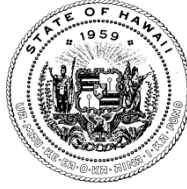


JOSH GREEN, M.D.
GOVERNOR



TESTIMONY BY:

EDWIN H. SNIFFEN
DIRECTOR

Deputy Directors
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO
JAMES KUNANE TOKIOKA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 28, 2023

2:00 P.M.

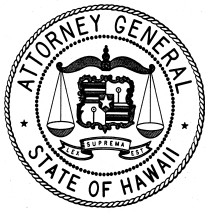
State Capitol, Conference Room 329 via Videoconference

HB 575 HD1
RELATING TO GASOLINE-POWERED LEAF BLOWERS

House Committee on Consumer Protection & Commerce

The Department of Transportation (DOT) **supports** this bill that prohibits the operation of gasoline-powered leaf blowers in any urban land use district and removes the exemption for government agencies.

Thank you for the opportunity to provide testimony.



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

ON THE FOLLOWING MEASURE:

H.B. NO. 575, H.D. 1, RELATING TO GASOLINE-POWERED LEAF BLOWERS.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Tuesday, February 28, 2023 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Lyle T. Leonard, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill.

The purpose of this bill is to prohibit the operation of gasoline-powered leaf blowers in any urban land use district.

This prohibition may be subject to challenge as violating the Supremacy Clause of the U.S. Constitution as a federally preempted emission standard under the Clean Air Act (CAA) because the prohibition is grounded in the emission characteristics of the engine.

The CAA provides that:

No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles

42 U.S.C. § 7543(e)(1).

The scope of this preemption is defined in 40 CFR § 1074.10(b), which states in part that "[s]tates and localities are preempted from enforcing any standards or other requirements relating to control of emissions from nonroad engines or vehicles" Nonroad engines are defined in part as an internal combustion engine that "is (or will be) used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers)." 40 CFR § 1068.30.

In this context, emissions "standards" are any requirement that:

[R]elate to the emission characteristics of a vehicle or engine. To meet them the vehicle or engine must not emit more than a certain amount of a given pollutant, must be equipped with a certain type of pollution-control device, or must have some other design feature related to the control of emissions. This interpretation is consistent with the use of 'standards' throughout Title II of the CAA.

Engine Mfrs. Ass'n v. S. Coast Air Quality Mgmt. Dist., 541 U.S. 246, 253 (2004).

A restriction banning all gasoline powered engines in favor of electric may be subject to challenge as an emissions "standard" under the CAA. See Ass'n of Int'l Auto. Mfrs., Inc. v. Comm'r, Mass. Dep't. of Env'tl. Prot., 208 F.3d 1, 6-7 (1st Cir. 2000) (a mandate requiring a specified percentage of manufacturers in state sales to be of "zero-emission vehicles" was found to be a preempted "standard" under CAA § 209).

If the intent of this bill is to reduce noise, instead of banning gasoline-powered leaf blowers, we suggest creating an objective standard to restrict use of equipment creating noise over a certain decibel level in certain circumstances. The Department is happy to work with the Legislature to amend the bill to best effectuate its intent.

Thank you for the opportunity to provide comments.

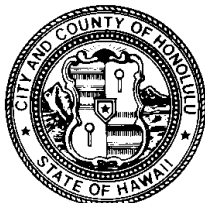
DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU

1000 Ulu'ohia Street, Suite 215, Kapolei, Hawaii 96707
Phone: (808) 768-3343 • Fax: (808) 768-3381
Website: www.honolulu.gov

RICK BLANGIARDI
MAYOR

DAWN B. SZEWCZYK, P.E.
DIRECTOR AND CHIEF ENGINEER

WARREN K. MAMIZUKA
DEPUTY DIRECTOR



IN REPLY REFER TO:

February 27, 2023

TESTIMONY OF DAWN B. SZEWCZYK, P.E.
DIRECTOR OF FACILITY MAINTENANCE, and
LAURA H. THIELEN
DIRECTOR OF PARKS AND RECREATION
CITY AND COUNTY OF HONOLULU

BEFORE THE HOUSE COMMITTEE ON CONSUMER
PROTECTION & COMMERCE

February 28, 2023, 2:00 PM, Conference Room 329 and Via Videoconference

TO: Representative Mark N. Nakashima, Chair, and Members of the Committee on
Consumer Protection & Commerce

RE: COMMENTS ON HOUSE BILL 575, HD1 RELATING TO GASOLINE-
POWERED LEAF BLOWERS

The Department of Facility Maintenance (DFM) and the Department of Parks and Recreation (DPR) of the City and County of Honolulu (City), offers the following comments on House Bill 575, HD1 relating to gasoline-powered leaf blowers.

