

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

**TESTIMONY ON
SENATE BILL 241, RELATING TO PUBLIC SAFETY**

Before the Senate Committee on
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

By

Thomas L. Travis
Administrator, Hawaii Emergency Management Agency (HI-EMA)

Chair Nishihara, Vice Chair Wakai, and Members of the Committee

The Hawaii Emergency Management Agency (HI-EMA) **supports Senate Bill 241.**

Senate Bill 241 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.

Note: My comments represent HI-EMA concerns at the state emergency management level only. I would defer to the separate comment/testimonies of the county emergency management agencies, as they would be the jurisdictions impacted by this legislation at the local level.

Thank you for the opportunity to provide testimony in **SUPPORT** of Senate Bill 241.

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MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229
THURSDAY, FEBRUARY 7, 2019 AT 2:00 P.M.**

To The Honorable Clarence K. Nishihara, Chair;
The Honorable Glenn Wakai, Vice Chair; and
Members of Committee on Public Safety, Intergovernmental & Military Affairs;

TESTIMONY IN OPPOSITION OF SB 241 RELATING TO PUBLIC SAFETY

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce, with approximately 650 members. I am writing share our opposition to SB 241.

We all went through a very frightening event last year 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, but we don't believe that responsibility should first fall on businesses and public accommodations. The first line of responsibility is the State and local government. We appreciate that the State is addressing the issues that occurred during the false missile alert and are looking to improve the emergency management plans, but have found that there are gaps in current plans and areas that need to be addressed, from the "All-Hazards Preparedness Improvement Action Plan and Report" from Brigadier General Kenneth S. Hara, before creating a legislative mandate.

We currently have the "State of Hawaii Hurricane Evacuation Shelter Planning and Operations Guidelines," which is a comprehensive plan including shelter space, evacuation, roles and responsibilities, logistics, etc. in the event of a hurricane. This plan is a great example of how we should look to create plans for other natural disasters and emergencies, including a missile alert/threat.

We ask that instead of this mandate on businesses, the bill should be amended to appropriate funds and create a task force including the business sector, nonprofits, community partners, and State agencies to make guidelines and a plan for the event of a missile alert. A plan with guidelines would also give the public more confidence in the State in the event of an alert as they will know where to go (if they are not at home) and what to expect.



MAUI

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Once guidelines and a plan are created, the State can then assess government properties for sheltering and approach businesses about being designated shelter locations in gap areas. With the guidelines in place, businesses can make an informed decision about whether they have the necessary space, supplies and operations to shelter. We believe many businesses will voluntarily sign on to be a designated shelter as they will see the benefits to themselves and the community and a mandate such as this bill will not be necessary.

Further, by simply mandating that businesses shelter all people seeking immediate cover, there is a disregard for the various risks and factors such as:

- Building safety and durability
- Adequate space and overcrowding
- Food and water supplies
- Access to healthcare
- Infectious diseases
- Dangerous situations
- Access to radios and communications

A comprehensive plan can contain assessments and include ways to address these factors and if a business has agreed to be a designated shelter, they will understand these risks and be better prepared.

We ask that the Committee please consider our suggestions and amend the bill to create a plan first so businesses and the public will be prepared in the future.

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.



February 4, 2019

The Honorable Clarence K. Nishihara, Chair
The Honorable Glenn Wakai, Vice Chair
Senate Committee on Public Safety, Intergovernmental Affairs, and Military Affairs

Re: SB 241 – Relating to Emergency Access to Shelter

Dear Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 241, which prohibits public establishments from denying shelter to any person when an emergency alert advises the public to immediately seek shelter. It also clarifies that remuneration or expectation of remuneration paid to owners of private property for goods or services other than emergency access to land, shelter, or subsistence, including services or incidental commodities to the emergency access, does not void the exemption from civil liability afforded to these owners except where owners increase the sale price of the service or incidental commodities.

HMSA strongly supports this measure. HMSA is willing to do its part and provide shelter to members of the public in emergency situations. We do have a few concerns around liability and respectfully suggest the following amendment:

§127A- Public establishments; prohibition against 2 denial of shelter. (a) Whenever the State, or any portion thereof, is the subject of any emergency alert that advises the public to immediately seek shelter, including an alert of an incoming missile, **to the extent reasonably practicable and compliant with law**, no public establishment shall deny shelter to any person who is inside the public establishment or who is in the immediate vicinity of the public establishment **during the public establishment's normal business hours**. This prohibition does not extend to pets.

Thank you for the opportunity to provide testimony.

Sincerely,

Pono Chong
Vice President, Government Relations

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) REGARDING S.B. 241**

Date: Thursday, Feb. 7, 2019

Time: 2:00 p.m.

Room: 229

To: Chair Clarence K. Nishihara and Members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs.

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding S.B. 241 Relating to Public Safety.

This bill requires businesses to make their premises available immediately after the State or like entity issues an emergency alert that advises the public to immediately seek shelter. While we appreciate the intent of the measure, *HRS §127A-20 Immunity from liability of private shelter*, already provides sufficient liability protection to those who provide emergency shelter.

The bill melds business transactions with voluntary Good Samaritan actions, treating them both as the same, when they should be distinguishable and separate. Business transactions include a person who charges money for something as a merchant, not as a Good Samaritan. The charging of money creates a business transaction subject to the legal obligations and public protections applicable to business activities. Whereas, the Good Samaritan reacts voluntarily during a time of need to provide aid to another without charge or expectation of remuneration. Both are separate issues that should be addressed individually.

In addition, the section regarding “remuneration” on page 8, section (b), is overly broad and needs to be clarified further. It is unclear as to how a price increase would be identified with a private property owner if there was no price for that item to begin with.

HAI feels this section would create confusion with regards to providing incidental commodities at times of emergency and should be deleted.

Thank you for considering our testimony regarding this measure. Please contact me if there are any questions or concerns.



**TESTIMONY OF TINA YAMAKI,
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 7, 2019**

Re: SB 241 RELATING TO PUBLIC SAFETY

Good afternoon Chairperson Nishihara and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) as founded in 1901 and is a statewide, not for profit trade organization committed to the growth and development of the retail industry 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 the intent of SB 241 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. Last year 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. We **strongly supports a provision that 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.

Many of our retail members have glass store fronts that at times can be a few stories high and many retailers are NOT located in buildings that are reinforced with concrete or rebar to withstand a missile or bomb blast. Sheltering people in areas that knowingly may cause harm should the walls and glass be blown in should not be mandated as a safe and viable option for shelter.

We are also wondering if we would have to keep our doors unlocked and open at all times or would we be able to close our doors for safety reasons at some point before impact and what would that timing be? What if the stores are filled to capacity, would we still have to keep accepting people in? How long would we have to shelter people if it is a nuclear, chemical or a dirty bomb? What do retailers do if they are not equip with large quantities of food and water? There are a lot of unanswered questions that retailers have in order to avoid being penalized for being a public shelter.

Furthermore, we feel that price gouging will not be the real issue. The issue will be people assuming everything in the store is FREE and trying to take advantage by not paying for the items.

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.

SB-241

Submitted on: 2/6/2019 1:09:58 PM

Testimony for PSM on 2/7/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments: