

SB-936-SD-1

Submitted on: 2/28/2021 10:37:12 AM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Colby Takeda	Individual	Support	No

Comments:

Please support this important bill. If we can utilize the high engagement of worksites to promote this public health issue, we can save lives.



February 28, 2021

Kenekoa/Senator Karl Rhoads, Luna Ho'omalu/Chair
Kenekoa/Senator Jarrett Keohokalole, Hope Luna Ho'omalu/Vice Chair
Ke Kōmike Ho'okolokolo/Committee on Judiciary
Via Video Conference

Aloha Chair Rhoads and Vice Chair Keohokalole:

On behalf of the Epilepsy Foundation of Hawaii, we urge your support of Senate Bill 936 SD1. This bill supports a critical priority for the epilepsy community – safety and continuity of care in the event of a seizure. This legislation makes certain that employers educate employees on seizure recognition and proper seizure response.

The Epilepsy Foundation is the leading national voluntary health organization that speaks on behalf of the at least 3.4 million Americans with epilepsy and seizures. Epilepsy Foundation of Hawaii, advocates and provides services for the almost 14,000 individuals living with epilepsy throughout Hawaii. Collectively, we foster the wellbeing of children and adults affected by seizures through research programs, educational activities, advocacy, and direct services. Epilepsy is a medical condition characterized by seizures, which are sudden surges of electrical activity in the brain, that affects a variety of mental and physical functions. Approximately 1 in 26 Americans will develop epilepsy, and approximately 1 in 10 people will experience a seizure, at some point in their lifetime. A seizure can happen to any person, in any place, at any time, and it is vital that members of the public are prepared to appropriately and effectively respond in this very unpredictable event.

Senate Bill 936 SD1 would require employers to educate employees with critical seizure safety information downloadable for **free** through the Epilepsy Foundation's national resource repository. Seizure Recognition and First Aid Certification training, developed by the Epilepsy Foundation and the CDC, is available through the Epilepsy Foundation of Hawaii, would come at **no cost** to employers, and would educate employees on different seizure types, general seizure first aid, and how to recognize a seizure emergency. Knowing what to do in the event of a seizure is just as important as knowing what not to do.

The Epilepsy Foundation of Hawaii strongly urge your support for Senate Bill 936 SD1.

Sincerely,

A handwritten signature in blue ink that reads "Naomi Manuel".

Naomi Manuel
Executive Director
Epilepsy Foundation of Hawaii

Our mission is to lead the fight to overcome the challenges of living with epilepsy and to accelerate therapies to stop seizures, find cures, and save lives. **Please learn more about our advocacy work at epilepsy.com/advocacy.**

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Submitted on: 2/28/2021 12:18:19 PM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nani Fay Paglinawan	Individual	Support	No

Comments:

Aloha, I support the education and dissemination of seizure recognition, seizure first aid, and any type of seizure safety materials to be available to the public, in the workplace, and in schools. 1 in 10 will experience a seizure in their lifetime, whether they have epilepsy or not which is 1 in 26. This affects us all, not just some.

I fully support this bill and any future bills to create a seizure-safe environment.

Mahalo nui loa,

Nani Fay Paglinawan

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Submitted on: 2/28/2021 4:47:14 PM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen DeMay	Individual	Support	No

Comments:

In the early 2000's my children attended Pearl Harbor Elementary. My daughter had an IEP and was in a special needs class with an autism diagnosis. Then and presently, she also lives with a grapefruit sized arachnid cyst, enlarged pituitary gland, and has a history of seizures.

Resources at PHES were low for special needs keiki and I was self-required to educate/aid/inform her multiple teachers during her years there regarding medical emergencies. "I need you to do x, y, and z should you suspect or see a seizure," I gently reminded her teachers and school staff every month or so. There were no resources in place giving teachers, aides, faculty, and staff any idea how to properly assist a student suffering from a seizure during school hours; all they had was a worried mother's verbal account.

