

HB
1257

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that secondhand smoke is
2 a dangerous class A carcinogen, in the same class as asbestos
3 and benzene. Secondhand smoke typically contains at least seven
4 thousand identifiable chemicals, around seventy of which are
5 known or probable carcinogens. According to the federal Centers
6 for Disease Control and Prevention, secondhand smoke can cause
7 heart disease, lung cancer, and stroke. Further, the fiftieth
8 anniversary United States Surgeon General Report, released on
9 January 17, 2014, states that any level of exposure to
10 secondhand smoke is dangerous and that over two and a half
11 million nonsmokers have died from health problems caused by
12 secondhand smoke since 1964.

13 The purpose of this Act is to clarify that condominium
14 associations may adopt rules and regulations that:

15 (1) Require unit owners to prohibit smoking inside a
16 condominium unit as part of a lease agreement; and



1 (2) Prohibit smoking on a lanai of a condominium unit and
2 in all common elements.

3 SECTION 2. Section 514B-105, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Unless otherwise permitted by the declaration,
6 bylaws, or this chapter, an association may adopt rules and
7 regulations that affect the use of or behavior in units that may
8 be used for residential purposes only to:

9 (1) Prevent any use of a unit which violates the
10 declaration or bylaws;

11 (2) Regulate any behavior in or occupancy of a unit which
12 violates the declaration or bylaws or unreasonably
13 interferes with the use and enjoyment of other units
14 or the common elements by other unit owners[?],
15 including:

16 (A) Requiring unit owners to prohibit smoking inside
17 the unit as part of a lease agreement; and

18 (B) Prohibiting smoking on lanais and in all common
19 elements; or

20 (3) Restrict the leasing of residential units to the
21 extent those rules are reasonably designed to meet



H.B. NO. 1257

Report Title:

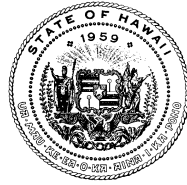
Condominiums; Associations; Rules and Regulations; Smoking;
Prohibitions; Owners; Lease Agreements

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; and prohibit smoking on a lanai of a condominium unit and in all common elements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





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

**Testimony in SUPPORT of H.B. 1257
RELATING TO CONDOMINIUMS**

REPRESENTATIVE ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Hearing Date: February 5, 2019 Room Number: 329

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health supports House Bill 1257 (H.B. 1257) as a
3 public health approach to protect dwellers of condominium units from involuntary exposure to
4 secondhand smoke (SHS). This measure proposes to amend §514B-105, Hawaii Revised
5 Statutes. Currently, the law merely implies that that condominium associations may adopt rules
6 and regulations that require unit owners to prohibit smoking by their renters. This measure
7 inserts language that explicitly allows associations the option to adopt policies that would require
8 unit owners to prohibit smoking inside the rental unit as part of the lease agreement. It would
9 also prohibit smoking on all lanais and common elements.

10 Individuals who live in multi-unit housing are especially susceptible to involuntary
11 exposure to SHS. According to data from the 2013-2014 National Adult Tobacco Survey,
12 tobacco use was slightly higher among those living in multi-unit housing (24.7%) compared to
13 those living in single family homes (18.9%).¹ This survey further showed that among those
14 living in multi-unit dwellings with no smoking rules, approximately 34.4% experienced
15 incursions of SHS from neighbors or somewhere in the building.² Hawaii's relatively high
16 volume of multi-unit housing dwellers, in contrast to the rest of the nation (46.2% Hawaii vs.

¹ 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>

² Ibid.

1 29.8% U.S.), leaves many in vulnerable situations when choosing to live in condominiums.³
2 Passing this measure could help decrease the threat of being exposed to SHS.

3 SHS exposure is causally linked to adverse health outcomes among non-smokers
4 including heart disease, stroke, and lung cancer in adults, and increased risk of severe asthma
5 attacks, respiratory infections, ear infections, and sudden infant death syndrome (SIDS) in
6 children.^{4,5} As smoke-free policies in public places, such as worksites, bars, restaurants, parks
7 and beaches, are now the accepted social norm, much of the remaining involuntary exposure to
8 SHS occurs in private places including homes and cars. The only way to effectively eliminate
9 exposure is to prohibit tobacco use altogether. The American Society of Heating, Refrigerating,
10 and Air-Conditioning Engineers states that ventilation and other air filtration technologies cannot
11 eliminate all the health risks caused by SHS exposure.⁶ According to the Center for Energy and
12 the Environment, depending on outside temperature conditions, up to 65% of the air is shared
13 between units in apartment buildings.⁷ SHS can potentially affect all other units in a building.

