

STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony in SUPPORT of S.B. 552
RELATING TO NUISANCE ABATEMENT

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: 2/11/2021

Room Number: Videoconference

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) supports Senate Bill 552 (S.B. 552)
3 as a public health measure to address secondhand smoke (SHS) exposure in any residential unit
4 that a person owns, leases, or rents. This measure deems drifting tobacco smoke from
5 neighboring residential or commercial units a nuisance relating to environmental hazards and
6 offers remedies to citizens who are exposed to SHS.

7 Each year, an estimated 28 million multiunit housing residents in the U.S. are exposed to
8 SHS in their home or apartment that originated from somewhere else in their building, such as a
9 nearby unit.^{1,2} The U.S. Surgeon General has declared that there is no safe level of SHS
10 exposure.³ SHS exposure is causally linked to adverse health outcomes among non-smokers,
11 including heart disease, stroke, and lung cancer in adults, and increased risk of severe asthma
12 attacks, respiratory infections, ear infections, and sudden infant death syndrome (SIDS) in

¹ King BA, Babb SD, Tynan MA, Gerzoff RB. National and state estimates of secondhand smoke infiltration among U.S. multiunit housing residents. *Nicotine Tob Res.* 2013;15 (7):1316-1321.

² Andrea S. Licht, Brian A. King, Mark J. Travers, Cheryl Rivard, and Andrew J. Hyland. Attitudes, Experiences, and Acceptance of Smoke-Free Policies Among US Multiunit Housing Residents. *American Journal of Public Health*: October 2012, Vol. 102, No. 10, pp.1868-1871. doi: 10.2105/AJPH.2012.300717.

³ Office on Smoking and Health (US). (2006). *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Centers for Disease Control and Prevention (US). <http://www.ncbi.nlm.nih.gov/books/NBK44324/>

1 children.^{4,5} While smoke-free policies in public places, such as worksites, bars, restaurants,
2 parks, and beaches, are in place, Hawaii’s residents still experience involuntary exposure to SHS
3 in homes.

4 The 2017 Hawaii Youth Tobacco Survey reported that 26% of high school and middle
5 school students acknowledge being exposed in the last week to SHS in their own homes.⁶
6 Among adults, individuals aged 18-24 years (18%), Native Hawaiians (12%), and Pacific
7 Islanders (13%), report exposure to SHS in their homes that far exceeds the state average (7%).⁷
8 During the COVID-19 pandemic, the DOH observed an escalation of complaint calls regarding
9 exposure to SHS in the home. Whereas in previous years, the DOH typically received an
10 average of 50% of complaints calls related to housing, this figure increased to approximately
11 73% in 2020.⁸

12 Hawaii has a relatively high volume of multiunit housing dwellers when compared to the
13 rest of the nation (46.2% Hawaii vs. 29.8% U.S.)⁹, leaving many in a vulnerable position during
14 the stay-at-home restrictions, or when initially choosing to rent or purchase a unit in a building.
15 Passing this measure will give people in Hawaii recourse should they find themselves exposed to
16 SHS originating from somewhere else in their building.

17 The DOH supports this public health measure to provide remedies to protect youth and
18 adults against SHS in places where they live.

19 Thank you for the opportunity to testify on this measure.

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>

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)*.

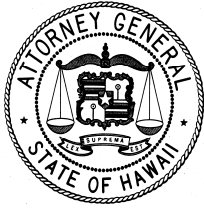
⁶ Hawaii State Department of Health, Hawaii Health Data Warehouse, Youth Tobacco Survey, 2017 [Hawaii Health Data Warehouse \(hhdw.org\)](#)

⁷ Hawaii State Department of Health, Hawaii Health Data Warehouse, Behavioral Risk Factor Surveillance System, 2018 [Hawaii Health Data Warehouse \(hhdw.org\)](#)

⁸ Hawaii State Department of Health, Tobacco Prevention and Control Section, SHS complaint data

⁹ 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>

1 Offered Amendments: None



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY- FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 552, RELATING TO NUISANCE ABATEMENT.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Thursday, February 11, 2021 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Albert Cook,
Deputy Attorney General, at 586-0940)

Chair Baker and Members of the Committee:

The Department of the Attorney General opposes this bill.