Implementing Brennan's bill - making it part of HRS - will provide 1) peace of mind for parents who release their keiki to the care of faculty and staff during the school day as well as 2) give confidence to faculty and staff who are charged with providing a safe space at school for students in their care, control, and custody.

Passing this bill is the right thing to do and I'm confident people like my daughter and her educators would applaud its passage.

Aloha,
K.DeMay

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Submitted on: 2/28/2021 5:22:02 PM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Noah Sham	Individual	Support	No

Comments:

Hi my name is Noah Sham. I am 12 years old. I am in support of this bill because it can help to save lives. Although I do not have epilepsy, I have a friend that does. It is important for people to know what to do when someone has a seizure to help avoid any injury or choking. Having a sign in every business can help people like my friend. This is my testimony in support of this bill.

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Submitted on: 2/28/2021 5:33:04 PM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jared Sham	Individual	Support	No

Comments:

My name is Jared Sham and my ohana and I 100% support this bill! I think it's very important for a bill like this to pass because it makes the public aware of warning signs that an epileptic seizure may come and how to respond to it. We fell in love with the idea when we played in our epileptic seizure awareness baseball game. We applaud Brennan and his ohana for coming up with this bill to help with epileptic seizure awareness. Thank you for your time and we look forward to seeing a positive outcome.

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Submitted on: 2/28/2021 7:50:24 PM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Zedrick-Kyle Oda	Individual	Support	No

Comments:

Date: 02/28/2021

Committee: COMMITTEE ON JUDICIARY

Bill: SB 936 SD1

Measure Title: RELATING TO PUBLIC HEALTH

Aloha Committee Chair Senator Karl Rhoads, Vice Chair Senator Jerrett Keohokalole, and members, my name is Zedrick-Kyle Oda and I'm a second-year MSW student at the Thompson School of Social Work and Public Health at the University of Hawai'i at MÄ• noa. I am testifying in support of SB 936.

According to the Centers for Disease Control and Prevention, about 1 out of 10 people may have a seizure during his or her lifetime. Seizures are fairly common in our communities and individuals with pre-existing health conditions that can induce seizures have become more at risk due to the impacts of COVID-19. Our current environment of stress and anxiety increase the risk of inducing seizures among those who already face other common triggers. In my experience, our general public is uninformed about what to do in an emergency situation of someone having a seizure. Once someone gets triggered into having a seizure, their body tenses up, they lose consciousness, and they struggle to breathe. For an uninformed bystander, they would generally feel a great sense of panic and pose a risk of harming the individual by not providing the necessary support or performing malpractice due to ignorance.

I believe raising awareness and educating our communities to be able to respond, attend, provide comfort as well as safety to a person suffering from a seizure is vital to our general public health system. This bill has the potential of increasing our community's public health knowledge to prevent any unnecessary harm to those suffering from a seizure. Personally, my mother is diagnosed with epilepsy and there were many times when I or another family member had to learn from experience about how to support my mother during a seizure. Unfortunately, there were other times when we weren't there and my mother woke up after a seizure feeling panicked, confused,

weak as well as saw a circle of people around her who didn't know what to do. With this bill, my mother as well as many others who deal with seizures can receive the necessary support that they need in moments like these.

To reiterate, I am in support of SB 936. By providing seizure first aid to employers, employees, and the general public, it will increase safety as well as enhance the wellbeing of our community. The dissemination of this information would be helpful in both physical and online methods. This includes sharing infographics, pamphlets, and even a well-constructed PSA video that is shared throughout many settings in Hawai'i. Thank you for this opportunity to testify.

