

SB 466



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

S.B. NO. 466, RELATING TO POLLUTION.

BEFORE THE:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

DATE: Tuesday, February 17, 2009 **TIME:** 2:45 PM

LOCATION: State Capitol, Room 225

TESTIFIER(S): Mark J. Bennett, Attorney General
or William F. Cooper, Deputy Attorney General

Chair Gabbard and Members of the Committee:

The Department of the Attorney General has concerns about this measure.

This measure will prohibit the use of leaf blowers during certain hours, will restrict where they can be operated, will limit their exhaust emissions to a maximum 10 g/kw-hr, and will limit their noise levels to a maximum 70 dba.

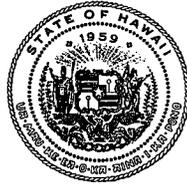
This measure, in section 1, will adopt statewide emission requirements prohibiting the use of nonroad spark-ignition engines at or below 25 hp with exhaust emissions greater than 10 g/kw-hr. Under Title 42 U.S.C. section 7543(e)(1)&(2)(A) (section 209(e)(1)&(2)(A) of the federal Clean Air Act), no State or political subdivision thereof, besides California if it obtains a waiver to do so, shall adopt or attempt to enforce any standard relating to the control of emissions from nonroad engines.

This measure apparently relies on Title 42 U.S.C. section 7543(e)(2)(B) (section 209(e)(2)(B) of the federal Clean Air Act) in order for the State of Hawaii to adopt and enforce the nonroad engine emission program standards of the State of California if California is granted a waiver. Title 42 U.S.C. section 7543(e)(2)(B) allows states,

other than California, that are in nonattainment in certain areas and have United States Environmental Protection Agency plans for their nonattainment areas, to adopt California's approved nonroad engine emission standards. A state is considered to be in nonattainment when it is currently not able to meet one or more of the National Ambient Air Quality Standards for the criteria pollutants designated in the Clean Air Act. Hawaii currently does meet all of the National Ambient Air Quality Standards for all criteria pollutant designated in the Clean Air Act and is considered to be in attainment and does not have any United States Environmental Protection Agency plans for any nonattainment areas.

Since Hawaii is currently considered to be in attainment, and does not have any United States Environmental Protection Agency plans for any nonattainment areas, Hawaii's adoption and enforcement of this measure could be challenged on the basis that it is not allowed to do so under Title 42 U.S.C. section 7543(e)(1)&(2)(A) and does not qualify for the California waiver under Title 42 U.S.C. section 7543(e)(2)(B).

Even if Hawaii was found to be in nonattainment, it would not be able to adopt its own statewide requirements prohibiting the use of nonroad spark-ignition engines at or below 25 hp with exhaust emissions greater than 10 g/kw-hr. Title 42 U.S.C. section 7543(e)(2)(B) clearly limits States that are in nonattainment to only be able to adopt emission standards if "such standards and implementation and enforcement are identical, for the period concerned, to the California standards" These emission standards must be "identical" to California's standards. The emission standards proposed in this measure are not identical to the California emission standards for nonroad spark-ignition engines at or below 25 hp.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Committee on Energy and Environment

SB 466, RELATING TO POLLUTION

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

February 17, 2009

2:45 p.m.

1 **Department's Position:** The department respectfully opposes this measure. Given current fiscal
2 difficulties, it would not be prudent to enact the measure now.

3 **Fiscal Implications:** As yet un-quantified resources would be needed to adopt and enforce rules.

4 **Purpose and Justification:** The bill proposes the following:

5 Amend Chapter 342B, Hawaii Revised Statutes, to prohibit the operation of a leaf blower, or
6 other nonroad spark-ignition engine at or below 25 hp, with exhaust emissions greater than 10 g/kW-hr.

7 Amend Chapter 342F, Hawaii Revised Statutes, to prohibit the operation of leaf blowers except
8 between 8:00 a.m. and 8:00 p.m. on any day except Sunday, and between the hours of 9:00 a.m. and
9 6:00 p.m. on Sunday or a federal holiday. The bill also prohibits the operation of leaf blowers in certain
10 areas and restricts the operation and number of leaf blowers for a set duration any given location. In
11 addition, the bill specifies a maximum decibel level of 70 dba for leaf blowers.