14 The movement for smoke-free multi-unit housing is rapidly growing in Hawaii and
15 across the country with the greatest protections offered now to persons living in public housing.
16 In 2014 the Hawaii Legislature enacted Act 91, a groundbreaking law prohibiting smoking in all
17 public housing, and in the summer of 2018, the U.S. Department of Housing and Urban

³ Annual Estimates of Housing Units for the United States, Regions, Divisions, States, and Counties: April 1, 2010 to July 1, 2017
Source: U.S. Census Bureau, Population Division. Data release: May 2018 Retrieved January 31, 2019 from

<https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t> ⁴ U.S. Department of Health and Human
Services. *Let's Make the Next Generation Tobacco-Free: Your Guide to the 50th Anniversary Surgeon General's Report on
Smoking and Health (2014)*. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/consumer-guide.pdf>

⁴ U.S. Department of Health and Human Services. *Let's Make the Next Generation Tobacco-Free: Your Guide to the 50th
Anniversary Surgeon General's Report on Smoking and Health (2014)*. [https://www.surgeongeneral.gov/library/reports/50-
years-of-progress/consumer-guide.pdf](https://www.surgeongeneral.gov/library/reports/50-
years-of-progress/consumer-guide.pdf)

⁵ 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)*.

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

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

http://www.mnsmokefreehousing.org/documents/presentations/CPW1_Case_for_Smoke_Free_Housing_MN.pdf

1 Development implemented uniform no-smoking restrictions across all 3,300 nationwide public
2 housing authorities.⁸

3 While great gains have been made in the public housing sector, the affordable and
4 market-rate sector still lack adequate comprehensive safeguards against SHS. The Department
5 supports this measure as a public health strategy toward comprehensive protections against
6 involuntary SHS exposure for those living in condominiums.

7 Thank you for the opportunity to provide testimony.

⁸ 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

HB-1257

Submitted on: 1/31/2019 11:39:43 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Comments	Yes

Comments:

Smoking has always been a debated issue in associations. I am concerned with Part I that it may discriminate against tenants versus owners. Owners already have the ability to create a non-smoking lease for their unit based on their own decision. To allow the association to dictate that rented units are non-smoking may be a problem. Associations can always amend their Bylaws to create a non-smoking building within the units for everyone.

Part 2 that allows the board to establish lanais as non-smoking is reasonable and necessary.



O`ahu County Committee on Legislative Priorities

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Roy M. Takumi, Luna Ho`omaluku/Chair

Rep. Linda Ichiyama, Hope Luna Ho`omaluku/Vice Chair

La/DATE: Tuesday, February 5, 2019

Hola/TIME: 2:00 p.m.

Wahi/PLACE: Conference Room 329, State Capitol

RE: HB 1257 Relating to Condominiums

To the Honorable Roy M. Takumi, Chair; the Honorable Linda Ichiyama, Vice Chair; and Members of the Committee on Consumer Protection & Commerce:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of HB 1257 relating to Condominiums**.

HB 1257 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; and prohibit smoking on a lanai of a condominium unit and in all common elements.

DPH believes that it must take a number of proactive steps so that all people – regardless of location, income or history – have the opportunity to live full, healthy lives. Democrats will fight for increased investments and coordination in public health to better address emerging threats as well as persistent needs around our State. *Democratic Party of Hawai`i Platform (2018), p. 15, ln. 32-50.*

For the foregoing reasons, i.e. to take proactive steps so that all people – regardless of location, income or history – have the opportunity to live full, healthy lives, OCCLP supports HB 1257 and urges its passage out of the Committee on Commerce and Consumer Affairs.