This bill seeks to expand the nuisance abatement laws, sections 712-1270 through 712-1281, Hawaii Revised Statutes (HRS), to allow nuisance abatement actions for nuisances that are injurious to health, indecent, or offensive to the senses, or that constitute an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, such as nuisances relating to environmental hazards, including tobacco smoke that drifts into any residential unit a person rents, leases, or owns.

The nuisance abatement statutes allow for civil actions to force property owners who allow certain criminal activities to take place upon their properties to stop those activities. They also allow civil action to exclude certain persons who are engaging in those criminal activities from residing on the properties. As revealed in the commentary to the nuisance abatement statutes below, the goal is to abate criminal actions that affect the neighborhood.

COMMENTARY ON §§712-1270 TO 712-1281

Act 181, Session Laws 1979, established this part to provide a remedy to abate as nuisances, offenses against public health and morals in the

nature of offenses defined as prostitution, the display of indecent matter, and the like.

...

Act 158, Session Laws 1990, amended §712-1270 to expand the nuisance law to permit closure of premises where drug offenses repeatedly occur.

...

Act 80, Session Laws 2015, amended §712-1270 to promote the enforcement of criminal gambling prohibitions by including gambling among the types of criminal offenses that are subject to the nuisance abatement laws. The legislature found that illegal gambling establishments can generate a large volume of cash and lead to neighborhood and community nuisances by becoming a haven for organized crime. Act 80 supplements existing police efforts by providing an additional tool to remedy illegal activity at specific buildings, premises, or places within the State.

The commentary to the nuisance abatement section confirms that civil nuisance abatement actions were intended to stop the use of property for certain criminal activity. It gave the State and individuals an additional tool to alleviate criminal activity and the problems it caused for those in close proximity.

The items listed in this bill, such as nuisances that are “injurious to health, indecent, offensive to the senses, or constitute an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, such as nuisances relating to environmental hazards” are vague and undefined and the abatement of such activities serve no criminal deterrent purpose. Besides being unenforceable due to vagueness in an abatement action, these conditions are not crimes and not the type of actions the nuisance abatement statute was created to address.

The Department opposes this bill and requests that it be held.

SB-552

Submitted on: 2/10/2021 8:31:01 AM

Testimony for CPN on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sonia Gupta	Testifying for Maui Dental Group	Support	No

Comments:

We at Maui Dental Group support this bill SB552 regarding abatement of nuisances related to environmental hazards, including tobacco smoke that drifts into any residential unit.

I am writing this testimony to make you aware of the negative health effects of secondhand smoke on residents. Residents who are exposed to neighbor's smoking often suffer due to secondhand smoke exposure and clouds of smoke causing adverse respiratory effects and preventing sleep because they cannot breathe. This is highly concerning from a medical standpoint.

Because their bodies are developing and their size is so small, infants and young children are especially vulnerable to the poisons in secondhand smoke. Children who are exposed to secondhand tobacco smoke breathe the same dangerous chemicals that smokers inhale. The same can be said for adults, dogs, cats, birds, or any other living being exposed to secondhand smoke.

The harmful effects of secondhand smoke on human health have been well documented through decades of scientific research. Below are just a few of the conclusions from the Surgeon General's report (originally published in 1986 and then reconfirmed in 2006), which explains in great detail the health risks of secondhand smoke:

- Babies who are exposed to secondhand smoke during pregnancy and after birth are more likely to die from sudden infant death syndrome (SIDS).
- Babies who are exposed to secondhand smoke suffer from poor lung development and will have weaker lungs than other babies. This increases the

risk for many health problems including more frequent and severe asthma attacks, upper respiratory infections, and ear infections.

- Secondhand smoke exposure causes more frequent lower respiratory infections such as bronchitis and pneumonia.
- Secondhand smoke exposure causes allergic and respiratory symptoms including eye irritation, cough, phlegm, wheezing, and breathlessness.
- Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes heart disease and lung cancer.
- Secondhand smoke exposure increases the risk of ALL cancers including childhood leukemia, brain, breast, uterine, colon, prostate, and bladder cancer.
- Secondhand smoke causes premature death and disease in children and in adults.
- Secondhand smoke may increase the chance of dental caries (cavities)

In light of the current pandemic, I am particularly concerned for people's health. Secondhand smoke exposure is known to weaken the immune system and make lungs more susceptible to viral infections such as COVID-19. These patients also have far worse outcomes once they become infected. Since their lungs are weakened by the secondhand smoke exposure, the disease will be more severe and progress more quickly. There will be a higher chance of death.

