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DEPARTMENT OF HEALTH
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**Testimony COMMENTING on SB0671 SD1
RELATING TO HEALTH**

SENATOR KARL A. RHODES, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: February 24, 2023

Room Number: 415

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:** The Department of Health supports the intent of this measure but
3 prefers the narrower fentanyl test strip exemption offered in a similar measure, HB573; and
4 defers to the Department of Law Enforcement on its implementation. We also offer the
5 amendment below.

6 This measure amends §HRS 329-1, Hawaii Revised Statute by exempting fentanyl test strips
7 (FTS) from the current definition of drug paraphernalia, defining FTS, and inserting an effective
8 date of December 31, 2050.

9 The Centers for Disease Control and Prevention and the Substance Abuse and Mental Health
10 Services Administration encourage the use of federal funds to purchase FTS to curb the dramatic
11 spike in drug overdose deaths from the use of synthetic opioids which include illicitly
12 manufactured fentanyl. There were 74 fatal opioid poisonings in Hawaii in 2021, 50 of which
13 come from synthetic opioids including fentanyl. FTS may be useful to find out if drugs were
14 mixed with fentanyl, thus giving communities information on illicit drug supply and what steps
15 we should take to prevent and reduce overdoses.

16 Thank you for the opportunity to testify.

17 **Offered Amendments:** Amend page 7, lines 11 to 15 to read:

1 ~~"Drug paraphernalia" does not include testing products~~
2 ~~utilized in determining whether a controlled substance contains~~
3 ~~chemicals, toxic substances; or hazardous compounds in~~
4 ~~quantities that can cause physical harm or death, including but~~
5 ~~not limited to fentanyl test strips."~~

TESTIMONY IN SUPPORT OF SB 671, SD 1

TO: Chair Rhoads, Vice Chair Gabbard, & Judiciary Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 24, 2023 (9:30 AM)

Hawaii Health & Harm Reduction Center (HHRC) **strongly supports** SB 671, SD1, which specifies that the definition of drug paraphernalia does not include testing products utilized in determining whether a controlled substance contains chemicals, toxic substances, or hazardous compounds in quantities that can cause physical harm or death, including but not limited to fentanyl test strips.

HHRC operates Hawaii's statewide syringe exchange program, [*which has effectively kept HIV rates among persons who inject drugs and their intimate partners low for over three decades*](#), in every county. We first obtained fentanyl test strips using private grant funding from the Comer Family Foundation in 2019. Fentanyl test strips and other drug checking tools are critical in helping to prevent accidental and fatal overdoses. Broader access to drug checking tools, including portable spectrometers, is a policy reality in other jurisdictions.

Due consideration should also be given to repealing Hawaii's drug paraphernalia statute entirely, [*as currently proposed in HB 431*](#). Paraphernalia laws [*do not advance individual or public health*](#). Instead, they serve as a gateway to protracted criminal legal system involvement for those with behavioral health problems, including those who are unhoused or are from under-resourced communities. The baseline penalty provided by [*HRS Section 712-1243*](#) for possession of non-cannabis Schedule I & II drugs for personal use, including unusable traces and residue, [*is among the nation's most draconian*](#).

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawaii and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions, and have been deeply impacted by trauma that include histories of physical, sexual, and psychological abuse.

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

SB-671-SD-1

Submitted on: 2/23/2023 11:41:14 AM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Testifying for Drug Policy Forum of Hawaii	Support	Written Testimony Only

Comments:

Chair Rhoads, Vice Chair Gabbard, & Judiciary Committee Members:

Drug Policy Forum of Hawai‘i (DPFH) **strongly supports** SB 671, SD 1, which specifies that the definition of drug paraphernalia does not include testing products utilized in determining whether a controlled substance contains chemicals, toxic substances, or hazardous compounds in quantities that can cause physical harm or death, including but not limited to fentanyl test strips.

Ideally, Hawai‘i’s drug paraphernalia statute should be repealed entirely, [as currently proposed in HB 431](#). This statute, enforced by local law enforcement and county prosecutors, serves a functional gateway for the continued over-criminalization of substance use and substance use disorder.

State laws pertaining to possession for personal use are also far too severe, and Hawai‘i should join those states that have decriminalized personal possession of substances. Alternatively, [other states have re-classified personal drug possession as misdemeanors](#).

Mahalo for the opportunity to provide testimony.

SB-671-SD-1

Submitted on: 2/21/2023 4:27:52 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kourtney D.	Individual	Support	Written Testimony Only

Comments:

I am writing today in support of SB 671, which would exclude from the definition of drug paraphernalia testing products such as fentanyl test strips.

Fentanyl test strips have the potential to save lives by allowing individuals to test for the presence of fentanyl in drugs before consuming them. Fentanyl is an extremely potent opioid and can be fatal in even small doses. Fentanyl test strips can help individuals avoid ingesting the drug and potentially overdosing. This can help reduce the number of overdose-related deaths in our state.

Furthermore, excluding fentanyl test strips from the definition of drug paraphernalia can help reduce the stigma associated with drug use, giving individuals who use drugs more access to the resources they need to stay safe.

For all of these reasons, I strongly support SB 671. Thank you for your time.

SB-671-SD-1

Submitted on: 2/21/2023 5:18:17 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark Gordon	Individual	Support	Written Testimony Only

Comments:

Aloha

Please Support SB 671. This proposed regulation would remove fentanyl test strips and other testing kits to determine if some drugs contain hazardous as well as fatal substances from the drug paraphernalia definition.

As we may be aware, many younger people as well as adults may take certain drugs which can be laced with a very fatal drug such as fentanyl. We know this is happening, unfortunately very often on the Islands and especially Hawaii Island. Many times people are totally unaware of this contamination. By not restricting the use of fentanyl test strips and other drug testing materials, many overdoses and deaths could be avoided. It has been said about 1 person dies every 5 minutes from fentanyl U.S. wide. Staggering number !

SB-671-SD-1

Submitted on: 2/21/2023 9:10:33 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Fentanyl test strips (FTS) are a low-cost method of helping prevent drug overdoses and reducing harm. FTS are small strips of paper that can detect the presence of fentanyl in all different kinds of drugs (cocaine, methamphetamine, heroin, etc.) and drug forms (pills, powder, and injectables). FTS provide people who use drugs and communities with important information about fentanyl in the illicit drug supply so they can take steps to reduce risk of overdose. Decriminalizing FTS in Hawai'i will save lives, period. Please pass SB671 SD1.

SB-671-SD-1

Submitted on: 2/22/2023 1:31:05 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andy Kagemoto	Individual	Support	Written Testimony Only

Comments:

Thank you Chair Rhoads for giving this bill a hearing in your committee. In strong support. Mahalo!