12 Amend Chapter 342H, Hawaii Revised Statutes, to prohibit the operation of a leaf blower in such
13 a manner as to blow debris beyond the parcel boundaries that is being cleaned.

1 We generally favor a quieter environment. We appreciate that some people dislike noisy leaf
2 blowers/yard equipment. Noise can be a nuisance and disturb sleep, even if it does not reach the levels
3 that cause hearing damage. There are also practical considerations in achieving a quieter environment.

4 The intent of Chapter 342F, Hawaii Revised statutes was to regulate stationary equipment,
5 construction, agricultural and industrial activities. These types of sources are either fairly constant in
6 nature, stationary or restricted to a certain location, and can be enforced more easily. Enforcement
7 against leaf blowers would be extremely difficult due to their mobility and the times of the bans.

8 Currently there are no prohibitions on emission for hand held equipment. The department
9 currently regulates large sources of noise emission that have a wider impact on the environment. In
10 addition, there are already laws that regulate dust and litter. This bill duplicates similar laws currently in
11 existence.

12 Any new mandate will require additional resources for serious enforcement.

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

February 16, 2009

SENATE COMMITTEE ON ENERGY AND ENVIROMENT
STATE CAPITOL, CONFERENCE ROOM 225
415 South Beretania Street
DATE: Tuesday, February 17, 2009
TIME: 2:45 P.M.

To: Senator Mike Gabbard, Chair
Senator J. Kalani English, Committee Vice Chair
Committee Members

RE: Testimony Supporting Senate Bill 466: Leaf Blowers; Noise pollution; Emissions; Violations

Dear Energy and Environment Committee:

I am Dr. Douglas McCormick, President of the Diamond Head Alii Condominium Owners' Association.

I am testifying in support of Senate Bill 179: Leaf blower Control, because the owners the buildings across the street from us persist in employing leaf blowers in spite of the complaints of their neighbors for the entire six years I have lived here. They run the leaf blowers two or three days every week for several hours at a time.

My family, many friends and I have been affected by the noise, which is so loud doors and windows must be closed to make a simple telephone call and by the dust which coats every horizontal surface.

I respectfully recommend all legislators such as you to consider this matter very carefully...for all people in residential areas in the state of Hawaii are affected.

I sincerely urge you to support this legislation. Thank you for this opportunity to testify.

Respectfully,

Dr. Douglas McCormick, President
Diamond Head Alii Condominium Owners' Association
808-922-3065
3017 Pualei Circle, Apt 216
Honolulu, HI 96815

Directions for testimony:
Email to ENETestimony@Capitol.hawaii.gov

- One page testimony is the best.
- Please fill in line 1, line 2, after “Dear” and expand on other lines if desired if desired.
- Be sure to include your name, address and tel. # at the end or your testimony will not count.
- Email today before 4 pm. to ENETestimony@Capitol.hawaii.gov
- At this point, the legislators measure the quantity of testimony more than the quality.
- Thank you very much for your help. Please delete these directions.

HEARING DATE: Tuesday; February 17, 2009. TIME: 2:45 p.m., Conference Room 225, SB 466: Leaf Blowers; Noise pollution; Emissions; Violations

February 16, 2009

Senator Mike Gabbard, Chair - Committee On Energy And Environment,
Senator J. Kalani English, Vice Chair and Committee,

Dear Chair Senator Gabbard, Vice Chair Senator English and Committee,

I have lived in Pualei Circle since 1982, have been bothered by leaf blowers, and weed whackers many of these years. I have tried to complain in good faith and asked the Management Company and Board of Directors for different kinds of relief only to get rebuffed in writing since 2004. This issue has been ongoing and overwhelming, especially since three different condos are being run under one Board of Directors and one condo footprints the middle of Pualei Circle.

Most of the Condo Board of Directors instructs their Property Managers and maintenance to not use leaf blowers, especially gas powered leaf blowers, as we are long time owner occupants that enjoy the peace and quiet of our neighborhood that we are good citizens and stewards of. We use rakes and brooms.

