



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

H.B. NO. 3052, RELATING TO TOBACCO

BEFORE THE:

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS CONCERNS

DATE: Tuesday, February 5, 2008 **TIME:** 8:30 AM

LOCATION: State Capitol Room
Deliver to: Committee Clerk, Room 318, 5 copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Earl R. Hoke, Jr., Deputy Attorney General

Chair Yamashita and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

The purpose of this bill is to repeal the sunset clause contained in section 9 of Act 131, Session Laws of Hawaii 2005. The sunset clause terminates the requirement contained in section 245-2.5, Hawaii Revised Statutes (HRS), which mandates that those businesses engaged in the sale of cigarettes and other tobacco products at the retail level acquire a retail tobacco permit from the Department of Taxation to engage in such activity.

There are a number of ways in which this bill strengthens the mechanisms available to regulate the sale of taxed cigarettes and other tobacco products.

First, the bill removes the sunset clause and keeps in place the requirement that an entity engaged in the retail sale of cigarettes or other tobacco products obtain a retail tobacco permit. The retail tobacco permit facilitates the enforcement of chapter 245, HRS, by providing a known and measurable list of entities engaged in the retail sale of cigarettes and other tobacco products. There are currently 1,490 entities in the State presently engaged in the retail sale of cigarettes and other tobacco products that have applied for and received a retail tobacco permit issued by the

Department of Taxation. The current statute allows for the inspection of records and invoices that are to be kept by the retail tobacco permit holder in order to facilitate a determination of the proper source of cigarettes and tobacco products as well as payment of all taxes. The bill requires that a permit be acquired for each location where cigarettes are sold at retail.

Second, the retail tobacco permit program has resulted in an increase in taxes being collected in the area of other tobacco products. Beginning December 1, 2006, every retailer engaged in the retail sale of cigarettes and other tobacco products was required by section 245-2.5, Hawaii Revised Statutes to obtain a retail tobacco permit. In addition, every holder of a retail tobacco permit is required to keep a complete and accurate record of the permit holder's cigarette or tobacco product inventory. This requirement is meant as a tool to make sure that all of the tobacco products sold at retail are compliant and that all tobacco taxes are paid. It is interesting to note that for fiscal year 2006-2007 the Department of Taxation reports tobacco taxes from tobacco products other than cigarettes to be \$5,587,849, which represents an increase in taxes of \$3,029,716 over the \$2,558,133 collected in fiscal year 2005-2006. While there has not been an increase in tax rate for the other tobacco products and in light of the amount of other tobacco product revenues reported in prior years a reasonable inference may be made that the retail permit requirements have had a positive impact on tax revenues.

Third, the retail tobacco permit program facilitates the collection of cigarette taxes by making it clear that no retailer or cigarette vending machine operator shall purchase any pack of cigarettes without the appropriate tax stamp being affixed to the bottom of each pack of cigarettes as required by chapter 245. In fiscal year 2006-2007 cigarette tax revenues were reported by the Department of Taxation as being \$88,771,666, an increase of

\$3,069,578, over the fiscal year 2005-2006 reported revenues of \$85,702,088.

We respectfully request passage of this bill as introduced.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
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**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS
CONCERNS**

**TESTIMONY REGARDING HB 3052
RELATING TO TOBACCO**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 5, 2008

TIME: 8:30AM

ROOM: 325

This bill proposes to amend Act 131, Session Laws of Hawaii 2005, by amending section 9 by deleting the repeal date.

The Department of Taxation (Department) **strongly supports** this legislation.

SIGNIFICANT TIME, EFFORT, AND MONEY HAS GONE INTO MAKING SURE THE ENFORCEMENT OF THIS LAW IS A TOP PRIORITY.

The Department strongly supports this legislation. The Department, in connection with the Tobacco Enforcement Unit of the Department of the Attorney General, has expended significant time and effort in what has been a successful effort to enforce the tobacco tax laws of Hawaii.

The Department has promulgated administrative rules related to enforcement. The Department has also coordinated extensively with the Attorney General's Tobacco Enforcement Unit. Enforcement of Act 131 is up and running. Allowing the Act to repeal would be a severe hit to the enforcement efforts and subsequent revenue realized from the permitting of tobacco retailers.

The Department strongly supports making Act 131 permanent and encourages the Committee to pass this measure unamended.

The Department projects that any loss in enforcement efforts in the monitoring of tobacco retailers could result in a revenue loss of approximately \$4.7 million per year.