Thank you for the opportunity to testify in **OPPOSITION** of HB 575, HD1. We are **OPPOSED** to HB 575, HD1 in its entirety.

While we support the implementation of protective measures for environment and reduction in noise pollution and carbon emissions, as operational City departments, we own and operate numerous gas-powered leaf blowers which are critical for proper maintenance of City-owned properties throughout the island of O'ahu (i.e. streams, parks, road medians, etc.). Passage of HB 575, HD1 would have significant detrimental impacts to the maintenance activities and services we provide for O'ahu's communities.

Battery-powered leaf blowers currently offered on the market do not perform equally to gas-powered leaf blowers, and are found to be insufficient in meeting our

The Honorable Mark N. Nakashima
February 27, 2023
Page 2

operational requirements. Battery-powered leaf blower operability usually lasts 20-40 minutes on a full charge, which would drastically hamper our operations, and impede our ability to effectively and efficiently provide services and perform maintenance actions.

We humbly request for deference of HB 575, HD1, to allow for technologies in maintenance equipment to advance further in meeting our operational needs.

Mahalo nui for your commitment to environmental protection and consideration of our testimony in OPPOSITION of HB 575, HD1.

Sincerely,

Dawn B. Szewczyk, P.E.
Director and Chief Engineer
Department of Facility Maintenance

Laura H. Thielen
Director
Department of Parks and Recreation



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/28/2023

Time: 02:00 PM

Location: 329 VIA VIDEOCONFERENCE

Committee: House Consumer Protection
& Commerce

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB 0575, HD1 RELATING TO GASOLINE-POWERED LEAF BLOWERS.

Purpose of Bill: Prohibits the operation of gasoline-powered leaf blowers in any urban land use district. Applies the existing time-of-use restrictions on leaf blowers to non-gasoline-powered leaf blowers. Increases the fines for offenses of leaf blower restrictions and provides for the forfeiture of gasoline-powered leaf blowers upon a third violation. Removes the exemption on leaf blower restrictions for government agencies. Effective 6/30/3000. (HD1)

Department's Position:

Department's Position:

The Hawaii State Department of Education (Department) supports the intent of HB 575, HD1, but respectfully provides the following comments.

The Department recognizes that gasoline-powered leaf blowers have a harmful impact on health and the environment. As such, the Department engages in direct efforts to battle climate change and reducing pollution via procedures, operations, and education.

The Department is concerned about the cost to replace the inventory of those schools in urban land use districts.

The Department is also concerned about inefficiency since the current battery-operated handheld equipment technology does not have the power needed for large areas such as schools and other government entities. As an example, James Campbell High

School is 38 acres, and Hilo High School is 24 acres. Principals have found that battery-operated equipment operates at homeowner strength and not the commercial strength needed for a larger school campus. The batteries also need to be recharged often and have short life spans.

Thank you for the opportunity to provide testimony on this measure.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



RICK BLANGIARDI
MAYOR

ARTHUR J. LOGAN
CHIEF

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS

OUR REFERENCE **BL-BL**

February 28, 2023

The Honorable Mark M. Nakashima, Chair
and Members
Committee on Consumer Protection
and Commerce
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 329
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

SUBJECT: House Bill No. 575, H.D. 1, Relating to Gasoline-Powered Leaf Blowers

I am Brian Lynch, Major of District 7 (East Honolulu) of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes the passage of House Bill No. 575, H.D. 1, Relating to Gasoline-Powered Leaf Blowers. There may be constitutional issues with the ban. Prohibiting the sale, offer for sale, or operation of gasoline-powered leaf blowers may be subject to challenge as violating the Supremacy Clause of the United States Constitution.

The HPD also opposes the forfeiture of gasoline-powered leaf blowers. These tools contain gasoline and oil which are considered hazardous materials. Forfeiture would require the storage of these items as evidence until they can be disposed of. The HPD's Evidence Room, or any other space, would need to be equipped to handle the storage of these hazardous materials which would be costly.