The evidence is indisputable that secondhand smoke is harmful to human health. The following points are taken verbatim from the Surgeon General's Report:

1. The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.
2. Many millions of Americans, both children and adults, are still exposed to secondhand smoke in their homes and workplaces despite substantial progress in tobacco control.
3. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke.

This is the reason that the federal government mandates clear warning labels on cigarette packages that smoking is harmful. This is also the reason that smoking has been banned in public facilities such as bars and restaurants throughout the country. Smoking is even banned in outdoor spaces such as parks and beaches in Maui County. I am very concerned that any multi-unit housing complex would allow smoking in their units, as there is no way to isolate smoke from drifting into other units and harming people. The aerosolized smoke particles easily make their way through cracks in windows, walls, and flooring, and travel through shared ventilation ducts into other units as if people were sitting in the same room. Allowing even a single one of your residents to smoke will adversely affect the health of all the residents.

Children and families have the right to grow up in a healthful environment. Our leaders have the opportunity to make buildings a safe and wholesome place for adults, children, and pets. They also have a golden opportunity to bring buildings up to the standard of many condo complexes, that have already banned smoking not only inside of buildings, but in parking lots and common areas where secondhand smoke could drift into other units and harm residents. Since 2017, there has been a federal mandate that bans smoking in all public housing as well:

The smoke-free policy must also extend to all outdoor areas up to 25 feet from the public housing and administrative office buildings. This rule improved indoor air quality in the housing; benefits the health of the public housing residents, visitors, and PHA staff; reduces the risk of catastrophic fires; and lowers overall maintenance costs.

I urge all boards to take care of their condominium community. Having healthy policies in place will make for a stronger and more vibrant community. In addition, all residents will benefit from the decreased risk of fires, lower maintenance costs, improved public image, and overall increased desirability of a non-smoking complex; all of these will have a positive impact on your property values. This is a life and death matter that should be taken seriously. Please take immediate action to stop people and pets from being exposed to the detrimental health effects of secondhand smoke.

Please feel free to contact us at the phone or email address at the top of this letter. We would be happy to answer any questions you may have while keeping patient privacy in mind. We are also happy to provide a printed copy of the Surgeon General's Report, but please note that it is 757 pages long. Attached is a PDF link which may be more practical. You will also find other digital links for your reference. Thank you for your time and attention in this matter.

References:

1. <https://www.sciencedaily.com/releases/2007/08/070831123420.htm>
2. Office on Smoking and Health (US). The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Atlanta (GA): Centers for Disease Control and Prevention (US); 2006. https://www.ncbi.nlm.nih.gov/books/NBK44324/pdf/Bookshelf_NBK44324.pdf

3. The amendments to Maui County Code Section 13.04.020 prohibit smoking and the use of tobacco products within the limits of any park or recreational facility which is owned or maintained by the County. This includes chewing tobacco, and smoking cigarettes, cigars, pipes, or other products containing tobacco.
<https://www.mauicounty.gov/Faq.aspx?QID=823#:~:text=by%20the%20law%3F-The%20amendments%20to%20Maui%20County%20Code%20Section%2013.04.,or%20maintained%20by%20the%20County.>
4. <https://www.federalregister.gov/documents/2016/12/05/2016-28986/instituting-smoke-free-public-housing>
5. NIH passive smoking and dental caries:
<https://jamanetwork.com/journals/jama/fullarticle/196145>



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Date: February 10, 2021

To: Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Members of the Senate Committee on Commerce and Consumer
Protection

Re: **Support for SB 552, Relating to Nuisance Abatement**

Hrg: February 11, 2021 at 9:30 AM in Capitol Room 229

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **SUPPORT of SB 552**, which authorizes citizens to bring a nuisance abatement suit for nuisances related to environmental hazards, including tobacco smoke that drifts into any residential unit a person rents, leases, or owns, from another residential or commercial unit.