I've worked as a registered nurse in California for the past 5 years. A few months after I gained my license and was waiting to hear back from job postings, I was sitting in a bar in Berkeley watching a prime time NFL game. About 20 minutes into the game, I saw a commotion happening near some of the dining tables. I got up to see what was going on and saw a customer give the Heimlich to another customer. I went over to see if I could help in any way and noticed that the customer was not choking, but was having a seizure. I immediately told the other customer to stop what he was doing and get the man on the ground onto his side. The customer neglected to listen to my advice so I took matters into my own hands and grabbed the man from the front and laid him on his side. His seizure subsided shortly after and it took him a few minutes to come to. It is examples like this one that I feel that if there were more proper education on recognizing the signs and steps to take involving a seizure, that we can help those who suffer from them.

Brennan Yamaguchi

State of Hawaii Student (Age 12)

Date: March 2, 2021

Support for SB 936 SD 1

Regarding Public Health

TO: JUDICIARY COMMITTEE

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

As a student and citizen in the State of Hawaii, I want to make sure members of the community, especially my friends who work in or visit state offices and buildings have access to first aid posters. This bill passed the Judiciary in 2020 but was halted due to the pandemic. I strongly support SB 936 (SD 1) which would put a first aid seizure poster in Hawaii workplaces, starting with State of Hawaii buildings.

There has been discussion on how this can be implanted and that a cost and fee would be too great for departments to bear. It doesn't need to be at all. OSHA is a good example as it provides and actually encourages workplaces to utilize its ***FREE*** downloads to display and implement. One simple free seizure care posters can be easily added to, or credited within existing training or posters that the state or OSHA already requires. Downloads are at no cost and perhaps workplaces can confirm with an electronic signature or reply with a photo of the simple poster displayed.

This is OSHA's site: <https://www.osha.gov/publications/poster> however similar posters are also available at: <https://www.cdc.gov/epilepsy/index.html> or <https://www.epilepsy.com/living-epilepsy/seizure-first-aid-and-safety/first-aid-seizures-stay-safe-side>

Many citizens in the State of Hawaii may not think seizure care applies to them but it does. One in 26 people may be affected by Epilepsy or another seizure condition in their life. As of 2019, over 15,000 people in the State of Hawaii and over 3 million in the United States are living in with Epilepsy. Even if they don't have Epilepsy, ten percent of the population may also experience a seizure in their lifetime from a head injury like a fall or car accident, wrong medication. Diabetes, or even a high fever. With the onset of COVID -19, The Boston Medical Center, Cleveland Clinic, and other medical institutes have declared that seizures and strokes are becoming more common with the virus.

For those questioning whether seizures falls under a workplace hazard it most certainly may. **Seizures can be a result of a car, forklift, or other vehicle accident on the job. It can occur in workplaces or warehouses that deal with high heat levels. A head impact or fall on the job. It also becomes a danger once a vendor, customer, or visitor to a workplace enters a place of business and suffers from a seizure. The OSHA Recordkeeping Guidelines says, "work relationships is established under the OSHA recordkeeping system when the injury or illness results from an event or exposure in the work environment."**

When I first introduced this bill in person to the Committee for Labor, Culture, and the Arts, in February 2020 I asked the senators in the room to raise their hands. I also asked the audience to raise their hands if they were a visitor to the State Capitol with so many staff people and visitors coming to the State Capitol, State libraries, or offices, even more people could experience a seizure while they are at a state building. Now imagine all work places. Think of how many people working all over the state could be affected!

People should be able to feel secure in their place of employment. Everyone, no matter where they are working should be able to feel that way. I thought of our state offices, libraries, and other buildings first, because have been used by hundreds of members of the community daily. However I also think about my parents, my teachers, my coaches who have to work daily to provide for their families, and I want them to be safe. It is our duty to make sure everyone feels safe in these spaces.

My proposal is simple. Make sure first aid seizure information is placed in the work place for a safer work environment. I would love to see this start at state offices and buildings in areas such as libraries, break rooms, bulletin boards, and other shared spaces. These materials can even be through downloads or electronic mail to make it simple. I want to create a healthy work environment for everyone. I urge the committee to please pass SB 936. Thank you for giving me the opportunity to testify.