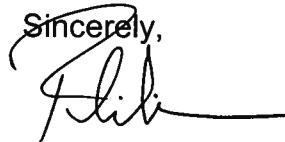
Another reason we are opposing this bill is the concern of how to dispose of these items that have been forfeited. A common way for the HPD to dispose of forfeited items is to auction them off. A total ban would prevent the auction of these items and the items would need to be destroyed. The destruction of such items will lead to unforeseen costs since it entails the disposal of hazardous materials.

The Honorable Mark M. Nakashima, Chair
and Members
February 28, 2023
Page 2

From an enforcement standpoint, limiting the use of blowers and trimmers with time and location restrictions seems far more reasonable.


The HPD urges you to oppose the passage of House Bill No. 575, H.D. 1,
Relating to Gasoline-Powered Leaf Blowers.

Thank you for the opportunity to testify.

Sincerely,


FOR Brian Lynch, Major
District 7

APPROVED:



Arthur J. Logan
Chief of Police

February 6, 2023

Transmitted via electronic submission

Re: OPEI Comments on HI SB 54 / HB 575 – Relating to Ban of Gas-Powered Leaf Blowers

The Outdoor Power Equipment Institute (“OPEI”) opposes HI SB 54 / HB 575 which would prohibit the sale and operation of gas-powered leaf blowers. HI SB 54 / HB 575 will negatively impact OPEI members and hardworking professionals throughout Hawaii.

The Outdoor Power Equipment Institute (“OPEI”) is an international trade association representing more than 100 manufacturers and their suppliers of outdoor power equipment. OPEI member products are ubiquitous in American households and businesses. Outdoor power equipment such as lawnmowers, trimmers, chain saws, snow throwers, generators, water pumps, pressure washers, and utility vehicles are the lifeblood of millions of hardworking landscape and construction professions, many of whom are sole proprietors, and emergency responders. See Annex A – Outdoor Power Equipment Facts.

The outdoor power equipment industry is a leader in the deployment of “zero-emission” equipment (ZEE), with electric products dating back more than 70 years. Recent advancements in battery technology have accelerated ZEE growth for many product categories. In fact, the majority of “handheld” products shipped *are already ZEE.* Electric “handheld” leaf blowers and electric hedge trimmers represented approximately 80% of all handheld leaf blower and hedge trimmers shipments in 2022. Residential electric walk-behind mower shipments ballooned from just 5% of total walk-behind lawnmowers in 2014 to over 40% in 2022. These trends will continue without legislative action. HI SB 54 / HB 575 are unnecessary.

However, due to the wide range of powered equipment types and use cases, *there is currently no one-size-fits-all power-source approach.* Codes and bills that propose gas-powered equipment bans and dictate equipment purchase choices ignore technical feasibility challenges, particularly for landscape and construction professionals. Supply chain, electrical grid infrastructure, and product transportation also present significant concerns.

Zero Emissions Equipment Technology Feasibility Challenges

Today’s battery technology is not without limitations. In its recent Small Off-Road Engine rulemaking the California Air Resources Board (CARB) compared on-line (marketing) performance of a gas-powered and electric-powered blower. However, in real-world testing, OPEI member testing shows that the battery-powered unit’s

performance¹ dropped more than 40% as the battery discharged. In “turbo” mode the battery lasted 18 minutes (“run time”). On the other hand, the gas-powered equipment maintained full performance for over an hour, until the unit ran out of gas. More than 3 batteries would be needed for the referenced electric unit to match the continuous run time of the referenced gas-powered unit.

Zero Emissions Equipment Cost Challenges

The number and cost of batteries needed for high-use applications are additional concerns. CARB’s survey and modeling data estimates that landscaper professionals that own walk-behind mowers, string trimmers, leaf blowers and chain saws require on average 13170 W of power *per day*. The average landscape professional would require *dozens* of high-power batteries *every day to achieve the modeled power demand*. OPEI estimates that upfront costs of transitioning a typical small landscapers trailer from gas to electric powered units could exceed \$10,000 in new battery costs alone. Additionally, based on CARB performance modeling, batteries would need to be replaced approximately every 3 years, resulting in thousands of dollars in on-going battery “maintenance” costs.