The Coalition strongly supports measures that reduce exposure to secondhand and thirdhand smoke.

There is no safe level of exposure to secondhand smoke, and according to the U.S. Surgeon General, even brief exposure to secondhand smoke is dangerous and can be harmfulⁱⁱ. Inhaling secondhand smoke can have immediate detrimental effects on cardiovascular health, damaging blood vessels and increasing the risk of heart attack and strokeⁱⁱⁱ.

Secondhand smoke is also responsible for an estimated 46,000 premature deaths from heart disease and 3,400 lung cancer deaths in the United States among **nonsmokers** annually^{iv}. Infants and young children are especially vulnerable to these toxic chemicals, and exposure to secondhand smoke during pregnancy and after birth leaves them at an increased risk of Sudden Infant Death Syndrome (SIDS), poor lung development, and more frequent and severe asthma attacks, respiratory infections, and ear infections^v.

Thirdhand smoke, which is the residual tobacco toxins that remain after a cigarette is extinguished, clings to walls, ceilings, carpets, draperies, and other furniture. They remain at high levels long after smoking has stopped and has shown to re-emit back in the air as toxic compounds that can be inhaled by those that have moved into the home^{vi}. Babies and small children are especially at risk, because they breathe near, crawl, lay on, and touch contaminated surfaces.

Eliminating smoking is the only way to protect people from secondhand smoke.

Opening windows, air purifiers, and filters, cannot prevent secondhand smoke from traveling. Smoke can infiltrate neighboring units through windows, vents, and outlets. For multi-unit housing, up to 65% of the air is shared between units. In these types of properties, a smoke-free policy is the only way to fully protect residents from secondhand smoke.

Smoke-free housing is a growing trend across the nation and in Hawai'i. An independent poll^{vii} conducted by Ward Research Inc. for the Coalition, in October 2020 found that 87% of registered Hawai'i voters would choose to buy or rent a smoke-free house or apartment.

Complaints of secondhand smoke exposure in the home have increased during the pandemic.

Due to the stay-at-home orders and increase in remote work and schooling, people are spending more time in their home. Unlike workplaces and schools, there are no laws that protect people from secondhand smoke exposure in the home. Especially troubling is that underlying medical conditions, many of which can be caused or exacerbated by secondhand smoke, are known to increase the risk for severe cases of COVID-19^{viii}. It is also known to weaken the immune system and make lungs more susceptible to viral infections like COVID-19^{ix}. While the relationship between COVID-19 and secondhand smoke exposure is still uncertain, the likelihood of transmission increases with behaviors that increase risk of transferring respiratory droplets, such as smoking and exposure to secondhand smoke^x.

Thank you for the opportunity to testify in **support** of SB 552.

Mahalo,



Jaylen Murakami
Advocacy and Outreach Coordinator

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.

ⁱⁱ U.S. Department of Health and Human Services (2010). How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking- Attributable Disease: What it Means to You, a Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. <https://www.ncbi.nlm.nih.gov/books/NBK53017/>

ⁱⁱⁱ U.S. Department of Health and Human Services. A Report of the Surgeon General: How Tobacco Smoke Causes Disease: What It Means to You. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010 [accessed 2017 Jan 11].

^{iv} U.S. Centers for Disease Control and Prevention (2011). Smoking and Tobacco Use: Health Effects of Secondhand Smoke. Retrieved April 20, 2011, from www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm

^v U.S. Department of Health and Human Services (2006). *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. <http://www.surgeongeneral.gov/library/secondhandsmoke/report/>

^{vi} Singer, B., Hodgson, A., Nazaroff, W. (2002). "Effect of absorption on exposures to organic gases from environmental tobacco smoke (ETS)" available at <http://eetd.lbl.gov/node/49332>

^{vii} This study by Ward Research, Inc. summarizes findings from a phone survey among n=800 Hawai'i registered voters (maximum sampling error +/-3.3%), conducted between September 21 – October 16, 2020.