Mostly I have seen the maintenance men blow small amounts of leaves across large parking lots and through planted and grassed areas to one pile in a far off corner. I have never seen them pick up a resulting pile of leaves and put it in a bag. I have never heard them turn down a leaf blower to a lower setting or 'bip' the leaf blower along at a lesser rate. I have seen them leave the gas powered leaf blower on the sidewalk running. It is very hard to get up and out of ones bed, get dressed, and go down the stairs to complain to someone about noise, especially when they will not hear you and have played like they don't hear you and don't understand you before.

The Managers of these so-called 'landscapers' that run leaf blowers do not manage. We have at least stopped the operators from blowing the leaves into the storm drains. We are not trying to take leaf blowers away from large commercial areas, just residential areas where people deserve the quiet enjoyment of their homes and the outdated gas leaf blowers have no place. I urge you to pass Senate Bill 179. Thank you for this opportunity to testify.

Sincerely,
Linda Wong
3071 Pualei Circle #203
Honolulu, Hawaii, 96815

From: Felix and Carmela Wolf [wolf@omprograms.com]
Sent: Monday, February 16, 2009 12:59 PM
To: ENETestimony
Subject: SB 466 Testimony

Testimony Presented Before the
Senate Committee on Energy and Environment

February 17, 2009, 2:45 p.m., Room 225

by

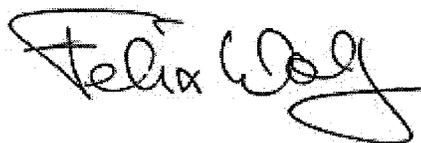
Felix Wolf
3055 Pualei Circle, Honolulu, Hawaii

SB 466: Relating to Leaf Blowers; Noise pollution; Emissions, Violations

Chair Gabbord, Vice Chair English, and Members of the Committee

Thank you for hearing this important bill today. My name is Felix Wolf and as a health care provider I support the intent of SB 466 and appreciate very much that you have taken the first steps in addressing this very important issue. I would prefer a complete ban on leaf blowers, but if this is not possible, i am in favor of the most restrictive use that finds the support of the community. Noise pollution is a serious health problem.

Thank you very much,

A handwritten signature in black ink that reads "Felix Wolf". The signature is written in a cursive style with a large, sweeping "F" and "W".

From: Nancy Wassman [wassmann001@hawaii.rr.com]
Sent: Monday, February 16, 2009 2:36 PM
To: ENETestimony
Subject: Legislature bill SB 466

Chair Gabbard, Vice Chair English, members of the committee on energy and environment

I am writing my testimony in regards to **bill SB 466** banning leaf blowers. I, Nancy Wassman, have lived in Pualei Circle for the last 7 years and have been subjected to the continual noise and pollution from not only the leaf blowers but the incorrect way in which they are used. The workers leave them on full throttle even as they stand around talking. They use them for hours at a time disturbing everyone who lives here.

My husband and I are also site managers and do the yard maintenance in the Diamond Head Ali'i condo in Pualei Circle, where we live. We use brooms and rakes and it is a constant battle with the men using their leaf blowers across the street as they blow the leaves along the road, picking up only a portion of the leaves and bagging them, but half of the leaves they blow come to our side of the street resulting in us having to clean up their mess. The leaf blowers should be banned or at least regulated to only 2 hours during the week and they should be used at a certain noise level.

Please do something to prevent the annoying leaf blowers being used improperly causing extreme noise and pollution. If they cannot be banned, please limit their use.

Thank you for your time.....

T E S T I M O N Y

16 February 2009

THE TWENTY-FIFTH LEGISLATURE REGULAR SESSION OF 2009
COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator J. Kalani English, Vice Chair

HEARING DATE: Tuesday, February 17, 2009

TIME: 2:45 p.m. Conference Room 225

Ref: SB 466, Testimony, Relating to Noise

Gentlemen,

For many years, my right to peaceful enjoyment has been violated. Day after day, often all hours of the day, the annoying sound of leaf blowers can be heard. I can't listen to my TV, take a nap, talk on the phone, or read because of the noise. Closing all my doors and windows does not diminish that horrible sound. Often times I get in my car and go somewhere to escape the noise, hoping the work will be finished when I return home. This is never the case. When one grounds crew finishes, another begins.

