



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of HB1120 HD2  
RELATING TO NUISANCES**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR  
COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date: **03/17/2025, 1:00 P.M.**

Room Number: **225**

- 1 **Fiscal Implications:** This measure will not 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 **Department Position:** The Department **supports** the HB1120 HD2 measure.
- 5 **Department Testimony:** The Environmental Health Services Division (EHSD), Vector Control
- 6 Branch (VCB) provides the following testimony on behalf of the Department.
- 7 HB1120 HD2 amends Hawaii Revised Statutes (HRS) Chapter 322, Part 1, Removal, prevention
- 8 (of nuisances) by adding "Abatement, Destruction" and "public or environmental" to clarify that
- 9 the Department has the legal authority and obligation to prevent and address nuisances that
- 10 affect public health, environmental health, or both. The additional language updates the
- 11 statute and aligns it with Departmental practices and purposes, ensuring that the Department
- 12 has clear legal authority to act in the interests of public and environmental health, particularly
- 13 concerning invasive species control and biosecurity.
- 14 HRS, Chapter 322-1, pertains to the abatement of nuisances which are found to be dangerous
- 15 or injurious. HRS, Chapter 322-1, directs the Department to examine all nuisances, including
- 16 foul or noxious odors, gases or vapors, water in which mosquito larvae exist, sources of filth,

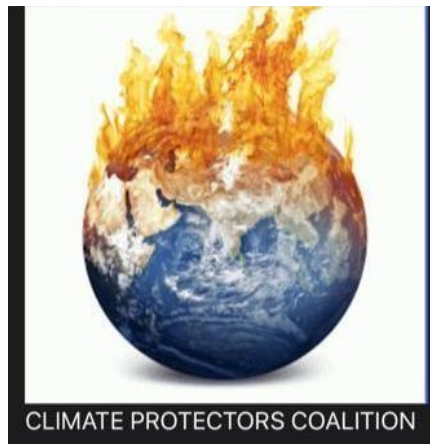
1 and all causes of sickness or disease, onshore and in any vessel, which the Department  
2 determines are dangerous or injurious to health. Further, HRS, Chapter 322-1, authorizes the  
3 Department to cause the dangerous or injurious nuisance to be abated, destroyed, removed, or  
4 prevented. However, as currently written, the language in HRS, Chapter 322-1 directs the  
5 Department to act when a nuisance is dangerous or injurious to “health,” which leaves  
6 ambiguity whether “health” does or does not broadly include “environmental health” or  
7 whether “health” refers solely to an individual’s health rather than public health.

8 Incorporating “public or environmental” into HRS 322-1 simultaneously acknowledges and  
9 directs the Department’s actions when nuisances directly threaten public health and/or  
10 environmental health. The proposed language enhances clarity and readability in the statute  
11 and aligns with a One Health approach to safeguarding our communities from disease.

12

13 **Offered Amendments:** e.g., None

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



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To: The Honorable Senator Joy San Buenaventura, Chair, the Honorable Senator Henry Aquino, Vice Chair, and Members of the Health and Human Services Committee.

From: Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i (by Ted Bohlen)

Re: **Hearing HB1120 HD2 RELATING TO NUISANCES**

Hearing: Monday March 17, 2025 1:00 p.m. CR225

Aloha Chair San Buenaventura, Vice Chair Aquino, Members of the Health and Human Services Committee!

The Hawai'i Reef and Ocean Coalition (HIROC) is a group of scientists, educators, filmmakers and environmental advocates who have been working since 2017 to protect Hawaii's coral reefs and ocean. We support the Department of Health having explicit authority to prevent, abate, destroy, or remove nuisances that affect environmental health, including the reefs and ocean. The mission of the Climate Protectors Hawai'i is to educate and engage the local community in climate change action, to help Hawai'i show the world the way back to a safe and stable climate. We also support the Department of Health having explicit authority to prevent, abate, destroy, or remove nuisances that may exacerbate climate warming.

Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i **STRONGLY SUPPORT HB1120 HD2 but propose an amendment!**

As a Deputy Attorney General, for 15 years I represented the Department of Health (DOH), which is charged under HRS Section 322-1 with causing nuisances to be abated, destroyed, removed, or prevented. Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i **STRONGLY SUPPORT** the explicit recognition in HB1120 HD2 that the DOH is authorized and directed to look into **nuisances that affect environmental health as well as public health!**

Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i do **propose an amendment to Section 3 of the bill. The language specifying two concerns (meth labs and feral bird filth) on page 2 line 20 through page 3 line 6 should be deleted as unnecessary and counterproductive.**

Public Nuisance historically has been a broad and flexible legal tool. Existing public nuisance authority generally should be adequate to cover meth labs and feral bird odors and filth without specific references in the bill. Specifying these two things as included in nuisances could raise questions about whether other things not included can qualify or should be agency priorities. Nuisance as a legal tool does not need these specifications. **The bill would be cleaner and more effective if Section 3, page 2 line 20 through page 3 line 6 were deleted.**

**Please delete that part and pass the rest of this fine bill!**

Mahalo!

Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i (by Ted Bohlen)

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other



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**Please delete that part and pass the rest of this otherwise fine bill!**

Mahalo!

Hawai'i Reef and Ocean Coalition and Climate Protectors Hawai'i (by Ted Bohlen)

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**HB-1120-HD-2**

Submitted on: 3/12/2025 8:31:32 PM

Testimony for HHS on 3/17/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicholas Zehr	Individual	Oppose	Written Testimony Only

Comments:

Honorable Chair, Vice Chair, and Members of the Committee,

I am writing in opposition to HB1120, which seeks to expand the Department of Health’s authority to regulate and eliminate broadly defined “nuisances” that are deemed injurious to public or environmental health. While protecting public health is an important government function, HB1120 **grants excessive and vague powers** to a state agency **without clear limitations or due process protections**, posing a serious threat to individual rights, property rights, and small businesses.

The Department of Health already has the legal authority to address legitimate public health threats, including toxic waste, disease outbreaks, and pollution. However, HB1120 broadens this power without defining clear limits on enforcement.

The bill states that the department *"shall prevent, abate, destroy, or remove"* any condition it deems a nuisance. **This language grants the government the ability to act preemptively, even without clear evidence of harm.** Without legal safeguards, this power could be **arbitrarily enforced**, creating **economic uncertainty** for property owners, farmers, and small businesses.

Instead of clarifying existing law, as supporters may claim, HB1120 **lowers the threshold for state intervention**, effectively allowing the government to take action based on **subjective interpretations** of what constitutes a nuisance.

The bill defines nuisances as including, but **not limited to**, conditions such as *"foul or noxious odors,"* mosquito larvae, and even *"odors and filth resulting from a person feeding feral birds."* This vague language leaves **far too much room for interpretation**, allowing government regulators to target **a wide range of ordinary activities**.

For example:

- Could organic farms or composting operations be shut down if they produce odors that someone finds objectionable?
- Could backyard gardening, livestock keeping, or aquaculture face new restrictions?
- Could small businesses or street vendors be penalized for cooking smells?

Vague legal definitions **invite abuse**, leaving individuals and businesses vulnerable to **arbitrary enforcement and bureaucratic overreach**. If the government is granted **broad, undefined powers**, history shows that they **will be used expansively**—often beyond the intent of the original law.

Property rights are a fundamental principle of a free society. HB1120 threatens those rights by allowing the government to **act first and justify later, without requiring evidence of actual harm to public health**.

The bill does not include:

- A process for appealing decisions before action is taken
- Requirements for scientific evidence or measurable harm before enforcement
- Compensation for property owners who suffer losses due to wrongful or overzealous enforcement

Without **proper checks and balances**, the Department of Health could shut down a business, order the destruction of property, or prohibit lawful activities—all without the affected party having any recourse.

The bill references climate change as a justification for expanded government authority. **While climate change and environmental concerns are real issues, they should not be used as a blanket excuse to grant unchecked power to state agencies.**

Hawai'i already has numerous environmental protection laws. If new environmental threats emerge, **solutions should be narrowly tailored and evidence-based**, rather than granting an agency the ability to define and enforce vague nuisance claims at will.

Rather than passing a broad, vague bill that could lead to regulatory abuse, the Legislature should pursue narrow, specific policies that:

- **Clearly define** which hazards warrant intervention
- **Require scientific evidence** before enforcement actions
- Ensure property owners have **due process rights** before penalties are imposed
- **Protect** small businesses and farms from arbitrary enforcement

A balanced approach would protect public health without infringing on individual rights and economic freedom.

While public health is important, expanding government power without clear limits and oversight is dangerous. HB1120 fails to define clear standards, lacks due process protections, and threatens property rights in a way that **could have far-reaching, unintended consequences**.

I urge you to vote NO on HB1120 and instead support policies that protect both public health and individual liberty.



Respectfully.

Nicholas Zehr

**LATE**

**HB-1120-HD-2**

Submitted on: 3/17/2025 9:15:12 AM

Testimony for HHS on 3/17/2025 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
C. Kai Lucas	Individual	Support	Written Testimony Only

Comments:

"Odors and filth resulting from a person feeding feral birds." The damage by feral ungulates (goats, deer, pigs, sheep) being fed by well intentioned persons is even more dangerous and noxious than birds. Consider amending the bill to include them.

Mahalo,

Kai Lucas

**LATE**

**HB-1120-HD-2**

Submitted on: 3/17/2025 9:02:22 AM

Testimony for HHS on 3/17/2025 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Abbra Green	Testifying for The Libertarian Party of Hawaii	Oppose	Written Testimony Only

Comments:

The Libertarian Party of Hawaii is in opposition to this measure.