise law abiding people 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

**LATE TESTIMONY**

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for SB1163 on Feb 6, 2017 09:00AM  
**Date:** Sunday, February 5, 2017 11:17:23 PM

---

**SB1163**

Submitted on: 2/5/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Spencer	Individual	Comments Only	No

Comments: Dear Chair and Members of the committee: I strongly disagree with the intent of this proposed bill. Pilots have to spend many hours of study and practice to become certified. This bill could potentially punish a pilot for an unrelated issue to their competency as a pilot. A mis-demeanor charge could disqualify a pilot from continuing their to practice their hard earned skill. The degree of punishment for minor issues related to the status of airplane hangers does not justify the consequences. Therefore, I kindly request that this committee not pass this bill forward. Apologies for the late testimony. Kind regards, Bill Spencer

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

# LATE TESTIMONY

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLEvidence](#)  
**Cc:**  
**Subject:** Submitted testimony for SB1163 on Feb 6, 2017 09:00AM  
**Date:** Sunday, February 5, 2017 4:50:04 PM

---

## **SB1163**

Submitted on: 2/5/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Donald Machado	Individual	Support	No

Comments: I support this bill. I am a corporate jet pilot based in Hawaii. In addition, I am an attorney and find that the current penalties for violation of rules at the airports are extreme and unreasonable. As it stands now, almost every violation of a rule at the airport gets the individual or entity involved charged with a full misdemeanor forcing the party involved to retain an attorney and potentially face up to a year in jail for the criminal charge. Also, a misdemeanor conviction could potentially prevent me from being a captain on my jet when flying to international destinations. This could end my career as a pilot. That is neither fair, nor just. Don Machado, Jr.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

## LATE TESTIMONY

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for SB1163 on Feb 6, 2017 09:00AM  
**Date:** Sunday, February 5, 2017 8:18:33 PM

---

### **SB1163**

Submitted on: 2/5/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James Duca	Individual	Support	No

Comments: In my view as an attorney with an interest in civil aviation, this bill is necessary to correct overly harsh and disproportionate penalties for minor violations. The existing penalties can have serious and unanticipated detrimental consequences on licensed professionals, members of the armed forces and anyone needing a security clearance. The fines contemplated by the bill are all that is needed to prevent the prohibited conduct.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



## LATE TESTIMONY

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for SB1163 on Feb 6, 2017 09:00AM  
**Date:** Sunday, February 5, 2017 7:44:58 PM

---

### **SB1163**

Submitted on: 2/5/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Larry Hinds	Individual	Support	No

Comments: I support SB 1163 and think the DOTA's strict enforcement policies are definitely over doing what is necessary

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

SB1163, Relating to Aeronautics  
Senate JDL/TRE Hearing, Monday, Feb. 6, 2017 – 9:00 am  
Testimony by: Larry Jefts  
Position: Support

Chairs Keith-Agaran and Inouye, and Members of the Joint Senate JDL/TRE Committees:

Appreciation is expressed for HB 1443. 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. SB 1163 will bring some clarity and uniformity of how certain airport offenses are administered in Hawaii.

Thank you for the opportunity to provide testimony.”

**LATE TESTIMONY**

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for SB1163 on Feb 6, 2017 09:00AM  
**Date:** Monday, February 6, 2017 2:12:34 AM

**SB1163**

Submitted on: 2/6/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
linda m. douglas	Individual	Support	Yes

Comments: I am in support of this bill. It will fix the problem that violating a rule at the airport can possibly send you to jail and give you a criminal record, no matter how small the violation is. I am an RN and go flying regularly with friends who are pilots. If I were to get my pilot's license, i would be concerned that getting charged by the airport for a criminal offense could affect my RN license.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

# LATE TESTIMONY

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SB1163 on Feb 6, 2017 09:00AM\*  
**Date:** Monday, February 6, 2017 7:05:48 AM

---

## **SB1163**

Submitted on: 2/6/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
luz cabiles	Individual	Support	No

### Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for SB1163 on Feb 6, 2017 09:00AM  
**Date:** Monday, February 6, 2017 2:19:04 AM

