

SB 528



American Heart Association | American Stroke Association

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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

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

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

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
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SENATE COMMITTEE ON WAYS & MEANS

WRITTEN POSITION STATEMENT REGARDING COMMITTEE DECISION MAKING

February 26, 2009

Dear Chair Kim:

Please find attached the Department of Taxation's summary position statement relating to the Senate bills being heard by your Committee on February 26, 2009. As a decision making hearing, the Department provides you and your Committee with the attached spreadsheet that includes the following information for efficient review of its positions:

- **Bill Number**
- **Bill Title**
- **Position**
- **Comments**
- **Revenue Impact**
- **Methodology**

The Department hopes that this information is useful to you, your Committee members, and your staff. Please feel free to contact me directly at 587-1513 if any additional questions arise.

Thank you for the opportunity to provide comments.

Respectfully submitted,

KURT KAWAFUCHI
Director of Taxation

Department of Taxation

Position Summary

Senate Committee on Ways & Means/February 26, 2009 Agenda

Bill Number	Bill Title "Relating to..."	Position	Comments	Revenue Impact	Methodology
SB 1299 SD 1	ADVANCED FLIGHT SIMULATOR TRAINING	Opposed to revenue loss	No technical comments.	Assuming a current effective date: *\$400,000 FY10 *\$1.2 m FY 11 *\$400,000 FY 12 *\$275,000 FY 13 thereafter	It is estimated that the construction of facilities for the aviation training would cost \$50 million over three years, with \$10 million being incurred in the first and third years and \$30 million being incurred in the second year. In the fourth year and thereafter, the facility is assumed to generate \$5 million in gross receipts and to increase the enterprise zone tax credit by 5%. GET is foregone at the rate of 4% on the construction costs and on the gross receipts from the training facility.
SB 427	GENERAL EXCISE TAX	No comments	No technical comments.	Cannot provide due to taxpayer specific information.	Please discuss the revenue impact directly with the proponents of this measure.
* SB 528 SD 1	TOBACCO	Support	No technical comments.	Loss of the retail tobacco permit enforcement function could result in a revenue loss of \$5.3 million per year.	Revenue loss is based on the assumption that 5% of the revenue might be lost due to lower level of compliance.

SB 1678 SD 1	TAXATION	No position; however acknowledge the potential revenue gain	No technical comments.	The bill will have little revenue impact, unless Congress enacts required legislation. However, the expense of the oversight committee would be incurred. If the required Congressional legislation is enacted, the effect on revenues is indeterminate, but it could be \$25 million annually in additional GET and Use Tax collections. Without the federal legislation, the revenue gain is estimated to be \$1-\$5 million. The exemption for blind, deaf, and disabled taxpayers would cost about \$500 thousand annually.	William Fox has estimated that e-commerce cost Hawaii between \$113 million and \$117 million in 2003. This number may be too large. First, Hawaii has an income tax credit for the general excise tax (GET) on capital investments made by business, so companies have little incentive to avoid the GET on investment property. Secondly, it is hard for individuals to avoid the tax on big-ticket items, such as automobiles.
SB 32 SD 1	FUEL	Opposed to revenue loss	No technical comments.	Assuming a current effective date, annual revenue loss is estimated at \$40.0 million for FY 2010 and after.	The cost of the GET exemptions for alcohol fuels has been estimated to be \$40 million annually. Sales of gasoline in CY08 is estimated to be 445 million gallons. Assuming that this figure applies in future, that 100% contains alcohol, and that the price net of all taxes is \$2.25 per gallon, the GET exemption would cost \$40 million annually (=445 million x 1.00 X \$2.25 x .04)



**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:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, February 26, 2009 **TIME:** 9:00 AM

LOCATION: State Capitol, Room 211

TESTIFIER(S):

WRITTEN TESTIMONY ONLY. For more information, call Deputy Attorney General Janine R. Udoi at 586-1203.

Chair Mercado Kim 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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February 26, 2009 Thursday @ 9:00 a.m. in Room 211

To: Senate Committee on Ways & Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, 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.



Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair
Committee on Ways and Means

HEARING Thursday, February 26, 2009
 9:00 am
 Conference Room 221
 State Capitol, Honolulu, Hawaii 96813

RE: SB 528, SD1, Relating to Tobacco

Chair Kim, Vice Chair Tsutsui, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH opposes SB528, SD1 which makes permanent the retail tobacco permit law.

Retail sales have declined steadily since the second quarter of 2008. Holiday sales, which account for 25% to 40% of a retailer's annual business, were down double digits last year. Hawaii's retailers are struggling to maintain operations, and, more specifically, to retain their employees and avoid layoffs.

Maintaining the repeal provision of Act 313, Session Laws of Hawaii 2005, would keep valuable cash resources in retailers hands and, hopefully, **keep their doors open for business.**

We respectfully request that you hold SB528, SD1. Thank you for your consideration and for the opportunity to comment on this measure.


A handwritten signature in black ink, appearing to read 'Carol Pregill', is written in a cursive style.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202



COALITION FOR A
TOBACCO-FREE HAWAII

To: Senator Donna Mercado Kim, Chair, Committee on Ways and Means
Senator Shan S. Tsutsui, Vice Chair, Committee on Ways and Means
Members, Senate Committee on Ways and Means
From: Trisha Y. Nakamura, Policy and Advocacy Director 
Date: February 25, 2009
Hrg: Senate Committee on Ways and Means; February 26, 2009 at 9:00 a.m.
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.