

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**LATE**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on Judiciary**

February 12, 2020

H.B. No. 2481: RELATING TO LITTERING

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

The Office of the Public Defender respectfully opposes H.B. No. 2481

H.B. No. 2481 significantly increases the maximum fines for littering. We believe the current penalties for littering are sufficient. It is not likely that this measure will achieve its stated goal of deterring littering. Currently, a court can already fine a litterer up to \$500.00 and in the case of Criminal Littering under H.R.S. Section 708-829, up to \$1000.00. This bill would increase the maximum fines to up to \$1000.00 and in the case of Criminal Littering under H.R.S. Section 708-829, up to \$5000.00.

We think these amounts are unreasonably high. However, in the case of Criminal Littering under H.R.S. Section 708-829, the proposed change is more problematic. Criminal Littering is a petty misdemeanor under Section 707-829 (3). Chapter 706, Part III governs Fees, Fines and Restitution in Sentencing. Section 706-640 (e) provides that fines in petty misdemeanor and violations may not exceed \$1000.00. Therefore, if passed, this legislation will directly contradict another statutory provision.

Additionally, if passed, this legislation would provide for a possible larger fine in a petty misdemeanor case than could be imposed in a misdemeanor case. That makes no sense.

One real concern about this legislation is that it will further criminalize poverty and homelessness. When homeless people set up their tents with all the accessories such as pallets, cooking ware, shopping carts, etc. in and around the tent, is that littering? If they can't pick it all up at once to take away from the area? What if they collect their rubbish at their tent site without use of a traditional garbage container, intending to take it to a park refuse container later? Would that be "improperly discarded paper, metal, plastic, glass, or solid waste" which is part of the definition of litter in Section 708-829 (2)?

Because it is a petty misdemeanor, offenders may be arrested on the spot and will be held in custody until their first court appearance and possibly longer. If not arrested, some may not appear in court which will mean a bench warrant, possible arrest, more court appearances, etc. All of this means more burden on the criminal justice system.

The reality is that fines as a sanction are rarely imposed and in fact, littering is a rare citation in the court system.. A person is usually cited for criminal littering only in conjunction with another, more substantial charge. For instance, a person who is arrested for illegal camping might also be cited for criminal littering if there is debris around the campsite.

Thus the littering problem is caused by a lack of enforcement. Until law enforcement has the manpower to cite persons for this violation, this statute will have no deterrent effect. But it will serve to further clog overburdened courts and jail facilities.

Thank you for the opportunity to comment on this bill.

**HB-2481**

Submitted on: 2/11/2020 4:40:09 PM

Testimony for JUD on 2/12/2020 3:00:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments: