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GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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DIRECTOR OF TAXATION

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**HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING SB 528 SD 1
RELATING TO TOBACCO**

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

DATE: APRIL 1, 2009

TIME: 2PM

ROOM: 308

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 \$5.3 million per year.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 528, S.D. 1, RELATING TO TOBACCO.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, April 1, 2009 **TIME:** 2:00 PM

LOCATION: State Capitol, Room 308

TESTIFIER(S): Mark J. Bennett, Attorney General,
or Alex R. Barrett, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Attorney General strongly supports this bill.

The purpose of this bill is to continue the requirement that 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. Act 131, Session Laws of Hawaii 2005, which enacted the requirement of a retail tobacco permit, contains a sunset clause that will repeal Act 131 on July 1, 2009.

This bill removes that 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, Hawaii Revised Statutes, by providing a known and measurable list of entities engaged in the retail sale of cigarettes and other tobacco products. More than 1,500 entities in Hawaii engaged in the retail sale of cigarettes and other tobacco products have applied for and received a retail tobacco permit.

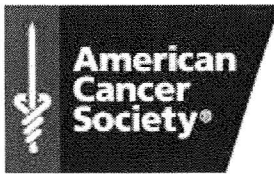
The current statute allows for the inspection of records and invoices that are to be kept by the retail tobacco permit holder to facilitate a determination of the proper source of cigarettes and

tobacco products as well as payment of taxes. The statute requires that a permit be acquired for each location where cigarettes are sold at retail.

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 intended to ensure that all tobacco products sold at retail are compliant and that all tobacco taxes are paid. In testimony submitted to the Legislature in 2009, the Department of Taxation projected that any loss in enforcement efforts in the monitoring of tobacco retailers could result in a revenue loss of approximately \$5,300,000 per year.

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. For fiscal year 2007-2008, the Department of Taxation reports cigarette tax revenues of \$101,560,051, which represents an increase of \$12,788,385 or 12.6 percent over the \$88,771,666 in cigarette tax revenues collected in fiscal year 2006-2007.

We respectfully request passage of this bill.



March 31, 2009

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

Hearing:

2:00 P.M., Wednesday, April 1, 2009
Hawaii State Capitol, Room 308

RE: SB528, SD1, Relating to Tobacco

Testimony in Support

Chair Oshiro, Vice Chair Lee, and members of the Committee on Finance. Thank you for the opportunity to testify in support of SB528, SD1, which would remove the sunset clause in Act131, thus retaining retail tobacco sales permits.

In 2005, the legislature passed Act 131, which mandated that 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. Removing the sunset clause will keep in place the provisions of Act 131. In addition to the tax revenues being collected, **the permitting law has had an impact on our youth smoking rates, which is 9.7%**. The issuing of retail tobacco sales permits enabled the State to compile an accurate list of retail tobacco vendors. The list was then utilized for SYNAR compliance inspections.

In 1992, Congress enacted legislation aimed at decreasing youth access to tobacco products. The legislation, known as the SYNAR Regulation (named for Congressman Mike Synar of Oklahoma), requires states to enact and enforce laws prohibiting any manufacturer, retailer, or distributor from selling or distributing tobacco products to individuals under 18 years of age. In addition to enacting and enforcing a law, states must implement annual random, unannounced compliance inspections (RUIs) to determine their buy rates of tobacco products sold to youth under the age of 18.

Tobacco sales to minors in Hawaii are declining because of youth public education, counter marketing, prevention efforts and SYNAR compliance, of which retail tobacco sales permits are an integral component.

We would request that SB528, SD1, be passed for final consideration by the full house at third reading.

Mahalo for giving me the opportunity to provide testimony in support of this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "George Massengale".

George Massengale, JD
Director of Government Relations



COALITION FOR A
TOBACCO-FREE HAWAII

To: The Honorable Marcus R. Oshiro, Chair, House Committee on Finance
The Honorable Marilyn B. Lee, Vice Chair, House Committee on Finance
Members, House Committee on Finance
Fr: Trisha Y. Nakamura, Policy and Advocacy Director
Date: March 30, 2009
Hrg: House Committee on Finance; April 1, 2009 at 2:00 p.m.; Rm 308 (Agenda #5)
Re: **Strong Support for SB 528, SD 1, Relating to Tobacco**

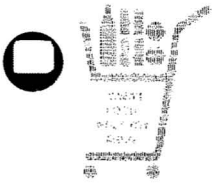
Thank you for the opportunity to testify in strong support of SB 528 SD 1 which would repeal the sunset date of July 1, 2009 of the retail tobacco permit law: Act 131, Session Laws of Hawaii 2005.