Mahalo nui loa
Me ka `oia`i`o

/s/ *Melodie Aduja*

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of
Hawai`i

Ph. (808) 258-8889

Email: legislativepriorities@gmail.com

HB-1257

Submitted on: 2/4/2019 10:14:01 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Zanercik	President of Condo Association	Comments	No

Comments:

HB 1257, regarding powers of condo Boards to regulate smoking by rule making, should **NOT** be expanded to give power to Boards to regulate or prohibit smoking in owner occupied units (primary or secondary residence). A property owner should be allowed, without interference from a Board, to engage in otherwise lawful activity if no third party is materially adversely affected. A homeowner should be free to decide this for him/herself, and not be limited just because his/her home is in the condo form of ownership. The bill as written strikes the appropriate balance between owner occupied rights and third party renters.

HB-1257

Submitted on: 2/4/2019 11:53:14 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark McKellar	Law Offices of Mark K. McKellar, LLLC	Comments	No

Comments:

RE: H.B. 1257

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

1. support the intent of proposed H.B. 1257 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

H.B. 1257 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

1. as written, H.B. 1257 does not allow condominium associations, by rule making authority, to prohibit smoking in the units by owners or persons who are not governed by a lease agreement. A prohibition against smoking that is limited to tenants will have little impact on condominium projects that have a high percentage of owner-occupied units. Accordingly, given that the Legislature has found that secondhand smoke is a dangerous carcinogen, the Legislature should empower condominium associations to adopt rules and regulations prohibiting smoking in the units and the entire condominium project by all persons.

Second, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior in, units that may be used for residential purposes. Condominium associations should have rule making authority to prohibit smoking in all units, whether they be used for residential or commercial purposes.

Third, as mentioned above, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior, in residential units. Accordingly, the reference in the new proposed Section 514B-105(b)(2)(B) to the common elements is confusing because Section 514B-105(b) does not apply to rules related to the use of the common elements.

If the Legislative intent is to protect persons from the harmful effects of secondhand smoke, it would be better to add a new subsection (f) to HRS Section 514B-105 that expressly authorizes condominium associations to adopt rules and regulations prohibiting smoking throughout the entire project, including the common elements, limited common elements, and condominium units by all persons, whether they be owners, tenants, guests, or invitees. The new section should provide that notwithstanding any other provision in Chapter 514B or an association's declaration or bylaws, an association, by and through its board, may adopt rules and regulations prohibiting smoking in all or any portion of the condominium project including the common elements, limited common elements, and condominium units.

For the reasons stated herein, I support H.B. 1257, but suggest that it be amended as stated above.

Respectfully submitted,

Mark McKellar

HB-1257

Submitted on: 1/31/2019 8:38:25 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Bickel	Individual	Support	No

Comments:

I live in a condo where the smoke from my neighbor has drifted from the inside of his unit to mine in the middle of the night causing me to suffer a lack of sleep and often migraines. I support smoke-free buildings.

HB-1257

Submitted on: 1/31/2019 9:26:01 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Comments	No

Comments:

While I support the intent of this bill, it will open Pandora's box, pitting neighbor against neighbor. I am a non-smoker. Second hand smoke bothers me. It is a health menace. It travels from unit to unit, from lanai to lanai. But giving the Board the authority to ban smoking on lanais and treating owner occupied units differently from absentee owner units is wrong. How can you tell an owner their tenants cannot smoke inside the unit but owner occupants can? You cannot have two standards. All can smoke or all cannot smoke. I also foresee a battle royale at annual meetings where smokers and non-smokers run competing slates for the board. There needs to be a solution which will not pit neighbor against neighbor. I am not sure this bill is the answer.

Lynne Matusow

HB-1257

Submitted on: 1/31/2019 9:59:38 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Patterson	Individual	Oppose	No

Comments:

HB-1257

Submitted on: 1/31/2019 10:40:07 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris C.K. Arakaki	Individual	Oppose	No

Comments:

HB1257 is a violation of my right to privacy and the rights of the owner.

HB-1257

Submitted on: 1/31/2019 1:16:56 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lani Hernandez	Individual	Oppose	No

Comments:

HB-1257

Submitted on: 1/31/2019 3:21:41 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
B.A. McClintock	Individual	Support	No

Comments:

With all that we know about smoking and second hand smoke, this is a common sense bill. For those of us with respiratory and chemical sensitivities smoking is a nightmare. One whiff can potentially send us to the hospital and in worse case scenarios kill us. To have this happen to us in our own homes is unconscionable. Please help us by passing this bill so we can all be safe and well.

Mahalo for your time.