Additionally, many businesses would also incur upfront costs to safely charge and transport the number of high-powered batteries required to operate daily. In fact, some landscape and construction professionals don’t even have access to power to safely and securely recharge equipment each evening in storage yards where equipment is kept.

Small businesses, many of which are low income and minority owned, would be hit hardest by the unaccounted for and/or unanticipated costs of HI SB 54 / HB 575.

Emissions Are Already Federally Regulated

Emissions are a common discussion point surrounding OPE. “Facts” comparing outdoor power equipment emissions to automobiles are not rooted in sound data and are misleading or outright false.

Many believe outdoor power equipment are unregulated, high-emitting sources of exhaust gas emissions. This is not true. The OPE industry has a long history of working cooperatively with the U.S. EPA to develop a regulatory framework which has driven low and zero-emissions technology solutions in outdoor power equipment for over three decades. *Today, the EPA is on its third phase of pollutant controls for small engine-powered equipment, resulting in up to 90% reductions in exhaust gas and evaporative emissions from previously unregulated machines.* Fuel system emission regulations have further reduced smog forming emissions compared to outdoor power equipment a decade ago.

Industry is committed to advancing emission reduction technologies. In fact, many popular lawnmower and leaf blower options are certified *well* below federal standards – and *well* below “fact sheet” comparisons. As a result of federal small spark-ignited

¹ Measured as blower force in Newtons in accordance to ANSI/OPEI B175.2 standard.

engine regulations EPA estimated the US “lawn and garden equipment” fleet smog forming emissions would be reduced by 20 to 30 percent from 2011 to 2018 – And agencies have yet to accurately account for recent and projected ZEE market growth when estimating sector emissions. ZEE growth will continue to drive additional reductions well beyond today’s agency estimates.

The U.S. EPA Has Sole Jurisdiction for Small Engine Emission Regulations

Manufacturers of outdoor power equipment cannot build, and dealers and retailers cannot stock and sell specialized, niche products for each individual city or state. Consequently, Federal law requires that states comply with one set of emission standards. In doing so, the federal Clean Air Act (CAA) Section 209(e) (42 U.S.C. Section 7401), the U.S. Environmental Protection Agency’s (EPA’s) implementing regulations, and 40 C.F.R. Part 1074, prohibit states or any political subdivisions from adopting or attempting to enforce any standard or other requirement applicable to spark ignition engines smaller than 50 horsepower – Including adoption of California small off-road engine emission regulations for which EPA has authorized a waiver of preemption. In short, EPA could not approve the waiver of preemption required under Section 209(e) to allow Hawaii to set unique or separate emission standards or requirements for small-engine outdoor powered equipment.

A Robust Enforcement Program is Necessary

Robust enforcement programs for HI SB 54 / HB 575 will be necessary to ensure fairness to compliant manufacturers, retailers, and end-users. Resources will be needed at state and local levels to assure compliance with and to enforce the bans that may result from HI SB 54 / HB 575. Amid a patchwork quilt of state and municipal regulations, such an enforcement and compliance program will undoubtedly be cost and resource intensive, and in OPEI’s opinion unworkable.

For these reasons, OPEI opposes HI SB 54 / HB 575.

Please do not hesitate to contact us directly if you have questions or require additional information regarding these concerns.

Respectfully submitted,

Greg Knott
Vice President, Standards and Regulatory Affairs
Outdoor Power Equipment Institute
Phone: (703) 549-7600
gknott@opei.org
www.opei.org

ANNEX A – Outdoor Power Equipment Facts

The Outdoor Power Equipment Industry is a Leader in Power Technology and Innovation:

- The outdoor power equipment (OPE) industry has been manufacturing electric “zero-emissions” equipment (ZEE) for more than 70 years.
- ZEE is the number one driver of OPE demand and future industry growth.
- In 2022 shipped products were predominantly ZEE. Approximately:
 - 60% of lawn and garden OPE shipped was ZEE;
 - 65% of handheld products shipped were ZEE;
 - 43% of walk-behind mowers shipped were ZEE – Up from 5% in 2014.
- OPEI members are focused on growing the ZEE market through innovation, especially for landscape, construction and emergency respondent needs.
- However, there is currently no “one-size-fits-all” option for the wide portfolio of OPE products and uses.
 - There is wide range OPE products – Electric power source options do not exist for all categories of equipment.
 - ZEE is widely accepted for residential lawn and garden applications, however, further advancements are necessary for ZEE to deliver the performance needed and a cost competitive with gas-powered equipment in many commercial applications.

