

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

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

In reply, please refer to:
File:

HOUSE COMMITTEE ON FINANCE

H.B. 1526 HD1, RELATING TO HEALTH

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

**March 4, 2009
10:00a.m.**

- 1 **Department's Position:** The Department respectfully opposes this measure.
- 2 **Fiscal Implications:** As yet unquantified funding for the creation or enhancement of a section to
- 3 enforce nutritional labeling, staffing, office space, equipment, training, and additional expenditures.
- 4 **Purpose and Justification:** This bill amends Chapter 321 of the Hawaii Revised Statutes by adding a
- 5 new section, "Franchise retail food establishments; nutritional information." The bill will require
- 6 franchise retail food establishments with ten (10) or more establishments to provide nutritional
- 7 information on each standard menu item and provide this information to customers. The bill does not
- 8 speak to how the new proposed policy would be enforced. Currently the department does not have a
- 9 public enforcement role in nutrition and does not have the capacity or means to implement and enforce a
- 10 statewide nutrition labeling law. Implementing such a program will take away from resources needed
- 11 for food safety in the prevention of food borne illnesses and from all other environmental enforcement
- 12 actions designed to prevent the spread of communicable diseases and environmental contamination.
- 13 The Department finds that there is some new evidence to support menu labeling as a way to help
- 14 consumers make better nutrition decisions. However, in appreciation of the current State fiscal crisis

HB1526 HD1

Page 2 of 2

1 and since education on and enforcement of the proposed policy would require an increase in staffing
2 levels and resources, we respectfully request that this measure be held.

3 Thank you for the opportunity to provide testimony.



American Heart Association® | American Stroke Association®

Learn and Live.

Serving Hawaii

Testimony for HB 1526, HD1 "Relating To Health"

While the American Heart Association (AHA) supports the concept of menu labeling to educate the public and allow it to make healthier, lower-calorie choices when dining out, **the AHA opposes HB 1526, HD1 in its current form.**

The AHA feels that the current bill is industry focused and would bring about little, if any, positive change in the current obesity epidemic. For menu labeling to be effective calorie information needs to be on all menus or menu boards (especially drive-through menu boards), not just made available to customers through kiosks, brochures, etc. Evaluation in New York City, which has had a menu labeling law in effect for over a year, shows that only 4 percent of customers see or ask for nutrition information when it's not on the drive-thru menu board. That study was published in the American Journal of Public Health in 2007. The fast-food industry currently generates approximately 65 percent of revenues from drive-thru business. Therefore **it is critical to the effectiveness of any menu-labeling law that calorie information be included on drive-thru menu boards.** This is especially important because drive-thru sales are on the rise and 89 percent of fast-food restaurant operators feel that drive-thru business will represent an even larger portion of sales next year. Menu labeling has proven to be practical and low-cost for restaurants and widely used by customers. However, the restaurant industry continues to pressure legislators to oppose or lessen the scope of menu labeling policies.

A second concern is that the language of the bill as it is currently written would allow restaurant owners who own more than 10 restaurants nationwide, but fewer than 10 in Hawaii, to skirt the law. **The bill should be clarified to indicate that companies that own 10 or more restaurants nationwide be required to post calorie information on their menu boards (both inside and on drive-thru boards).**

While the AHA doesn't oppose providing additional nutrition guidelines to the public, it feels that **menus and menu boards should list only calories.** Other information should be available in a brochure. The AHA remains concerned that too much information on the menu could cause consumers confusion.

Consumers want information that can help them make healthier choices. Evaluation from New York City following implementation of its menu labeling law reported the following:

- 86% of consumers think it's a positive move.
- 84% say they read the calories on menus.
- 97% say that calories are higher than they expected.
- 77% say that restaurants have a responsibility to respond to consumer nutritional concerns.

Furthermore, a recent California study suggests that people who read nutritional information may reduce their weight by an average of over 2 pounds per year.

Serving Hawaii since 1948

For information on the AHA's educational or research programs, contact your nearest AHA office, or visit our web site at www.americanheart.org or e-mail us at hawaii@heart.org

Oahu:
677 Ala Moana Blvd., Ste. 600
Honolulu, HI 96813-5485
Phone: 808-538-7021
Fax: 808-538-3443

Maui County:
J. Walter Cameron Center
95 Mahalani Street, No. 13
Wailuku, HI 96793-2598
Phone: 808-224-7185
Fax: 808-224-7220

Hawaii:
400 Hualani Street, Ste. 15
Hilo, HI 96720-4333
Phone: 808-961-2825
Fax: 808-961-2827

ii:
(located by Oahu office)
Phone: 808-538-7021
Fax: 808-538-3443

*"Building healthier lives,
free of cardiovascular
diseases and stroke."*

While not a necessity to implementing a menu labeling program, the AHA also suggests that the law could be made stronger by also allotting funds to develop and implement an accompanying consumer education campaign to help people "know their energy needs" and understand how many calories they should eat in a day to achieve or maintain a healthy weight.