Brennan Yamaguchi

My name is Cobi Koike and I support SB 936 regarding public health. I am 12 year's old and have been playing baseball with Brennan Yamaguchi. Each year, we set aside one game for Epilepsy Awareness. This is a very important game for us as we help to raise awareness to other families and community members about this health condition that affects many people around us.

It is very important that everyone is aware of what to do if someone has a seizure while in their presence. According to the Epilepsy Foundation website, free posters are available for anyone to print and post. There are 3 simple steps:

1. Stay with the person until they are awake and alert after the seizure. Time the seizure. Remain calm.
2. Keep the person safe. Move or guide away from harm.
3. Turn the person on to the side if they are not awake or aware. Keep airway clear. Loosen tight clothes around neck. Put something small and soft under the head.

There is zero cost to train everyone and to simply read a poster, flier, hear a broadcast, or other means of learning about what to do if someone has a seizure. After reading the fliers, as a 12 year old, I am better prepared to help another person if they have a seizure and hope to save a life. If this bill passes, I am willing to use my own money to print out posters, pass it out to all offices and/or establishments so everyone can be aware of, and have the proper education to recognize the signs and steps to take if someone has a seizure.

Aloha, Cobi Koike

SB-936-SD-1

Submitted on: 3/1/2021 8:38:39 AM

Testimony for JDC on 3/2/2021 9:35:00 AM

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

Comments:

My name is Laura Mellow and I have had epilepsy in my past and I previously testified on this matter. I strongly want to support passage of senate bill 936. Epilepsy & seizures affect a great many of our community. Education is crucial as a seizure could also lead to a fatal event. Also knowledge helps people become more comfortable and supportive of those who suffer from seizures.

My significant other Dennis Chun also joins me in supporting this important bill.

Mahalo for your time and consideration.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
www.labor.hawaii.gov

LATE

JOANN A. VIDINHAR
DEPUTY

March 2, 2021

To: The Honorable Karl Rhoads, Chair,
The Honorable Jarrett Keohokalole, Vice Chair, and
Members of the Senate Committee on Judiciary

Date: Tuesday, March 2, 2021
Time: 9:35 a.m.
Place: Conference Room 225, State Capitol

From: Anne Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 936 SD1 RELATING TO PUBLIC HEALTH

I. OVERVIEW OF PROPOSED LEGISLATION

SB936SD1 adds a new section to Chapter 396 "Occupational Safety and Health," Hawaii Revised Statutes (HRS), to require the creation and dissemination of information on and enforcement for employers to post information regarding seizure first aid by the department, specifically:

- Provide employers, employees, and the general public with information with respect to rendering seizure first aid (exhibitions, broadcasts, lectures, posters, flyers, pamphlets, etc.),
- Require employers to post information and procedures on seizure first aid provided by the department in a prominent position in the employer's workplace, and
- Adoption of rules in accordance with chapter 91 to implement the above with the term "seizure first aid" defined as procedures to respond, attend and provide comfort and safety to a person suffering from a primary generalize tonic-clonic seizure or complex partial seizure but, does not include training to medically treat the person.

The Department strongly opposes the measure because it creates a possible statutory conflict and strain on already limited resources on the HIOSH program.

II. CURRENT LAW

The Hawaii Occupational Safety and Health Division (HIOSH) is statutorily assigned to administer Chapter 396. The purpose of HIOSH is to ensure that employees have a safe and healthful workplace by reducing employee injuries

arising out and during the course of employment through the adoption of safety and health standards (administrative rules) in accordance with Chapter 91, HRS. HIOSH generally adopts Federal OSHA Standards via rule-making in their entirety as the floor but in some cases adopts higher standards.

The rules and standards are enforced through workplace inspections. Inspections are also conducted as a part of an inspection scheduling system (ISS) that identifies industries or work processes that are considered “high-hazard”. Inspections are also conducted in response to an event (i.e. accident, complaint, referral, or results from a previous inspection).

