

ALAN M. ARAKAWA  
Mayor



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November 23, 2016

The Honorable Alan M. Arakawa  
Mayor  
Office of the Mayor  
County of Maui  
200 S. High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL  
  
Mayor Date 11/20/16

Transmittal to:  
Michael P. Victorino, Chair  
Policy and Intergovernmental Affairs Committee  
County Council  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

Dear Mr. Victorino:

Subject: **Homelessness (Protecting and Preserving Public Health, Safety, and Welfare) (PIA-61)**

We respond to Council Member Mike White's question regarding the sunset clause noted under §711-1101<sup>1</sup>; During the 2004 legislative session an amendment to Chapter 711 of the Hawaii Revised Statutes was added for the City and County of Honolulu, see Act 84, enclosed as Attachment A.

This new section applied to the "Downtown Honolulu Area". Furthermore, this new section contained a sunset clause for December 31, 2009. Then in 2008, the sunset clause was extended to December 31, 2012, see Attachment B. Then in 2010 the Honolulu Police Department was requested to file a report on the

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<sup>1</sup> Urinating or defecating in public (repealed December 31, 2016). L 2004, c 84, §2; L 2008, c 77; L 2010, c 75; L 2014, c 50; L 2015, c 35, §51.


The Honorable Alan M. Arakawa  
Transmittal to: Honorable Michael P. Victorino  
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effectiveness of this new law; and the sunset clause was extended to December 31, 2014, See Attachment C. Act 50 in 2016 extended the sunset clause to December 31, 2016, See Attachment D.

This new section of Chapter 711 has not been amended to include other geographical areas outside of the City of Honolulu.

If you have any questions regarding the above, please call me at 270-7632 or 270-7777.

Very truly yours,



JOHN D. KIM  
Prosecuting Attorney

JDK:kym  
Attachments

xc: Patrick Wong, Corporation Counsel  
Tivoli Faaumu, Chief of Police  
Michael P. Victorino, Chair, PIA  
Mike White, Council Chair

**Report Title:**

Urinating and Defecating in Public

**Description:**

Prohibits public urination or defecation in the downtown Honolulu area. (HB1828 CD1)

HOUSE OF REPRESENTATIVES  
 TWENTY-SECOND LEGISLATURE,  
 2004

**H.B. NO.** 1828  
 H.D. 1

STATE OF HAWAII

S.D. 1

C.D. 1

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# A BILL FOR AN ACT

RELATING TO PUBLIC ORDER.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Urinating and defecating in public frighten and offend many people. These behaviors also create a public health risk because of the spread of diseases and other health hazards stemming from human waste. Such concerns and the smell associated with public urination and defecation discourage people from patronizing establishments located in the downtown business district.

The purpose of this Act is to prohibit public urination or defecation in the downtown Honolulu area.

SECTION 2. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§711- Urinating or defecating in public. (1) A person commits the offense of urinating or defecating in public if the person intentionally or knowingly urinates or defecates in a public place or any area where such an act is likely to be observed by any member of the public within the boundaries of the downtown Honolulu area.

(2) As used in this section:

"Downtown Honolulu area" means the part of the city of Honolulu on the island of Oahu bounded on:

- (a) The south by the sea shore;
- (b) The west by Nuuanu Stream;
- (c) The north by the H-1 freeway; and
- (d) The east by Ward Avenue extended as a straight line to the sea shore.

"Public place" means any publicly-owned or privately-owned property open for public use or to which the public is invited for entertainment or business purposes and includes but is not limited to any street, sidewalk, driveway, alley, doorway, mall, plaza, park, public building, or parking lot.

(3) This section shall not apply in cases where the person failed to use a restroom or other toilet facility because of a medical condition verified by a licensed physician.

(4) This section shall not apply to a person urinating or defecating while using appropriate fixtures in any restroom or other toilet facility designed for the sanitary disposal of human waste.

(5) Urinating or defecating in public is a violation punishable by no more than forty hours of community service work or a fine of not more than \$200."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval and shall be repealed on December 31, 2009.

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## A BILL FOR AN ACT

RELATING TO PUBLIC ORDER.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Act 84, Session Laws of Hawaii 2004, is amended  
2 by amending section 5 to read as follows:

3           "SECTION 5. This Act shall take effect upon its approval  
4 and shall be repealed on December 31, [~~2009.~~] 2012."

5           SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 3. This Act shall take effect upon its approval.



H.B. NO. 1978  
H.D. 1  
S.D. 1

**Report Title:**

Public Order; Human Waste; Prohibition

**Description:**

Extends sunset by three years of the prohibition against urinating or defecating in public within the boundaries of downtown Honolulu. (SD1)



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# A BILL FOR AN ACT

RELATING TO PUBLIC ORDER.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Act 84, Session Laws of Hawaii 2004, as amended  
2 by Act 77, Session Laws of Hawaii 2008, is amended by adding a  
3 new section to read as follows:

4 "SECTION 2A. The Honolulu police department is requested  
5 to prepare a report on the offense of urinating and defecating  
6 in public within the boundaries of the downtown Honolulu area  
7 established by this Act that shall include but not be limited  
8 to:

9 (1) The effectiveness of the offense established by this  
10 Act in deterring the conduct proscribed; and

11 (2) The number of citations issued for this offense for  
12 the two years preceding the date of the report;

13 provided that the Honolulu police department is requested to  
14 submit the report to the legislature no later than twenty days  
15 prior to the convening of the 2012 regular session."

16 SECTION 2. Act 84, Session Laws of Hawaii 2004, as amended  
17 by section 1 of Act 77, Session Laws of Hawaii 2008, is amended  
18 by amending section 5 to read as follows:

HB1862 CD1 HMS 2010-3249



1 "SECTION 5. This Act shall take effect upon its approval  
2 and shall be repealed on December 31, [~~2012~~] 2014."

3 SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.





**Report Title:**

Public Order; Public Urination and Defecation

**Description:**

Changes the sunset date to December 31, 2014, on the prohibition against urinating or defecating in public within the boundaries of downtown Honolulu. Requests the Honolulu police department to prepare and submit to the legislature a report regarding the effectiveness of the prohibition. (HB1862 CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



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# A BILL FOR AN ACT

RELATING TO PUBLIC ORDER.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Act 84, Session Laws of Hawaii 2004, as amended  
2 by section 1 of Act 77, Session Laws of Hawaii 2008, as amended  
3 by section 2 of Act 75, Session Laws of Hawaii 2010, is amended  
4 by amending section 5 to read as follows:

5           "SECTION 5. This Act shall take effect upon its approval  
6 and shall be repealed on December 31, [~~2014~~] 2016."

7           SECTION 2. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9           SECTION 3. This Act shall take effect upon its approval.