HB-1257

Submitted on: 1/31/2019 7:59:30 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicholas Winters	Individual	Oppose	No

Comments:

HB-1257

Submitted on: 1/31/2019 9:51:36 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dale	Individual	Support	Yes

Comments:

Good bill, yes, please pass it. This will better enable Associations to move forward on this health issue. Smokers can always join a Cigar Club and stay in them.

HB-1257

Submitted on: 2/2/2019 6:25:27 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Anderson	Individual	Support	No

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of proposed H.B. 1257 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

H.B. 1257 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

First, as written, H.B. 1257 does not allow condominium associations, by rule making authority, to prohibit smoking in the units by owners or persons who are not governed by a lease agreement. A prohibition against smoking that is limited to tenants will have little impact on condominium projects that have a high percentage of owner-occupied units. Accordingly, given that the Legislature has found that secondhand smoke is a dangerous carcinogen, the Legislature should empower condominium associations to adopt rules and regulations prohibiting smoking in the units and the entire condominium project by all persons.

Second, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior in, units that may be used for residential purposes. Condominium associations should have rule making authority to prohibit smoking in all units, whether they be used for residential or commercial purposes.

Third, as mentioned above, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior, in residential units. Accordingly, the reference in the new proposed Section 514B-105(b)(2)(B) to the common elements is confusing because Section 514B-105(b) does not apply to rules related to the use of the common elements.

If the Legislative intent is to protect persons from the harmful effects of secondhand

smoke, it would be better to add a new subsection (f) to HRS Section 514B-105 that expressly authorizes condominium associations to adopt rules and regulations prohibiting smoking throughout the entire project, including the common elements, limited common elements, and condominium units by all persons, whether they be owners, tenants, guests, or invitees. The new section should provide that notwithstanding any other provision in Chapter 514B or an association's declaration or bylaws, an association, by and through its board, may adopt rules and regulations prohibiting smoking in all or any portion of the condominium project including the common elements, limited common elements, and condominium units.

For the reasons stated herein, I support H.B. 1257, but suggest that it be amended as stated above.

Respectfully submitted,

M. Anne Anderson

Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair
Committee on Consumer Protection and Commerce

Re: HB 1257

Tuesday, February 5, 2019, 2:00pm
in House Conference Room 329

I, Adeline Porter, testifies in Strong Support of HB 1257.

I am a senior citizen who has been deemed permanently disabled, by Social Security Administration, due to multiple chemical sensitivity. I have lived in my condominium for the past forty-six (46) years. In 2015, I spent nearly \$40,000.00 to refurbish my unit, replacing materials containing formaldehyde, asbestos, mold and other toxicants to acquire a safer and healthier living environment, and thus a better quality of life.

Tragically, since about two years ago, my medical condition worsened due to the daily drifting of my neighbor's secondhand smoke.

I can no longer enjoy my lanai and/or open windows and the lanai door. In spite of my installing two air purifiers, one of which that indicates poor air quality when I detect cigarette smoke odor, I need to leave my unit at least once, oftentimes twice daily, to alleviate my symptoms. Unfortunately, I find myself returning to an environment with residual toxins, causing my symptoms to linger and require oxygen therapy. And now, my recently refurbished home is contaminated with thirdhand smoke.

Attempts to resolve the issue by communicating with the Board and the smoking neighbor has not been successful. Secondhand smoke continue to drift from within his unit into mine.

In addition to my personal predicament, I offer the following compelling findings to uphold my strong support to prohibit smoking in condominium units:

1. Secondhand smoke is a poisonous air pollutant that contains over 250 known toxins and carcinogens, including Arsenic, Carbon monoxide, Formaldehyde, Benzene, Nicotine and more. The U.S. Environmental Protection Agency has classified it a Group A Carcinogen.
2. The CDC warns that even a brief, low level exposure to secondhand smoke can substantially increase the risk on non-smokers of lung cancer, cardiovascular disease, reproductive and developmental abnormalities, immune and respiratory conditions and more. Infants and children are particularly at risk and vulnerable to asthma and sudden infant death syndrome.
Secondhand smoke makes existing illnesses worse and it can cause death.
3. According to The U.S. Surgeon General, there is No Safe Level of Exposure to Secondhand Smoke and Eliminating Indoor Smoking Is The Only Way to

Protect Non-Smokers from the Harmful Effects of Secondhand Smoke Exposure.