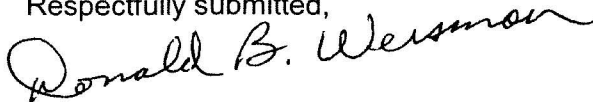
The state should also consider supporting robust monitoring and evaluation of the menu labeling initiative, tracking consumer purchasing and consumption, industry innovation, and the impact on public health.

Because most of the restaurants that would be impacted by this law have already had to adapt their menus and menu boards in other cities and states to meet the requirements of similar laws already passed there, **HB 1526 should be amended to implement the changes within one year after enactment. The fact that these laws have been implemented in other cities and states means that these companies have already produced the necessary signage to meet the Hawaii law, and so the cost to the companies should be negligible. Most national "fast-food" restaurants change their drive-thru menu boards on a 6-month rotation.**

While HB 1526 does not currently preempt counties in Hawaii from implementing stronger legislation, the AHA stands adamantly opposed to preemption of stronger legislation at the local level.

In conclusion, The American Heart Association advocates for providing calorie information on menus and menu boards, thereby increasing the ability of consumers to make informed choices in the food and beverages they purchase in restaurants. This effort is an important part of a comprehensive approach to addressing our nation's obesity epidemic and concurrent rise in chronic disease and disability to which it contributes. **Unfortunately, HB 1526, HD 1 in its current form would not be effective and could actually harm similar efforts in other states and cities should it be passed and be held up as a weak example of what is needed to combat obesity in our communities. I urge you to either amend HB 1526, HD1 by incorporating the changes previously recommended, or to hold the bill.**

Respectfully submitted,



Donald B. Weisman
Hawaii Communications and Marketing/Government Affairs Director



est. 1947

Hawaii Restaurant Association

1451 South King St, Suite 503
Honolulu, HI 96814
www.hawaiirestaurants.org

Phone: 808.944.9105
Fax: 808.944.9109
hra@hawaiirestaurants.org

Board of Directors 2008 - 2009

Chair Victor Lim
McDonald's Restaurants

Vice Chair Chris Colgate
Duke's Canoe Club

Treasurer Chris Colgate
Duke's Canoe Club

Secretary Jim Hamachek
Auntie Pasto's/Dixie Grill

Past Chair Beau Mohr
Pearl

Board Members

Peggy Abella
Anheuser | Busch Sales of Hawaii

Paul Ah Cook
Paradise Beverages

Bryan Andaya
L & L Drive-Inn

Steve Cole
Kona Brewing Company

Biff Graper
Colliers Monroe Friedlander

Tom Jones
Gyotaku Japanese Restaurants

Jay Kaneshiro
Ruth's Chris Steak House
Waikiki

Brian Kawabe
American Express

Bob Lathan
Hansen Distribution Group

James Lee
Let's Eat Hawaii

Gary Manago
Sergio's LLC

Michael Milande
Morton's The Steakhouse

Stephanie Mizuno
Sodexho (Straub)

Bob Morse
Southern Wine & Spirits

Conrad Nonaka
Culinary Institute of the Pacific

Robert Small
Orbit Sales

Bill Tobin
Tiki's Grill & Bar

Kevin Wada
Sodexho (Iolani)

Ken White
Rewards Network, Inc.

Allen Young
Better Brands

NRA Director Emeritus Ed Wary
Auntie Pasto's/Dixie Grill

Advisory Directors Faith Freitas
Trade Publishing
Ken Kanter
Douglas Trade Shows
Cuyler Shaw
Ashford & Winston

Executive Director Gail Ann Chew

March 3, 2009

Rep. Marcus R. Oshiro, Chair
Committee on Finance
House of Representatives
Hawaii State Capitol, Rm 306
Honolulu, Hawaii 96813

Dear Chair Oshiro,

The Hawaii Restaurant Association supports the intent of HB 1526 HD1 to provide nutritional information in restaurants here in Hawaii for our consumers.

The National Restaurant Association including the Hawaii Chapter supports the national "Labeling Education and Nutrition Act" or the "Lean Act" as introduced by Senator Carper from Delaware.

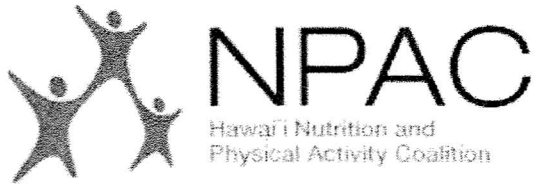
We have conveyed to representative Mizuno who authored this bill about areas where languages are vague and will cause wrong interpretations. We believe that he has a HB 1526 HD2 version that addresses most of our concerns. As of this past Monday, we understand that the legislative drafting agency is going through their process and review.

Some of the points covered in the HD2 include moving the start date to January 1, 2012,

Thank you very much for giving us the opportunity to share our concerns on this important issue.

