



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 921, H.D. 1, RELATING TO ENVIRONMENTAL CRIMES.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Wednesday, February 15, 2023      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Kory W. Young, Deputy Attorney General

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Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of the bill and provides the following comments.

The purposes of the bill are to establish an environmental crimes unit within the Department, provide criminal penalties for the illegal disposal of motor vehicle tires, and establish a motor vehicle tire surcharge.

It appears that the bill may be subject to challenge as being in violation of the single subject requirement of section 14 of article III of the State Constitution, that "[e]ach law shall embrace but one subject, which shall be expressed in its title." The subject expressed in this bill's title is "environmental crimes." The establishment of an environmental crimes unit within the Department and the criminal penalties for the improper disposal of motor vehicle tires seem to be reasonably related to the subject "environmental crimes", but the establishment of a tire surcharge may not be. It appears that the only relationship between the establishment of the environmental crimes unit and the tire surcharge is that the moneys from the tire surcharge may be used in part to help fund the environmental crimes unit. We suggest that the bill's preamble expressly state that the intent is to authorize the environmental crimes unit to prosecute environmental crimes, including the illegal disposal of motor vehicle tires, with the funding provided by the tire surcharge. This may help to clarify a nexus between the two subjects.

Because it is difficult to predict the types of violations the environmental crimes unit may be called upon to investigate and prosecute, creating a broader mandate would give the unit greater flexibility and utility. To reflect the broad scope of violations the environmental crimes unit may investigate or pursue, the Department suggests the following amendment on page 1, line 9:

"prosecute violations of laws including but not limited to those relating to air and water quality . . ." (additions are underlined).

We have concerns about the distribution of the fines to the authorized agency that enforced the prohibition at page 3, lines 13-16. This bill makes the illegal disposal of tires a criminal petty misdemeanor offense, which means that the disposition of these offenses will be through the District Courts. The distribution of fines by the District Courts is controlled by section 706-643(2), Hawaii Revised Statutes (HRS). That section will need to be amended to allow for the special distribution of these fines. It should be noted that section 706-643(2), HRS, presently allows for distribution of fines to specified special funds, but not to specific agencies.

The provision requiring fines to be distributed to the "authorized agency that enforced the prohibition" requires further clarification. If the environmental crimes unit, for instance, was to prosecute a case involving the illegal disposal of tires, would the fines be directed to the Department of Health, the agency that currently is responsible for illegal tire disposal enforcement, and a partner in the environmental crimes unit, or to the Department that will house the unit?

Funding for the environmental crimes unit within the Department may also be a concern. On page 1, line 13, through page 2, line 4, the bill appropriates funds for the unit, but provides that it shall be expended by the Department of Health. The tire surcharge established under section 5 of this bill, is to be deposited into the environmental management special fund, which may be used by the Department of Health for the purposes specified in section 342I-29, HRS, on page 6, line 13, through page 7, line 6, including funding the environmental crimes unit. None of the funds is appropriated for or is under the control of the Department, where the environmental crimes unit will actually be housed and staffed.

The Department is available to assist with drafting wording that would address the comments and recommendations offered in our testimony.

Thank you for the opportunity to provide comments on the bill.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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In reply, please refer to:  
File:

**Testimony COMMENTING on HB0921 HD1  
RELATING TO ENVIRONMENTAL CRIMES**

REPRESENTATIVE DAVID A. TARNAS, CHAIR  
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: 2/15/2023

Room Number: 325

1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor's  
2 Executive Budget Request for the Department of Health's (Department) appropriations and  
3 personnel priorities.

4 The Department estimates that one position (1.0 FTE) will need to be established and  
5 funded to coordinate with the Department of the Attorney General (AG) to assist with  
6 enforcement actions related to illegal tire dumping, execute contracts with the AG and transfer  
7 funds to the AG's environmental crimes unit, manage motor vehicle tire surcharge reports and  
8 payments to the Department, potentially contract tire cleanups, and conduct enforcement actions  
9 on delinquent tire retailers and wholesalers.

10 **Department Testimony:** HB0921 HD1 (1) establishes an environmental crimes unit within the  
11 AG; (2) appropriates unspecified funds for the environmental crimes unit; (3) creates a criminal  
12 penalty for violating Hawaii Revised Statutes (HRS) Section 342I-22; (4) establishes a motor  
13 vehicle tire surcharge; (5) compels motor vehicle tire retailers and wholesalers to submit  
14 quarterly reports and payments to the Department; and (6) allows the Department to use  
15 surcharge funds to fund the environmental crimes unit.