4. There is No Effective Way to Contain Secondhand Smoke at its point of origin: smoke will find its way into your unit through open windows, under doors, tiny cracks and openings in the walls, electrical outlets, spaces around pipes and plumbing fixtures and ventilations systems.
5. According to the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE):
“There is no known ventilation or air cleaning system that can eliminate all the toxins from another resident’s smoke.”
6. Thirdhand Smoke, as referred to by researchers of Harvard Cancer Center, is the remnants on surfaces after secondhand smoke has cleared out. These surfaces include walls, ceiling, furnitures, carpets, drapes, beddings, hair, clothing and more. The presence of these thirdhand smoke may be indicated by the stale, lingering odor and/or yellowish stain on surfaces.

Restoration of individual units and common areas following thirdhand smoke contamination can be costly and time consuming. i.e. Walls and ceilings need to be decontaminated and repainted, window coverings and carpets need to be replaced, ventilation ducts need to be cleaned out, and more.

Laws have already been passed to protect the public from secondhand and thirdhand toxic exposures. Condominiums need to be treated like public places to protect us who are involuntarily exposed to toxins from air that is shared with active smokers within. To protect the health, safety, economic and quality of life issues for condominium residents, smoking in condominiums, including individual’s units, must be prohibited.

Chair Takumi, and members of this Committee on Consumer Protection and Commerce, I humbly ask that you take to heart the foregoing testimony and pass HB 1257. Thank you for this opportunity to testify.

Adeline Porter

HB-1257

Submitted on: 2/1/2019 5:43:42 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jake J. Watkins	Individual	Oppose	No

Comments:

Enough Already!

HB-1257

Submitted on: 2/2/2019 12:18:01 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Orozco	Individual	Oppose	No

Comments:

HB-1257

Submitted on: 2/2/2019 9:44:28 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Ruby	Individual	Support	No

Comments:

HB-1257

Submitted on: 2/3/2019 9:02:52 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	Yes

Comments:

It should be up to the individual owner. Respect private property rights.

HB-1257

Submitted on: 2/3/2019 1:08:53 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Robinson	Individual	Oppose	No

Comments:

Make me a happy voter and support my private properly rights by not allowing this bill out of committee.

Mahalo, Michelle

HB-1257

Submitted on: 2/3/2019 1:18:06 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Clayton Silva	Individual	Oppose	No

Comments:

HB-1257

Submitted on: 2/3/2019 6:57:33 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Wells	Individual	Oppose	No

Comments:

HB-1257

Submitted on: 2/3/2019 10:13:01 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
raymond tremblay	Individual	Support	No

Comments:

HB-1257

Submitted on: 2/3/2019 10:53:49 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Individual	Support	No

Comments:

This bill is most welcomed as a means to promote a healthy environment. We have been victims of thoughtless homeowners whose smoking on lanais affects our sinuses and condominium home. Please pass this bill.

HB-1257

Submitted on: 2/4/2019 8:37:44 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dallas Nelson	Individual	Oppose	No

Comments:

We have a constitutional right to privacy. HB1257 violates that. :(

HB-1257

Submitted on: 2/4/2019 8:57:15 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. Ireland Koftinow	Individual	Comments	No

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of proposed H.B. 1257 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

H.B. 1257 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

First, as written, H.B. 1257 does not allow condominium associations, by rulemaking authority, to prohibit smoking in the units by owners or persons who are not governed by a lease agreement. A prohibition against smoking that is limited to tenants will have little impact on condominium projects that have a high percentage of owner-occupied units. Accordingly, given that the Legislature has found that secondhand smoke is a dangerous carcinogen, the Legislature should empower condominium associations to adopt rules and regulations prohibiting smoking in the units and the entire condominium project by all persons.

Second, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior in, units that may be used for residential purposes. Condominium associations should have rulemaking authority to prohibit smoking in all units, whether they are used for residential or commercial purposes.

Third, as mentioned above, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior, in residential units. Accordingly, the reference to the common elements (in the proposed amendment to Section 514B-105(b)(2)(B)) is confusing because Section 514B-105(b) does not apply to rules related to the use of the common elements.