Leaf blowers are more than just a noise nuisance. The dust and debris is blown into people's homes and on their cars. And on several occasions, I have witnessed groundskeepers blowing huge piles of leaves into the storm drains.

Leaf blowers are a public nuisance and should be banned in all residential areas.

Sincerely,

Judi Bowman,

3111 Pualei Circle

Honolulu, Hawaii

96815

From: Mary Woollen [woollen@hawaii.edu]
Sent: Monday, February 16, 2009 6:09 AM
To: ENETestimony
Subject: SB 466: ban leaf blowers - stop noise pollution

SB 466: Relating to Pollution
Leaf Blowers; Noise pollution; Emissions, Violations

I support the intent of SB 466 and appreciate very much that you have taken the first steps in addressing this very important issue. However, while the bill has included ramifications for potential violators, I have some specific comments and suggested amendments in the following sections:

On page 2, lines 1-3: I feel these hours are too 'lax' for densely populated areas. Many residents leave home before 7:00 a.m. and arrive home at or after 7:00 p.m., after working long hours in often stressful employment – and should be able to enjoy peace and quiet in their homes and neighborhood on returning to their residences. If we must be subjected to leaf blowers, then condominium managers should be able to schedule leaf blowing operations within a two hour block period in the middle of the day. Furthermore, line three allows leaf blowing on Sundays and federal holidays. Surely we deserve at least one day of peace and rest from this kind of noise.

On page 2, (1) lines 1 through 3: The average blower measures 70-75 dB at 50 feet according to the EPA (EPA, Noise: A Health Problem, United States Environmental Protection Agency, Office of Noise Abatement and Control, August, 1978). I suggest the distance of ten feet be expanded to no more than 50 feet. A lot more than noise is blowing into our units. For example, we are subjected to dust containing rodent droppings (yes); harmful CO₂, CO or carbon monoxide; NO_x or nitrogen oxides, and hydrocarbons, HC from the motors. In addition, fine PM_{2.5} particles, which are man-made are occurring: these do not occur in nature, they evade the body's defense systems – and increase the number and severity of asthma attacks, cause or aggravate bronchitis or other lung disease and reduce our ability to fight infections (Air Resources Board, Status Report: 1995-1996). We are receiving bacteria and street dust, including lead and arsenic.

On page 2, (3), lines 1 through 5: We have had two and three leaf blowers operating simultaneously in the parking area and at the swimming pool area. The sound of three of these operating expands exponentially. This harms the residents and the user. Deafness is a social problem because it causes isolation. But in the case of Hawaii, it is also a civil rights issue because the individuals taking these low-paying jobs are most often those with the least education and the least ability to confront their employer should they have concerns. They are likely to be immigrants with limited English written or spoken abilities and lack the ability to read English language newspapers (the most common source of notice of harmful impacts or legislative initiatives).

On page 2, (4), lines 1-2): The maximum decibel level of 70 dB is much too high. A blower measuring 70-75 dB at 50 feet can reach 90-100 dB at the operator's ear (WHO, 1980). While manufacturers claim that the average blower measures 70-75 dB at 50 feet, and claim this is the same noise level of a vacuum cleaner, how many of us would allow an uninvited vacuum cleaner into our homes for several hours per day? Also, the World Health Organization recommends general daytime outdoor levels of 55dBA or less but 45dBA to meet sleep criteria (World Health Organization, 1980, Environmental Health Criteria 12: Noise). Thus, even a 65 decibel leaf blower would be 100 times too loud to allow healthful sleep (which often takes place during daytime hours for night workers and others). According to the WHO, noise can impair sleep even when the sleeper is not

awakened. Our complex includes elderly and infants who sleep during the day time hours. My condo floor alone has six units – half of these are airline employees who work evening shifts or fly all night.

Regarding 342H, page 3: Leaf blower debris. (a). The California ARB has conducted tests showing that a leaf blower creates 2.6 pounds of PM10 dust emissions per hour of use (California ARB, 1991). This dust contains all of the harmful substances listed above. Who is going to enforce or monitor this section when the trade winds blow every afternoon?