^{viii} U.S. Centers for Disease Control and Prevention. (2021, February 3). *People with certain medical conditions*. Retrieved February 9, 2021 from <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>

^{ix} Bhat, T. A., Kalathil, S. G., Bogner, P. N., Miller, A., Lehmann, P. V., Thatcher, T. H., Phipps, R. P., Sime, P. J., & Thanavala, Y. (2018). Secondhand Smoke Induces Inflammation and Impairs Immunity to Respiratory Infections. *Journal of immunology (Baltimore, Md. : 1950)*, 200(8), 2927–2940. <https://doi.org/10.4049/jimmunol.1701417>

^x Gillespie, Claire (2020). Can You Get Covid-19 From Secondhand Smoke? Here's What Experts Say. <https://www.health.com/condition/infectious-diseases/coronavirus/secondhand-smoke-covid-19>

SB-552

Submitted on: 2/8/2021 6:38:40 PM

Testimony for CPN on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	No

Comments:

We had been contacted by an elderly couple where the husband had a respiratory condition and was tremendously bothered by the smoke from an upstairs neighbor who smoked cigarettes. We attempted to assist them but found that the law really did not protect them. As a result of covid and their being in a high risk category, they were basically homebound so they were not able to simply go outside to avoid the smoke. They apparently attempted to negotiate something with this neighbor as well as the AOA of the condominium that they owned. Those efforts were unsuccessful. We are told that the neighbor was "unreasonable" and since the building was not a "non smoking" building , the AOA felt that there was nothing they could legally do to prevent this activity within his own unit.

While this scenario might arguably fit within the traditional common law or statutory meaning of "nuisance", that is not a clear legal point. This bill would therefore provide some legal remedy not just to them but to other persons somewhat similarly situated - particularly individuals who have an underlying health condition that would make them particularly sensitive to the fumes from smoke.

SB-552

Submitted on: 2/6/2021 3:39:45 PM

Testimony for CPN on 2/11/2021 9:30:00 AM

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

Comments:

this will give us another tool to go after those contributing odors, including smoke. if they must create the odors, they also must abate them so they do not invade our personal space.

please pass this bill.

Testimony in Strong Support of **SB 552** Relating to Nuisance Abatement

Senator Rosalyn Baker, Chair
Senate Committee on Commerce and Consumer Protection
Hearing Date: February 11, 2021 Room 229

My husband and I, both senior citizens with chronic medical conditions, are aging in place in our own condominium unit. Over the past few years, our neighbor's trespassing secondhand smoke have caused us to suffer life threatening symptoms and caused our medical conditions to worsen. Several requests to the Board, including a letter from my husband's cardiologist, have failed to obtain relief to problem.

We are in dire need for effective laws that will help protect us from undue pain and suffering and potential lethal consequences due to secondhand smoke emanating from individual unit in our condominium.

Supporting Evidence:

1. According to Black's Law Dictionary, sixth edition: NUISANCE is that activity which arise from unreasonable, unwarranted or unlawful use by a person of his own property, working obstruction or injury to right of another, or to the public and producing such material annoyance, inconvenience and discomfort that law will presume resulting damage.
2. The CDC informs us that Secondhand Smoke is a poisonous pollutant which contains over 7000 chemicals, hundreds are toxic and about 70 can cause cancer. The U.S. Environmental Protection Agency has classified it a Group A Carcinogen.
3. 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, immune and respiratory conditions, reproductive and development abnormalities, 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.

4. According to the U.S. Surgeon General, “There is No Safe Level of Exposure to Secondhand Smoke.....” (emphasis added)
5. Secondhand smoke exposures contribute to approximately 41,000 deaths among nonsmoking adults and 400 deaths in infants each year.
6. Tobacco use is the leading cause of preventable disease, disability and death in the United States. Based on 2019 data, about 34 million U.S. adults smoke cigarettes. Over 16 million people live with at least one disease caused by smoking and 58 million nonsmoking Americans are exposed to secondhand smoke.

The foregoing list of data as provided by the CDC, EPA, and the U.S. Surgeon General clearly and convincingly support the fact that Secondhand Smoke is indeed a Nuisance as defined by Black’s Law Dictionary.

Therefore, Chair Senator Baker, I humbly ask that your committee advance this bill to help bring clarity to the current statute by adding Tobacco Smoke as a Nuisance.

Thank you for the opportunity to provide this written testimony.