If the Legislative intent is to protect persons from the harmful effects of secondhand smoke, it would be better to add a new subsection (f) to HRS Section 514B-105 that expressly authorizes condominium associations to adopt rules and regulations prohibiting smoking throughout the entire project, including the common elements, limited common elements, and condominium units by all persons, whether they be owners, tenants, guests, or invitees. The new section should provide that notwithstanding any other provision in Chapter 514B or an association's declaration or bylaws, an association, by and through its board, may adopt rules and regulations prohibiting smoking in all or any portion of the condominium project including the common elements, limited common elements, and condominium units.

For the reasons stated herein, I support H.B. 1257, but suggest that it be amended as stated above.

Respectfully submitted,

Paul A. Ireland Koftinow

HB-1257

Submitted on: 2/4/2019 9:08:51 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn S. Horio	Individual	Support	No

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

1. support the intent of proposed H.B. 1257 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

H.B. 1257 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

1. as written, H.B. 1257 does not allow condominium associations, by rule making authority, to prohibit smoking in the units by owners or persons who are not governed by a lease agreement. A prohibition against smoking that is limited to tenants will have little impact on condominium projects that have a high percentage of owner-occupied units. Accordingly, given that the Legislature has found that secondhand smoke is a dangerous carcinogen, the Legislature should empower condominium associations to adopt rules and regulations prohibiting smoking in the units and the entire condominium project by all persons.

Second, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior in, units that may be used for residential purposes. Condominium associations should have rule making authority to prohibit smoking in all units, whether they be used for residential or commercial purposes.

Third, as mentioned above, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior, in residential units. Accordingly, the reference in the new proposed Section 514B-105(b)(2)(B) to the common elements is confusing because Section 514B-105(b) does not apply to rules related to the use of the common elements.

If the Legislative intent is to protect persons from the harmful effects of secondhand smoke, it would be better to add a new subsection (f) to HRS Section 514B-105 that expressly authorizes condominium associations to adopt rules and regulations prohibiting smoking throughout the entire project, including the common elements, limited common elements, and condominium units by all persons, whether they be owners, tenants, guests, or invitees. The new section should provide that notwithstanding any other provision in Chapter 514B or an association's declaration or bylaws, an association, by and through its board, may adopt rules and regulations prohibiting smoking in all or any portion of the condominium project including the common elements, limited common elements, and condominium units.

For the reasons stated herein, I support H.B. 1257, but suggest that it be amended as stated above.

Respectfully submitted,

Glenn S. Horio

HB-1257

Submitted on: 2/4/2019 9:39:46 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David McCann	Individual	Oppose	No

Comments:

No more bans! No tax hikes!

Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair
Committee on Consumer Protection and Commerce

HB 1257, Relating to Condominiums

Tuesday, February 5, 2019, 2:00 pm

My name is Nancy Masuda and I strongly support HB 1257, Relating to Condominiums.

Although I do not live in a condominium, my son, daughter-in-law, and 9-month old grandson live in a condo, and they are being affected by drifting secondhand smoke coming from other units. I am very much concerned that my grandson has been exposed to secondhand smoke since he was born.

While my son's condo has House Rules that include a section on Quiet Enjoyment, which prohibits excessive noise and offensive smell or odor of any kind, the condo association board felt that smell from cigarette smoke does not fall under the Quiet Enjoyment section. Therefore, nothing is being done to stop drifting smoke from entering their unit. Non-smokers in their building are having their quality of life and health affected by secondhand smoke coming into their homes while smokers are allowed to infringe their pollution on others.

While some condominiums already have a total ban on smoking on their premises, passage of this bill will allow other condominium associations to place a no-smoking ban in individual units immediately. I am sure you are well aware of the adverse health effects that secondhand smoke have on infants' and children's health. Passage of this bill will mean that my grandson and other families will have cleaner air to breathe much sooner in their own homes. This bill will also alleviate those with respiratory problems and reduce condo fires due to unattended lit cigarettes.

I strongly urge the Committee to pass HB 1257. Thank you for this opportunity to testify.

HB-1257

Submitted on: 2/4/2019 11:45:15 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrew Boorman	Individual	Support	No

Comments:

HB-1257

Submitted on: 2/4/2019 11:51:16 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Sadler	Individual	Comments	No

Comments:

While I support this bill , it needs to be stronger. It needs to authorize condo associations to adopt rules and regulations prohibiting smoking throughout the entire project , including both common and limited common elements and condominium units by all persons, whether they are owners, tenants, guests or invitees. My wife suffers from asthma and is highly allergic to smoke of any kind. No e_cigaretts or vaping either.