The Consultation and Training Branch provides free on-site consultations to assist employers in identifying workplace hazards, recommend corrective actions to ensure workplace safety for employees, and evaluates and makes recommendations to improve an employer’s safety and health management system to prevent future hazards that an employee may encounter. Priority for this service is given to smaller employers in high-hazard industries, or with high-hazard processes.

III. COMMENTS ON THE SENATE BILL

The DLIR appreciates the intent of this measure, but opposes the measure due to concerns about the statutory placement and existing constraints on limited resources.

Placement of the proposed legislation in §396 is inappropriate.

HIOSH’s jurisdiction is limited to ensuring that every employer furnishes employees with a workplace that is safe and free from recognized hazards (HRS, §396-6).

Seizures, heart attacks, strokes, etc. are not workplace hazards.

OSHA and HIOSH do not consider or recognize seizures, heart attacks or strokes as workplace hazards but rather a medical condition.

OSHA and HIOSH cannot enforce “first aid” for or compel employers to prevent a non-recognized hazard / medical condition at a workplace.

To create an enforceable standard pursuant to Chapter 91, HRS, HIOSH must ensure that the hazard is recognized, that the recognized hazard can cause or is likely to cause a workplace injury or illness, and that the hazard is able to be identified and controlled (feasible means of abatement). Seizures, heart attacks, strokes, and other medical conditions that are not work-related are not an identified hazard under the above requirements and more importantly, do not have a feasible means of control (§396-2).

HIOSH cannot create a rule to compel itself to create and disseminate information

on non-workplace medical condition such as seizure first aid.

This measure requires HIOSH to create rules to enforce the creation and dissemination of information and employers to post information. Regarding posting requirements of information on seizure first aid, HIOSH would be required to follow rule promulgation laws including justification for the rule creation including recognition that a hazard is a quantifiable trend of concern in the industry, is a workplace hazard, and would also have to go through stakeholder vetting and public hearings. Since seizures that are not work related or under the public do not fall under the employer-employee-workplace jurisdiction of HIOSH it is unlikely that the rule would be able to be created for enforcement. Within the past 10 years, HIOSH has not had any complaints nor reported accidents, fatalities or catastrophes involving workplace seizures.

HIOSH does not have jurisdiction over the public.

The measure is intended to provide employers, employees, and the general public information about seizure first aid, which includes procedures on how to respond and provide comfort and safety to the person suffering a seizure. Under the current law, HIOSH does not have jurisdiction to enforce or require seizure first aid training for the public.

Seizure first aid, if enacted, must be 100% State funded since it is not covered by OSHA Federal grant funds.

Under the exception in 29 CFR §1904.5(b)(2)(ii), adopted under §12-51.1, HAR, epileptic seizures or other seizures not directly caused by a workplace exposure(s), are not considered as a workplace injury or illness by OSHA or HIOSH, neither are any injuries resulting solely from the seizures. Therefore, any enforcement of or information creation and dissemination would not fall under the condition of the two Federal grants and would require 100% use of state funds for time, materials, and any other relating resource used for requirements under this measure.

The DLIR and HIOSH do not have the State funds or resources to cover this measure.

For the current and foreseeable future, the Governor has restricted state funds for the department, with increased restrictions likely coming in the future and HIOSH would be required to complete the Federal OSHA grant requirements as well as requirements under this measure. HIOSH only has 18 inspectors and is struggling to cover 40,000 employers. As such, it does not have the resources to undertake the requirements of this measure.

Placement of the proposed legislation in Chapter 396 inappropriate.

Considering the above discussion in the context of the Federal-State cooperative agreement for safety and health, especially as it applies to workplace safety and health standards, renders the placement of the proposed legislation in Chapter 396 inappropriate. Further this proposal, especially in light of the above, would create

significant, additional responsibilities on HIOSH, which has limited resources and is already over-burdened with over 40,000 plus employers that it must inspect and put undue burden on HIOSH's limited budget.