Respectfully submitted by,
Adeline Porter

SB-552

Submitted on: 2/9/2021 12:06:52 AM

Testimony for CPN on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Aurora A. Saulo	Individual	Support	No

Comments:

To the Honorable Rosalyn H. Baker, Chair; the Honorable Stanley Chang, Vice Chair; and Members of the Committee on Commerce and Consumer Protection:

My name is Aurora A. Saulo and I hereby submit my testimony in **SUPPORT** of SB552 RELATING TO NUISANCE ABATEMENT.

Everyone, regardless of location, income, or history deserves to live in a stable and healthy environment, including the right to breathe smokefree air at home. Please pass SB552 out of the Committee on Commerce and Consumer Protection.

Each person has rights *as long as actions resulting from exercising those rights do not infringe on others' rights*. There is no legal and constitutional right to smoke and sadly, secondhand and thirdhand smoke from 12% of the population who smoke is being ***forced on the 88% of the population to inhale, including residents of multiunit dwellings***. Habitable living conditions must be for everyone, especially during the COVID-19 pandemic when people are spending much more time at home instead of in smokefree schools and workplaces. Guidance of global health organizations on wearing facial coverings and limiting hand-to-face contact are not followed during smoking or vaping, increasing the potential for contamination and spread of illnesses. The resulting smoke is contaminated with harmful microorganisms from the smoker's lungs, mouth, and hands. This contaminated smoke is then exhaled with the smoker's respiratory droplets carrying sources of various other infections and that are not contained especially when the smoker coughs or sneezes without facial coverings. Researchers recently reported that small coronaviruses may attach to larger secondhand smoke particles and droplets creating potential sources of COVID-19 (Mahabee-Gittens et al., 2020). Exposure to secondhand smoke makes breathing difficult and causes a significant underlying health condition linked to COVID-19. Secondhand smoke further damages the immune system, a risk factor for more severe COVID-symptoms, such as TB, rheumatoid arthritis, certain eye diseases, and erectile dysfunction in males (CDC, May 2020). Identifying smoking inside individual units in multiple unit dwellings where smoke infiltrates other units as a nuisance will help arrest the spread of many harmful health conditions, including COVID-19.

Many homeowners have asked their HOA boards to establish smokefree rules in their projects. Some board members are hesitant and some do not execute strict

enforcement of community covenants including no-smoking lease agreements. As a result, some property managers have taken advantage of this non-action of HOA boards, and allowed their tenants to smoke inside their units *even when they have a no-smoke lease agreement*. SB552 allows residents exposed to inhale smoke infiltrating from another unit to treat smoke as a nuisance and be entitled to bring a nuisance abatement suit because smoke is “injurious to health, indecent, offensive to the senses, and constitute an obstruction to the free use of property that interferes with the comfortable enjoyment of life or property.”

Now is the best time to support smokefree environment in Hawaii. Please pass SB552 out of the Committee on Commerce and Consumer Protection.

Thank you for your support.

Aurora A. Saulo (ret)

Professor emerita

EMAIL aurora@hawaii.edu

REFERENCES:

Centers for Disease Control and Prevention. May 21, 2020. Fast Facts. Smoking & Tobacco Use.

https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm#:~:text=Cigarette%20smoking%20is%20responsible%20for,or%201%2C300%20deaths%20every%20day.&text=On%20average%2C%20smokers%20die%2010%20years%20earlier%20than%20nonsmokers.

Mahabee-Gittens, E.M., Merianos, A.L., and Matt, G.E. 2020. Letter to the Editor Regarding: “An Imperative Need for Research on the Role of Environmental Factors in the Transmission of Novel Coronavirus (COVID-19)” – Secondhand and Thirdhand Smoke as Potential Sources of COVID-19. *Environmental Science & Technology* 54(9): 5309-5310.