OPEI and Industry Overview:

- OPEI represents 110 industry manufacturers – Most original equipment manufacturers produce *both* gas and electric-powered equipment.
- OPEI members and their suppliers contribute \$16B to the U.S. GDP annually.
- OPE manufacturers employ 150,000 U.S. workers.
- The industry provides tools for a national network of nearly 8M landscape and construction professionals, many of which are sole proprietors.
- OPE is ubiquitous in American households and businesses, with an estimated 40M products sold annually and a total in-service fleet exceeding 250 million.
- OPEI members have a long history of consumer safety and environmental protection through standards development and government engagement.

OPE Industry Principles on ZEE Policymaking

- A patchwork quilt approach by state / municipality is unworkable for original equipment manufacturers and will result in market disruptions.
- The U.S. EPA retains sole jurisdiction over OPE emission regulations.
- Government should rely on sound, real-world data and science for ZEE policy, with particular focus on:
 - The wide range of outdoor power equipment in the market
 - Various user types and respective performance needs
 - Product and infrastructure (both government and business) related costs
 - Supply chain challenges
 - Manufacturing, disposal and waste impacts of different technologies

To: The Honorable Chair Kyle Yamashita, the Honorable Vice Chair Lisa Kitagawa, and Members of the Committee on Finance

From: Ted Bohlen

Re: Hearing HB575 HD1 **RELATING TO GASOLINE-POWERED LEAFBLOWERS**

Hearing: Monday February 27, 2023, 11:30 a.m., room 308

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee on Finance:

I STRONGLY SUPPORT HB575 HD1!

Thank you for hearing this important bill relating to noisy gasoline-powered leafblowers. This bill would make it unlawful for any person to operate at any time a gasoline-powered leaf blower in an urban land use district (where the noise pollution impact is greatest, rather than statewide). The bill would not prohibit the sale of gasoline leafblowers or their use except in the urban land use district.

Noise is a form of pollution that can affect the public health. Noise causes hearing loss, interferes with human activities at home, work, in schools, and is in various ways injurious to people's health and well-being. Noise annoys, awakens, angers and frustrates people. The numerous effects of noise combine to detract from the quality of people's lives and the environment.

Gasoline-powered leaf blowers generally operate at over eighty decibels, which can cause hearing damage after two hours of exposure. According to the United States Centers for Disease Control and Prevention, the noise intensity is a particularly troubling issue for landscaping workers. There are viable, quieter alternatives to gasoline-powered leaf blowers such as battery-powered leaf blowers.

In union with thousands of frustrated residents, I ask you to please pass this bill! Thank you for the opportunity to testify.

Ted Bohlen

HB-575-HD-1

Submitted on: 2/24/2023 3:54:12 PM

Testimony for CPC on 2/28/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Please support this bill. Mahalo.

HB-575-HD-1

Submitted on: 2/24/2023 4:35:03 PM

Testimony for CPC on 2/28/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

To much Communist Control!!!!

HB-575-HD-1

Submitted on: 2/26/2023 12:59:59 PM

Testimony for CPC on 2/28/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

Please let me start by saying how unnerved I am about making this effective almost 800 years in the future. None of us will be alive then. None of us are Methuselah. Stop playing with us and put in normal effective dates. This is one of the reasons the public has lost trust in the legislature and government in general. The year 3000 says you have no intention of passing a bill that should be passed henceforth and effective upon approval by the governor.

These leafblowers are a blight on the environment. They are a source of noise pollution as well as air pollution and should be outlawed. They go on at all hours. After blowing the leaves and anything else around, the operators then try to corral the items using a broom.

Whatever happened to the old fashioned way, rakes?

HB-575-HD-1

Submitted on: 2/24/2023 9:53:55 PM

Testimony for CPC on 2/28/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Teo Mocnik	Individual	Support	Written Testimony Only

Comments:

Please ban gas-powered leaf blowers asap. The 90dB noise they produce does not justify their use in urban districts, especially with the quieter options available. I see landscapers chasing imaginary debris on government parking lots every working day at 6:30am with these noise makers, right next to a condominium building. This nonsense must stop, the sooner the better!

Thank you for the opportunity to testify