The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy. The Coalition provides leadership for the tobacco control community, develops networks, helps coordinate tobacco control programs, and builds community awareness.

The retail tobacco permit requires tobacco retailers to acquire a permit from the Department of Taxation to sell tobacco. The permit helps our State maintain a complete list of tobacco retailers that is used to help enforce tobacco laws, including verifying that retailers are selling cigarettes that are tax-stamped as well as not selling tobacco to minors.

Comprehensive efforts in tobacco control have led to a significant drop in high school smoking rates which are below 10%. Requiring that tobacco retailers obtain permits is part of this comprehensive approach to reduce youth smoking.

Please ensure the tobacco permit law is not repealed. Please pass SB 528 SD 1 out of Committee. Thank you for the opportunity to testify on this matter.



HAWAII FOOD INDUSTRY ASSOCIATION

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April 1, 2009 Friday @ 2:00 p.m. in Room 308

To: House Committee on Finance
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

By: Richard C. Botti, President
Lauren Zirbel, Government Relations

Re: SB 528, SD1 RELATING TO TOBACCO

In Support

Chairs & Committee Members:

This is one of those unfortunate situations where a law is necessary to provide a means of knowing who sells tobacco products, as well as a means of controlling both illegal sales to minors, and illegal sales intended to avoid paying the taxes.

Testimony in strong support of SB528, SD1, Eliminating Sunset of Retail Tobacco Permitting Laws

Hearing scheduled for Wednesday, 2 April 2009

To: The Honorable Donna Mercado Kim, Chair, Committee on Ways and Means
The Honorable Shan S. Tsutsui, Vice Chair, Committee on Ways and Means
Members, Senate Committee on Ways and Means
Fr: Stephanie Martin, RN
Date: 31 March 2009
DM: Senate WAM on April 2, 2009 at 9:30 a.m.
Re: SB528, SD 1--STRONG SUPPORT for the Elimination of Sunset of of Retail Tobacco Permitting Law

Chair Oshiro, Vice Chair Lee and Members of the House Finance Committee

My name is Stephanie Martin. I am a Registered Nurse and Program Manager at the Pacific Addiction Research Center (PARC). I have seen first hand, both personally and professionally, the devastation that tobacco use causes to those unable to end their addiction to it and also by those exposed to second or third-hand smoke. Chronic Obstructive Pulmonary Disease (COPD) is the fourth leading cause of death in the United States and is expected to become the third leading cause of death in the US and the world by 2020. The Hawaii Department of Health has reported that over 30,000 people in Hawaii currently suffer from COPD.

I strongly support the prompt passage of legislation to eliminate the sunset of retailers tobacco permitting law;

- Act 151 in 2005 established the retail tobacco permit. Retailers must acquire a permit from the Department of Taxation to sell tobacco.
- The permit helps our State maintain a complete of tobacco retailers to help enforce various laws related to tobacco—including making sure retailers are selling cigarettes that are taxed, as well as not selling tobacco to minors.
- Comprehensive efforts in tobacco control have led to a significant drop in our high school smoking rates, which are now below 10%.
- Requiring tobacco retailers to obtain permits ensures is part of this comprehensive approach to reduce youth smoking.
- Please eliminate the sunset date of the retail tobacco permitting law by passing SB528, SD1 out of Committee.

Tobacco companies continue to spend great sums of money marketing their dangerous products specifically to minors and young women, creating new addicts every day. Addiction to tobacco is very powerful and many wanting to quit are unable to find or access the assistance and support which are essential for successful tobacco cessation. I believe that we must do everything in our power to ensure that laws prohibiting tobacco to minors are strictly enforced, to protect our vulnerable youth.

Thank you for the opportunity to testify about this very important issue which is vital to the health of Hawaii's people. Please strongly support SB528, SD1 and continue this protection permanently.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 31, 2009 2:15 PM
To: FINTestimony
Cc: mz9995@hotmail.com
Subject: Testimony for SB528 on 4/1/2009 2:00:00 PM

Testimony for FIN 4/1/2009 2:00:00 PM SB528

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Michael Zehner
Organization: Individual
Address: 750 Amana st. Honolulu, HI 96814
Phone: 9520275
E-mail: mz9995@hotmail.com
Submitted on: 3/31/2009

Comments:

There are already fines for underage sale. Having to get this license is just more unnecessary government overregulation and wasted capital expenditure.