<https://pubs.acs.org/doi/pdf/10.1021/acs.est.0c02041> DOI:10.1021/acs.est.0c02041

SB-552

Submitted on: 2/9/2021 1:48:56 AM

Testimony for CPN on 2/11/2021 9:30:00 AM

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

Comments:

This is an important bill for so many who are suffering in our own homes due to others actions. We need some recourse. Smoking has the potential to send someone to the hospital and in worst cases, kill someone. For those of us with respiratory and chemical disabilities smoke is the bane of our very existence. We all know asthma (and RADS) kills. Hawaii has had the highest number of people with asthma than anywhere else in the nation. We at one time also had the highest deaths due to asthma. Smoke and chemicals contained in smoke cause irritation of our lungs leading to reactions ranging from mild to severe. If you have someone close to you with these illnesses I'm sure you understand. If you do not, please ask any doctor about the affects. Please, we are begging you, pass this important bill. It is for the good of everyone's health. Thank you for understanding.

SB-552

Submitted on: 2/9/2021 4:32:05 PM

Testimony for CPN on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Reuben Guerrero	Individual	Support	No

Comments:

To the Honorable Rosalyn H. Baker, Chair; the Honorable Stanley Chang, Vice Chair; and Members of the Committee on Commerce and Consumer Protection:

I am a practicing Oncologist and I strongly support SB552 RELATING TO NUISANCE ABATEMENT. I pray that it will become law. It is now known that secondhand smoke can cause cancer. It also contributes to the progression of diseases and aggravation of symptoms in patients with chronic bronchitis, asthma, emphysema, cystic fibrosis, chronic heart failure as well as patients with true allergy to smoke. Passage of the bill will also reduce cost of medicines and doctor visits. The improvement of the quality of life will be the most important final endpoint if the bill is passed.

Thank you very, very much for the hearing and please pass this out of the Committee on Commerce and Consumer Protection.

Reuben Guerrero, MD

reubenguerrero@aol.com

Aloha,

I am a condo owner in Kihei (Maui) where one of the owners has rented her unit to smokers, and it has been seeping into my unit night and day, which is impacting my ability to breath. I have asthma. Sometimes it is so excessive that my smoke detector beeps.

For months I have been sleeping outside on an air mattress during the night. I have had to retreat to my car to sleep on several occasions due to the smoking on the lanai. Now we have vog, and I am sleeping in that...which should not be happening. An air purifier does work for vog, but not smoking. I have tried so many things...taping up my outlets, \$200 fans, doors and windows open all the time, air conditioner. None of it works.

I have tried to find another place to live but I just can't afford the high rentals, and my mortgage at the same time. I am on a teacher's salary, and under contract. So I continue to live like this, hoping my complaints will be heard somewhere, or the tenants move out.

Without any laws in place to protect me from this, I am stuck going through the process of a civil rights complaint. This is a cumbersome and long process, and now 10 months into it, I still have no relief, but paperwork to show I tried.

Research has proven that second hand smoke travels in multi unit buildings, and that it can affect the respiratory system. Nevertheless **clean air is not a right when you live in a condo**. It is just not a given right.

What about during COVID-19?

1. Is clean air necessary for someone quarantining and infected with COVID-19?
2. Does a condo smoker's right prevail as default during a health crisis?
3. Do the people who live and work in Hawaii have clear air rights all the time, or just in restaurants, planes, offices, and workplaces?

For myself, if I had COVID-19, I would need to leave my home, but where could I go that I would not infect others?

My HOA is unable to help me since the default is that **a smoker has a right to smoke in their own condo**. They need legal support to make change.

Why is this so backwards? Shouldn't clean air be the default? Instead: when you purchase a condo you ALSO agree to breath second hand smoke. This is a fact for most condo owners.

Smoking has been overlooked for too long as a severe nuisance, and a health hazard.

SB-552

Submitted on: 2/10/2021 11:25:58 AM
Testimony for CPN on 2/11/2021 9:30:00 AM

LATE

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

Comments:

I support this bill. I have adverse reactions to cigarette smoke. Common sense means a person in one dwelling should not be able to expose others to secondhand smoke in another. The smoker has the right to smoke, but not impinge on the health of others.

SB-552

Submitted on: 2/10/2021 7:31:17 AM

Testimony for CPN on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Norman	Individual	Comments	No

Comments:

I strongly support this bill that addresses the harmful effects of smoke.

LATE

SB-552

Submitted on: 2/11/2021 9:33:59 AM

Testimony for CPN on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

In support. Mahalo for the opportunity to provide short testimony.