

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 HEALTH

DATE: Friday, March 20, 2009 **TIME:** 9:00 AM

LOCATION: State Capitol, Room 329

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

Chair Yamane 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.



HAWAII FOOD INDUSTRY ASSOCIATION

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March 20, 2009 Friday @ 9:00 a.m. in Room 329

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimura, 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.

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Improving Life

One Breath at a Time

Founded in 1904, the
American Lung Association
includes affiliated associations
throughout the U.S.



TO: House Committee on Health

FOR: Hearing Scheduled for 9:00 am, Friday, March 20, 2009

**RE: TESTIMONY IN STRONG SUPPORT SB 528, SD 1
Relating to Tobacco**

Chair Yamane, Vice Chair Nishimoto and Committee Members:

The American Lung Association of Hawaii strongly supports SB 528, SD1 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 July 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 9.7 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 SB 528, SD1 will be an important step in achieving that goal.

Respectively submitted,

Jean Evans, MPH
Executive Director
American Lung Association of Hawaii



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Testimony for SB 528, SD1 Relating To Tobacco

The American Heart Association of Hawaii supports SB 528, SD1 to repeal the sunset clause in Act 131, Session Laws of Hawaii 2005, and require tobacco retailers to acquire a permit. The permitting, and threat of loss of a permit to sell tobacco, can be an effective deterrent to those who would illegally sell tobacco products to a minor. It is one part of a scientifically-based, comprehensive effort that has been proven to help reach the goal of reducing youth access to tobacco. It also provides the Attorney General's office with an important tool to identify locations selling tobacco to insure that those retailers pay the appropriate taxes on their sales.

In Hawaii each year, there are close to 1,100 deaths related to tobacco use. That amounts to almost 12 percent of all resident deaths. Tobacco use is *the* most preventable cause of premature death. Each year, smoking kills more people than AIDS, alcohol, drug abuse, car crashes, murders, suicides, and fires *combined*. Tobacco use costs Hawaii over a half-billion dollars annually in medical costs and lost productivity. Tobacco remains the only legal, consumable product that when used as directed will kill approximately one-third of its users.

Most smokers begin their nicotine addiction as a teen or youth. The success that Hawaii has had in reducing teen smoking levels could quickly reverse as tobacco education, prevention and cessation funding falls victim to inflation and threats of cuts due to economic pressures to the state. Add to that increasingly clever tobacco industry efforts to target young potential smokers through marketing and advertising campaigns, and the need for vigilant surveillance of, and enforcement against, those who would sell tobacco to minors is magnified.

The American Heart Association feels that making the requirement to obtain a permit to sell tobacco, as proposed by SB 528, SD1 would provide a strong deterrent to those who might purposely, or accidentally, sell tobacco to minors. It would encourage retailers to be more vigilant in insuring that their sales staff is trained in checking for appropriate age identification when selling tobacco products.

The AHA urges Hawaii legislators to pass SB 528, SD1.

Respectfully submitted,

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

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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

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



Testimony in **support of SB 528, SD 1**, Eliminating Sunset of Retail Tobacco Permitting Law
House Committee on Health
Hearing scheduled for Tuesday, March 17, 2009 @ 0830, in Room 329

March 17, 2009

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

By: Valerie Chang, JD, Executive Director
Hawaii COPD Coalition, <http://hawaiicopd.org>
733 Bishop Street, Suite 1550, Honolulu, HI 96813
(808)699-9839

Re: SB 528, SD 1, Supporting Eliminating Sunset of Retailers Tobacco Permitting Law

Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

My name is Valerie Chang. I am Executive Director of the Hawaii COPD Coalition. Our organization provides services and support to Hawaii's people affected by Chronic Obstructive Pulmonary Disease, more commonly known as emphysema, chronic bronchitis and similar conditions. COPD is the fourth leading cause of death in the US and expected to be the third leading cause of death in the US and world by 2020. The American Lung Association has estimated that over 50,000 people in Hawaii have COPD. Many, many more people in Hawaii suffer from asthma, tuberculosis, pneumonia and other respiratory conditions.

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 SB 529, SD 1 out of Committee.

Our organization sees first-hand how lives are severely affected by tobacco, causing those who smoke it or are exposed to second or third-hand smoke to struggle to breathe, every day, all day. Tobacco addiction is a very tough addiction and we need to be sure that the laws are enforced prohibiting sales to minors whose lungs are still developing and who are the most vulnerable to marketing from "Big Tobacco."

Thanks for the opportunity to testify about this issue that is so vital to the health of Hawaii's people. Please support in favor of SB 528, SD 1. We need this protection to continue.



COALITION FOR A
TOBACCO-FREE HAWAII

To: Representative Ryan I. Yamane, Chair, House Committee on Health
Representative Scott Y. Nishimoto, Vice Chair, House Committee on Health
Members, House Committee on Health
Fr: Trisha Y. Nakamura, Policy and Advocacy Director 
Date: March 18, 2009
Hrg: House Committee on Health; March 20, 2009 at 9:00 a.m.; Rm 329
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.