16 The Department will defer to the AG regarding support for establishing the  
17 environmental crimes unit.

18 The Department respectfully offers the following comments regarding HB0921 HD1.  
19 Specifically, the Department brings civil or administrative actions for environmental violations  
20 with assistance and cooperation from the AG. Enforcement actions rising to a level requiring

1 criminal prosecution are currently referred to the AG to oversee. The Department does not have  
2 the resources or abilities to criminally enforce violations as prescribed in HB0921 HD1.  
3 However, being that the Department has previously issued administrative enforcement actions,  
4 we offer proposed amendments to HRS Section 342I-22 of this measure in the section below, to  
5 maintain this enforcement tool.

6 In addition, the Department would like to note that the previous motor vehicle tire  
7 surcharge applied to all imported tires, resulting in revenues of approximately \$1,000,000 per  
8 year into the environmental management special fund. However, HB0921 HD1 only applies to  
9 replacement tires, which will result in an unidentified but lesser amount of revenues. The  
10 Department respectfully suggests that specific funding be identified and allocated directly to the  
11 AG to fund the environmental crimes unit.

12 Thank you for the opportunity to testify.

13 **Offered Amendments:**

14 Replace “Notwithstanding any other law to the contrary,…” with “In addition to any other  
15 penalties provided in this chapter,…” in SECTION 4, pages 2 and 3, lines 21 and 1, of this  
16 measure.

**HB-921-HD-1**

Submitted on: 2/13/2023 4:15:11 PM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lu Ann Faborito	Makaha Hawaiian Civic Club	Support	In Person

Comments:

**HB-921-HD-1**

Submitted on: 2/13/2023 3:39:17 PM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lynette Cruz	Malama Makua	Support	Written Testimony Only

Comments:

Totally support this bill.

**HB-921-HD-1**

Submitted on: 2/13/2023 3:56:02 PM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
LIBRADO COBIAN	AAC	Support	Written Testimony Only

Comments:

As a Environmental professional I support this House Bill 921 .Allowing tires to be disposed anywhere just sends a message that you can throw away anything. Hope this is a start to curtail illegal disposal . Li Cobian





DATE: February 15, 2023  
TIME: 2:00 PM  
PLACE: VIA VIDEOCONFERENCE and Conference Room 325  
BILL: HB 921, Relating to Environmental Crimes

Aloha Chair Tarnas, Vice Chair Takayama and members of the committee!

On behalf of the Hawai'i Automobile Dealers Association (HADA), we are writing to **comment** on HB 921, relating to environmental crimes. This bill establishes the Environmental Crimes Unit within the Department of the Attorney General. It makes the disposal of motor vehicle tires in violation of State law governing recovery of used motor vehicle tire recovery a petty misdemeanor and establishes a \$1 motor vehicle tire surcharge to be imposed on every replacement tire installed on a motor vehicle in the State after 9/30/2023. It requires tire retailers and tire wholesalers who install replacement tires to pay the surcharge to the Department of Health.

HADA supports the intent of this measure which is to address criminal disregard for the state's environmental laws which prohibit improper disposal of tires. HADA firmly believes it is enforcement of existing laws, rather than the charge of an additional \$1 per tire surcharge, that is necessary to protect our land and reduce improper tire disposal.

HADA seeks to engage with legislators on issues of importance relevant to motor vehicles, our state's clean energy future, and safety. We thank you for the opportunity to testify.

The Hawai'i Automobile Dealers Association is the voice of more than 60 new car dealerships across the islands, accounting for over 4,000 direct jobs, \$6 billion total sales and more than \$250 million in general excise taxes paid.

**HB-921-HD-1**

Submitted on: 2/14/2023 8:47:00 AM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Juanita Kawamoto Brown	Individual	Support	In Person

Comments:

Please support this much needed legislation!

Mahalo nui loa

**HB-921-HD-1**

Submitted on: 2/15/2023 10:17:37 AM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ruth Love	Individual	Support	Written Testimony Only

Comments:

The surcharge on tires is fine. Can we use one half of the collected fees towards tire shredding/recycling/repurposing equipment so that tire shreds may be used as mulch in playgrounds and at government buildings?