Our concern for the health and welfare of our citizens, including those who cannot speak for themselves, should be paramount in all that we do. We do not need to recreate the wheel. Other states and cities have already done this for us. Studies and comparisons have included grandmothers sweeping and raking alongside leaf blowers – and proving in every instance that they were faster – and according to expert witnesses, did a better job – at less cost.

Thank you for this opportunity to testify.

My home address is 3055 Pualei Circle #201 Hon HI 96815. My work info is below.

mahalo,
mary

Mary Woollen
Instructor, CPA
School of Accountancy
Shidler College of Business
University of Hawaii at Manoa
2404 Maile Way, A-416
Honolulu, HI 96822-2223
808-956-6678
808-956-9888 (fax)
woollen@hawaii.edu

Testimony Presented Before the
Senate Committee on Energy and Environment

February 17, 2009, 2:45 p.m., Room 225

by

Valere McFarland
3055 Pualei Circle, Honolulu, Hawaii

**SB 466: Relating to Pollution
Leaf Blowers; Noise pollution; Emissions, Violations**

Chair Gabbord, Vice Chair English, and Members of the Committee

Thank you for hearing this important bill today. My name is Valere McFarland and I reside at Pualei Circle, in a condominium complex at the Diamond Head end of Waikiki. I support the intent of SB 466 and appreciate very much that you have taken the first steps in addressing this very important issue. However, while the bill has included ramifications for potential violators, I have some specific comments and suggested amendments in the following sections:

On page 2, lines 1-3: I feel these hours are too 'lax' for densely populated areas. Many residents leave home before 7:00 a.m. and arrive home at or after 7:00 p.m., after working long hours in often stressful employment – and should be able to enjoy peace and quiet in their homes and neighborhood on returning to their residences. If we must be subjected to leaf blowers, then condominium managers should be able to schedule leaf blowing operations within a two hour block period in the middle of the day. Furthermore, line three allows leaf blowing on Sundays and federal holidays. Surely we deserve at least one day of peace and rest from this kind of noise.

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spoken abilities and lack the ability to read English language newspapers (the most common source of notice of harmful impacts or legislative initiatives).

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Our concern for the health and welfare of our citizens, including those who cannot speak for themselves, should be paramount in all that we do. We do not need to recreate the wheel. Other states and cities have already done this for us. Studies and comparisons have included grandmothers sweeping and raking alongside leaf blowers – and proving in every instance that they were faster – and according to expert witnesses, did a better job – at less cost.

Thank you for this opportunity to testify.

From: Patti [patti808@gmail.com]
Sent: Monday, February 16, 2009 3:38 PM
To: ENETestimony
Subject: Leaf Blowers

I am home during the day. My home should be a place of peace and refuge from the hustle and bustle of town. Then the leaf blower starts and takes forever using his blower. There are spots that a rake would suffice. I have also seen them blow leaves in the storm drain. That man just stands and stares on one spot for a long period of time. Why is there ALWAYS someone or something to infringe on my rights in this beautiful neighborhood? The middle condo doesn't seem to CARE who they annoy as long as they can get their work done cheaper. And I would guess the owners of that building don't even live there.

Thank you for listening (I hope).

T E S T I M O N Y

16 February 2009

**THE TWENTY-FIFTH LEGISLATURE REGULAR SESSION OF 2009
COMMITTEE ON ENERGY AND ENVIRONMENT**

Senator Mike Gabbard, Chair

Senator J. Kalani English, Vice Chair

HEARING DATE: Tuesday, February 17, 2009

TIME: 2:45 p.m. Conference Room 225

Ref: SB 466, Testimony, Relating to Noise

This bill should definitely pass and be strictly enforced. Workers using leaf blowers across Pualei Circle from my condo, are so loud and long in their work, that I have to close all my windows and door to block the noise and the dust that their blowers direct into the street and towards my building. This reduces the breeze coming through my condo and diminishes comfort and peace.

Sincerely,
Mollie Meade
3017 Pualei Circle
Honolulu, Hawaii
96815

Testimony

Committee: Senate Committee on Energy and Environment
Measure: SB 466, Relating to Pollution.
Date: Tuesday, February 17, 2009
Time: 2:45 p.m.
Place: Conference Room 225
Testifier: Daniel D. Palmer, M.D.