---

**SB1163**

Submitted on: 2/6/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Dignan	Individual	Support	No

Comments: In brief, I support a change to the HRS as I have unwittingly fallen afoul of the governing regulations by and through the activities of others. By way of background, I came to HI on active duty orders after my second deployment to Iraq. While in HI I learned to fly and purchased a small plane. The plane was always registered and I had an assigned parking spot at Dillingham Airfield. When I left the islands, I allowed a fellow pilot to use the plane. Without my knowledge or assent it was parked at HNL. I continued to maintain registration and to pay my parking for Dillingham. After leaving Oahu, I became employed with the Department of State and was sent to Embassy Abuja, Nigeria. Approximately one month before returning from Africa I received notice that my plane was parked in the wrong place and un-registered. I emailed contacts at the Airports Authority to explain the situation that the plane was registered and that I'd be returning to the island within the month to return it to its proper parking place at Dillingham. The day I returned to the US, I contacted an on field mechanic to begin the annual inspection pending my arrival. On that day, the airplane received a large orange notice of violation and someone in enforcement prohibited the mechanic from moving the plane to his hanger to commence the maintenance work. Approximately one week later, on the day I arrived in the state, my airplane was towed to an impound lot. It took almost a month to get the airplane released, but that turned out to be just the beginning of my problems. The citations issued were criminal citations. I had to engage the services of an attorney in HI who diligently worked on my behalf to get them set aside. Mercifully I had record of all the payments that I had made for parking and registration and copies of my correspondence with the airports authority. I am struck by the fact that the state thinks it appropriate to issue bench warrants for arrest without any type of sufficient notice. I am also aware that the activities at present could very likely result in a violation of the SCRA as many military members must go on temporary duty from the islands and could return to find themselves with criminal liability for what generally would be considered a minor infraction or violation. On a personal note, the possible criminal conviction for a parking violation disproportionately harms anyone reliant on maintaining a security clearance or is otherwise employed in a sensitive position. As it stands now when my clearance comes up for renewal I will have to disclose the fact that I was a criminal suspect to my investigator and try to explain the situation to the best of my ability. I do not know what type of conduct the state is hoping to

## LATE TESTIMONY

prevent by singling out small airplane owners for unduly harsh treatment but in my opinion the activities I have experienced to date are unwarranted and unjust.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

# LATE TESTIMONY

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDL Testimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SB1163 on Feb 6, 2017 09:00AM\*  
**Date:** Monday, February 6, 2017 8:58:05 AM

---

## **SB1163**

Submitted on: 2/6/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
richard pellegrino	Individual	Support	No

### Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**LATE TESTIMONY**

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SB1163 on Feb 6, 2017 09:00AM\*  
**Date:** Sunday, February 5, 2017 9:01:00 PM

---

**SB1163**

Submitted on: 2/5/2017

Testimony for JDL/TRE on Feb 6, 2017 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sophia Ellis	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



FAX Number 586-6189

**SUPPORT**

Committee on Judiciary and Labor  
Ways and Means  
Transportation and Energy

February 6, 2017 9:00 AM

Senate Conference Room 016

SB 1163 Relating to Aeronautics  
Aeronautics, Administrative Rules and Penalties

Senator Gilbert Keith-Agaran  
Senator Jill Tokuda  
Senator Lorraine Inouye

As a aircraft owners of a Grumman AA-1B, we were cited for parking in stall 109 that we had approval to use. Our Parking Permit 92-1067 was assigned stall 117. We got permission to use stall 109 however the D.O.T. Airport Office did not make the change in stall numbers on our paperwork. For about a year, we have been to several court hearing regarding parking citations issued to several aircraft owners and no decision has been made yet. Lawyer David Bettencourt is representing the group.

We feel like we are being harassed by the Hawaii State legal system. Please note that we are current on with monthly aircraft tie-down fees. We also reluctantly moved the aircraft back to stall 117.

**We support SB 1163**

Yours truly

Vincent W. Mulford, Jr. and Carole Williamson-Mulford  
Aircraft Owners

1770 Kalia Road, Honolulu, HI 96813  
808-531-6271, 808-531-7732