Sincerely,

Victor Lim
Chair



Representative Marcus Oshiro, Chair
FINANCE COMMITTEE

Written Testimony: Jennifer Dang, State Director
Nutrition and Physical Activity Coalition (NPAC)

Title: OPPOSE HB1526, HD 1 RELATING TO HEALTH

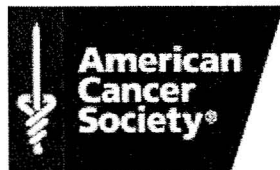
Purpose: Context: HB1526, HD1
Report Title: Obesity; Menu Education and Labeling Act
Description: Requires a franchise food establishment to include nutritional information about each standard menu item.

Position: The Hawaii State Nutrition and Physical Activity Coalition oppose this bill in its current form because we feel it does not go far enough.

HB1526, HD1 requires a retail food establishment that is part of a franchise composed of 10 or more restaurants to maintain nutritional information on each of its standard items and have that information readily available to provide the public upon request.

For menu labeling to be effective, calorie information needs to be on all menus or menu boards (especially drive-through menu boards), not just made available to customers through kiosks, brochures, etc. According to a study published in the American Journal of Public Health in 2007 which evaluated the menu labeling law in New York City, **only 4 percent of customers see or ask for nutrition information when it's not on the drive-thru menu board.** Currently, the fast-food industry generates approximately 65% of revenues from drive-thru business and that percentage is expected to rise to 89% next year.

It is critical to the effectiveness of any menu-labeling law that calorie information be included on drive-thru menu boards. The current bill, as written, may satisfy the needs of the restaurant industry and will not make an impact on our community's obesity problem. Menu labeling, on menu boards (both inside and on drive-thru boards) has proven to be practical and low-cost for restaurants and widely used by customers. **I urge you to either amend HB 1526, HD1 by expanding the requirement of menu-labeling to include the drive-through menu, or to hold the bill.**



March 3, 2009

Committee on Finance
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

Hearing:

10:00 A.M., Wednesday, March 4, 2009
Hawaii State Capitol, Room 308

RE: HB1526, HD1-Relating to Health

Testimony in Opposition

Chair Oshiro and Vice Chair Lee, and members of the Committee on Finance. Thank you for the opportunity to appear here today on behalf of the American Cancer Society Hawaii Pacific Inc., and to testify in opposition of HB1526 which would require food establishments to maintain nutritional information of each of its standard menu items and provide that information to the public upon request.

The American Cancer Society Hawaii Pacific Inc., was formed in 1959, and is a community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service. This mission includes advocating for health measures that would impact the incidence of cancer.

The Society's major concerns about this bill are that **nutrition information about calories should be listed on the drive through menu board, and for this bill to be truly effective, it should include all restaurants not just chains that own 10 or more establishments.**

Obesity is a growing public health problem affecting Hawaii. Prevalence rates have rapidly increased over the last ten years, with an estimated 17.6 percent of the State population now falling into the category of obese. Moreover, for certain populations in Hawaii (e.g. Native Hawaiians at 35 percent), the prevalence and severity of obesity is much greater. The problem disproportionately affects minority and low-income populations, with broad ramifications and costs for the State. Obesity greatly increases the risk of many chronic health conditions like heart disease, diabetes, and hypertension. Additionally, the costs associated with treating obesity and obesity-attributable health problems are staggering and are expected to continue to rise.

Medical research has determined with reasonable certainty, that obesity is a risk factor for cancers of the colon, breast, endometrium (lining of the uterus), kidney, and esophagus. Because some

studies show a decreased risk for cancers of the cervix, gall bladder, prostate, and thyroid in people with low fat diets and/or a higher level of physical activity, an obesity link to these forms of the disease is also suspected. Additional research is needed to confirm these links, but the national health agenda is increasingly focused on promoting healthy eating. Our nation's medical community has declared war on obesity and its causes.

Several years ago the American Cancer Society adopted the following goals to achieve by 2015:

- Reduce the cancer mortality rate by 50%;
- Reduce the incidence of cancer by 25%, and;
- Improve the quality of life of patients and survivors by reducing the pain and suffering that cancer causes.

We know even modest weight loss has been shown to convey substantial health benefits on overweight and obese individuals, and ultimately to society. Studies show that it is highly probable that weight loss reduces the risk factors of obesity-attributable medical conditions; high blood pressure, cardiovascular disease, cancer, and diabetes. Educating the public by providing calorie information on the foods they eat is one of many steps that can be taken to address obesity as well as cancer in Hawaii.

The Society urges the committee not to pass this measure in its present form. As it is written it appears that HB1526, HD1, would be ineffective in providing the public with the necessary information they would need in making educated food choices. **The bottom line is that no one in a drive through line is going to get out of line, run into the store and ask for calorie information. Let's put this information next to the drive through menu where it will have the most impact.**

Thank you for the opportunity to offer testimony today. Please contact me directly if you have any questions about the link between obesity and cancer.

Sincerely,



George Massengale, JD
Director of Government Relations