Sincerely, Tom Sadler

owner unit #324 White Sands Village, Kailua Kona, HI 96740

RE: H.B. 1257

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of proposed H.B. 1257 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

H.B. 1257 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

First, as written, H.B. 1257 does not allow condominium associations, by rule making authority, to prohibit smoking in the units by owners or persons who are not governed by a lease agreement. A prohibition against smoking that is limited to tenants will have little impact on condominium projects that have a high percentage of owner-occupied units. Accordingly, given that the Legislature has found that secondhand smoke is a dangerous carcinogen, the Legislature should empower condominium associations to adopt rules and regulations prohibiting smoking in the units and the entire condominium project by all persons.

Second, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior in, units that may be used for residential purposes. Condominium associations should have rule making authority to prohibit smoking in all units, whether they be used for residential or commercial purposes.

Third, as mentioned above, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior, in residential units. Accordingly, the reference in the new proposed Section 514B-105(b)(2)(B) to the common elements is confusing because Section 514B-105(b) does not apply to rules related to the use of the common elements.

If the Legislative intent is to protect persons from the harmful effects of secondhand smoke, it would be better to add a new subsection (f) to HRS Section 514B-105 that expressly authorizes condominium associations to adopt rules and regulations prohibiting smoking throughout the entire project, including the common elements, limited common elements, and condominium units by all persons, whether they be owners, tenants, guests, or invitees. The new section should provide that notwithstanding any other provision in Chapter 514B or an association's declaration or bylaws, an association, by and through its board, may adopt rules and regulations prohibiting smoking in all or any portion of the condominium project including the common elements, limited common elements, and condominium units.

For the reasons stated herein, I support H.B. 1257, but suggest that it be amended as stated above.

Respectfully submitted,
/s/ Pamela J. Schell

HB-1257

Submitted on: 2/4/2019 12:12:12 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sharon D. Sadler	Individual	Comments	No

Comments:

While I support this bill, I think it needs to be STRONGER. If it is the intent of the Legislature to protect all persons from the harmful effects of secondhand smoke, it should be ammended to allow condo associations to adopt rules and regulations prohibiting smoking throught the entire project, including the condominium units and their lanais, by any person whether they are owners, tenants, guests or invitees. Also, there should be no exception for medical marajuana, e-cigarettes or vaping. As a cancer survivor, I can attest to the fact that medical marajuana can be ingested by other means. No smoking should be allowed fro the minute you turn into the driveway.

Sincerely,

Sharon D. Sadler

HB-1257

Submitted on: 2/4/2019 1:50:15 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Brazil	Individual	Support	No

Comments:

RE: H.B. 1257

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of proposed H.B. 1257 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

H.B. 1257 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

First, as written, H.B. 1257 does not allow condominium associations, by rule making authority, to prohibit smoking in the units by owners or persons who are not governed by a lease agreement. A prohibition against smoking that is limited to tenants will have little impact on condominium projects that have a high percentage of owner-occupied units. Accordingly, given that the Legislature has found that secondhand smoke is a dangerous carcinogen, the Legislature should empower condominium associations to adopt rules and regulations prohibiting smoking in the units and the entire condominium project by all persons.

Second, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior in, units that may be used for residential purposes. Condominium associations should have rule making authority to prohibit smoking in all units, whether they be used for residential or commercial purposes.

Third, as mentioned above, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior, in residential units. Accordingly, the reference in the new proposed Section 514B-105(b)(2)(B) to the common elements is confusing because Section 514B-105(b) does not apply to rules related to the use of the common elements.

If the Legislative intent is to protect persons from the harmful effects of secondhand smoke, it would be better to add a new subsection (f) to HRS Section 514B-105 that expressly authorizes condominium associations to adopt rules and regulations prohibiting smoking throughout the entire project, including the common elements, limited common elements, and condominium units by all persons, whether they be owners, tenants, guests, or invitees. The new section should provide that notwithstanding any other provision in Chapter 514B or an association's declaration or bylaws, an association, by and through its board, may adopt rules and regulations prohibiting smoking in all or any portion of the condominium project including the common elements, limited common elements, and condominium units.