Chair Gabbard and Committee Members:

I am a retired medical doctor and former faculty member of the University of Hawaii John A. Burns School of Medicine. As a matter of public health, I strongly support the intent of this bill to restrict the use of leaf blowers.

It is easy to see that leaf blowers move leaves and twigs with great force. But leaf blowers move smaller particles with even greater vigor. The smallest particles may be nearly invisible, but the combined volume of small particles may approach the volume of larger material. In contrast, rakes barely disturb these smaller particles. Thus, before leaf blowers become prevalent, the smaller particles largely remained on the ground and were gradually absorbed or incorporated into the soil.

The small particles are composed of decaying organic matter, bacteria from the decomposition of decaying organic matter, fungi (molds from decomposition of organic matter), fungus spores and hyphae, pollen, fertilizer particles, herbicides and insecticides used on lawns, animal feces, rubber particles from tires, metal particles from brake linings, cigarette butts in various stages of disintegration, organic chemicals from automobile emissions, fine carbon particles (Buckey balls, carbon nano-tubules, from diesel and gasoline combustion), coal dust, mineral materials (cadmium, feldspar, mercury, mica, silica, and others), and other materials.

All of the above are now present in the air we breathe in greater volume than they were before the introduction of leaf blowers. In the past, this particulate matter was allowed to percolate into the soil or become chemically or physically attached to it. It is now wafted into the air, again and again, before it can be assimilated. And because the windows of Hawaii homes are almost always open, the particulate matter floating in the air ends up inside our homes as dust.

It seems clear that all of this fine particulate material in the air must affect the lungs and the general health of all age groups, especially children. Recent publications have established an increase in the incidence of asthma over the past several years. It is probable that the inhalation of the increasing volumes of fine particulate material is one cause for the increase in the incidence of asthma and other respiratory disease problems. Certainly, this aggravates such problems. Additionally, it has recently been found that the incidence of heart disease and strokes in women is correlated with breathing fine particles in polluted air.

The rise in the incidence of these disorders corresponds in time with the replacement of rakes and brooms by leaf blowers, and with the increase in both the number of leaf blowers used and their power.

Moreover, the noise produced by weed blowers used in residential areas is louder than noise that would be tolerated in an industrial area. The damage that this does to our hearing ability and collective well-being must be significant.

For these reasons, I urge the Committee to pass legislation to reduce the use of leaf-blowers.

gabbard2 - Kehau

From: frannysuzy [frannysuzy@hawaii.rr.com]
Sent: Tuesday, February 17, 2009 11:31 AM
To: ENETestimony
Cc: frannysuzy@hawaii.rr.com
Subject: S. B. NO. 466: Written Testimoy by way of E-Mail

Mitch Wright and Suzanne Wright hereby testify that we are in favor of S. B. NO. 466 regarding limiting the use of leaf blowers. This is a step in the right direction.

That being written, we believe that a bill banning leaf blowers completely would offer a better solution as these devices are detrimental to residents health and well being due to noise and exhaust pollution.

California cities that have banned leaf blowers completely include:Belvedere, Beverly Hills, Carmel, Claremont, Del Mar, Hermosa Beach, Indian Wells, Lawndale, Laguna Beach, Los Altos, Malibu, Mill Valley, Piedmont, and Santa Monica.

Citizens of these cities will enjoy a better quality of life as these pernicious machines in any form are obnoxious and contrary to landscape contractors opinions are not efficient.

If hand pushed mechanical lawn sweepers (not rakes) would be used we believe landscape companies could actually do the job now done by leaf blowers at less time and charges to customers.

These lawn sweepers are very efficient when applied properly and will work on hard surfaces as well as lawns.

Again, we favor the passage of S.B.NO. 466 as a step in the right direction.

Respectfully,

Mitch Wright
Suzanne Wright

I am using the Free version of [SPAMfighter](#).
We are a community of 6 million users fighting spam.
SPAMfighter has removed 379 of my spam emails to date.
The Professional version does not have this message.