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**Improving Life One
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Founded in 1904, the
 American Lung Association
 includes affiliated associations
 throughout the U.S.

**TO: House Committee On Economic Development & Business
 Concerns**

FOR: Hearing scheduled for Tuesday, February 5, 2008

**RE: TESTIMONY IN SUPPORT OF HB 3052, REALTING TO
 TOBACCO**

Chair Yamashita, Vice Chair Wakai and Committee Members:

The American Lung Association of Hawaii (ALA of Hawaii) supports HB 3052, which extends without time limit the requirement for retailers who sell tobacco to obtain a retail tobacco permit from the Department of Taxation.

Removal of the provision in the existing law that sunsets the permit requirement in 2009 would ensure continuation of an important element in the ongoing effort to regulate and control tobacco use among Hawaii's minors. Although the percentage of frequent smokers among high school students is declining (and stands presently at approximately 12.6 percent), surveys indicate nearly 7 out of 10 high school students in Hawaii have tried smoking.

The most recent statistic available from the Hawaii Department of Health reveal that "1 in 6 Hawaii high school underage smokers who bought their last pack of cigarettes in a store were neither asked to show ID nor refused sale, according to a student survey."

Clearly, improved regulation and monitoring of tobacco retail sales is required to help stem the illegal sale of tobacco products to minors. ALA of Hawaii believes adoption of HB 3052 will be an important step in achieving that goal.

Respectively submitted,

Jean Evans, MPH
 Executive Director
 American Lung Association of Hawaii



February 5, 2008

The Honorable Kyle Yamashita, Chair
The Honorable Glenn Wakai, Vice Chair

House Committee on Economic Development & Business Concerns
8:30 AM, Tuesday, February 5th, 2008
State Capitol, Room 329

RE: Testimony in support of HB 3052, Relating to Tobacco

Dear Chair Yamashita and Members of the Committee:

My name is Leinaala Ley and I am the Director of Government Relations for the American Cancer Society Hawaii Pacific Inc. Thank you for the opportunity to testify in support of HB 3052, Relating to Tobacco, which repeals the July 1, 2009, sunset clause pertaining to retail tobacco sales permits.

The American Cancer Society Hawaii Pacific Inc. advocates for policies that will reduce the incidence and burden of cancer in Hawaii and improve the quality of life for people living with this disease. The best way to reduce the burden of cancer in our state is through prevention and early detection. Tobacco use is the leading preventable cause of death in the United States and Hawaii with more than 30 percent of all cancer deaths attributable to smoking and tobacco use. Policies that reduce the use of tobacco and cigarettes can significantly reduce the pain and suffering associated with cancer. Policies that help inhibit initiation of tobacco use in children will greatly reduce the number of youth who eventually grow up and die from smoking related illnesses.

The permitting law allows for better regulation of tobacco and a concurrent reduction in youth smoking rates. Between 2000 and 2006 the rates of youth smoking dropped considerably. For public high school students the smoking rate declined from 24.5% to 12.6 % and for middle school students from 12.9% to 7.9%. Licensing and regulation of tobacco sales in our state is an important part of ongoing tobacco control efforts that will save the state money and lives by reducing the number of smokers living in Hawaii.

Thank you for your consideration.

Sincerely,

Leinaala Ley
(808)432-9149

American Cancer Society Hawai'i Pacific, Inc.
2370 Nu'uuanu Avenue, Honolulu, Hawai'i 96817-1714

•Phone: (808) 595-7500 •Fax: (808) 595-7502 •24-Hour Cancer Info: (800) 227-2345 •<http://www.cancer.org>



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February 5, 2008

To: Committee on Economic Development & Business Concerns
Rep. Kyle T. Yamashita, Chair / Rep. Glenn Wakai, Vice Chair

By: Hawaii Food Industry Association
Lauren Zirbel, Gov't. Relations, or Richard Botti, President

RE: HB 3052 RELATING TO TOBACCO PRODUCTS

HFIA strongly supports this measure because it is essential to ensure fair competition among retailers distributing tobacco products and to assure the legal taxes assess is in fact paid.

We supported the original passage of this bill and have been pleased with the increase in taxing revenue the state has benefited from since its passage, which is evidence that black market product was in fact wide spread.

This measure ensures that those retailers who purchase tobacco products honestly will not be forced to compete with retailers who illegally import and sell cigarettes at a pre tax rates.

We thank you for your support.