For the reasons stated herein, I support H.B. 1257, but suggest that it be amended as stated above.

Respectfully submitted,

Kim Brazil



HIPHI Board

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Hawaii Pacific Health

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McCorriston Miller Mukai
MacKinnon LLP

JoAnn Tsark, MPH
John A. Burns School of
Medicine, Native Hawaiian
Research Office

En Young, MBA
Sansei, Lanai

Date: February 1, 2019

To: The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
Members of the House Committee on Consumer Protection and
Commerce

From: Trish La Chica, Policy and Advocacy Director, Hawai'i Public Health
Institute

Re: **Support for HB1257, Relating to Condominiums**

Hrg: February 5, 2019 at 2:00pm at Capitol Room 329

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **SUPPORT** of HB1257, which 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; and
- Prohibit smoking on a lanai of a condominium unit and in all common elements.

HB1257 helps to promote smoke-free environments. This measure is a step towards helping to protect nonsmoking neighbors from the health dangers of inhaling tobacco smoke. In addition, this measure aims to protect unit owners from the high costs associated with the removal and damage caused by thirdhand smoke. The Coalition supports any efforts that encourage multi-unit dwellings to adopt smoke-free policies and reduce secondhand smoke exposure.

A majority of Hawai'i residents prefer to buy or rent a house or apartment that is smoke-free.

An independent poll conducted by Ward Research Inc. for the Coalition, in November 2018 finds that 87% of registered Hawai'i voters would choose to buy or rent a smoke-free house or apartment.

Condominium and apartment residents are suffering from secondhand smoke, a known carcinogen, with little recourse.

The Coalition receives calls from residents who reside in multi-unit housing and who have asthma and other health issues affected by secondhand smoke exposure. The Coalition supports efforts that will encourage any multi-unit dwelling to go smoke-free. Through our efforts

we have learned that all residents—regardless if they have asthma, COPD or other health issues—are impacted by the hazards of secondhand smoke.

Thank you for the opportunity to testify in **support** of HB1257. We ask that you pass this measure out of committee.

Mahalo,



Trish La Chica, MPA
Policy and Advocacy Director

ⁱ The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

The Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of proposed H.B. 1257 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

H.B. 1257 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

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For the reasons stated herein, I support H.B. 1257, but suggest that it be amended as stated above.

Respectfully submitted,


Primrose K. Leong-Nakamoto (S)

HB-1257

Submitted on: 2/4/2019 4:20:50 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Hawaii Smokers Alliance	Oppose	Yes

Comments:

The Hawaii Smokers' Alliance is Strong Opposed to this bill.

The owner of the property has the right to make their own decisions on the use of their property. Since Tobacco Free Hawaii DOESN'T OWN my property or any property in my building they have no right to lobby condo boards for bans that go against the will of the owners.

HB-1257

Submitted on: 2/4/2019 6:45:48 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Santiago	Individual	Oppose	No

Comments:

HB-1257

Submitted on: 2/4/2019 7:49:20 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
April Pacheco	Individual	Oppose	No

Comments:

Condo units are not public spaces. I strongly oppose this bill.

HB-1257

Submitted on: 2/4/2019 8:18:08 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kimura	Individual	Support	No

Comments:

I support this measure because I don't believe associations should be required to obtain a 67% vote in favor of prohibiting smoking, if those mandates have not been established in governing documents. Particularly in associations where 50% or fewer owners are residents, there is a real possibility that non resident owners will not be concerned enough about the dangers of being exposed to second-and third-hand cigarette smoke that we resident owners and tenants must tolerate on a daily basis. The tendency is for non resident owners to be disinterested in instituting living improvements in buildings they own units in, unless they themselves face the prospect of prohibitive costs if those improvements are not done.

The growing trend is that most prospective buyers and tenants of existing properties find cigarette residue and odor repugnant. Experts have stated that the only way to get rid of cigarette smoke residue in drywalls is to tear down and rebuild the walls. Carpets and drapes must also be replaced, as it is often not possible to completely clean them. Many owners do not realize these concerns until they try to either sell their units or to rent them to new tenants.

Smoking health hazards and prohibitive costs of getting rid of smoking residue trump so many other considerations in debates on whether or not to allow smoking in buildings, that there is no doubt association boards should be given automatic rein to mandate smoking bans.