

SB 528

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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**SENATE COMMITTEE ON HEALTH
TESTIMONY REGARDING SB 0528
RELATING TO TOBACCO**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 9, 2009
TIME: 2:45PM
ROOM: 016

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.



COALITION FOR A
TOBACCO-FREE HAWAII

To: Senator David Y. Ige, Chair, Committee on Health
Senator Josh Green, MD, Vice Chair, Committee on Health
Members, Senate Committee on Health
From: Trisha Y. Nakamura, Policy and Advocacy Director 
Date: February 6, 2009
Hrg: Senate Committee on Health; February 9, 2009 at 2:45 p.m.
Re: **Strong Support for SB 528, Relating to Tobacco**

Thank you for the opportunity to testify in strong support of SB 528 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 out of Committee. Thank you for the opportunity to testify on this matter.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 09, 2009 9:17 AM
To: HTHTestimony
Cc: lsantos@papaolalokahi.org
Subject: Testimony for SB528 on 2/9/2009 2:45:00 PM
Attachments: Support SB 528.doc

Testimony for HTH 2/9/2009 2:45:00 PM SB528

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: LorrieAnn Santos
Organization: Papa Ola Lokahi
Address: 894 Queen Street Honolulu, HI
Phone: 597-6550
E-mail: lsantos@papaolalokahi.org
Submitted on: 2/9/2009

Comments:

‘Imi Hale Native Hawaiian Cancer Network (‘Imi Hale) is one of 25 Community Network Programs funded by the National Cancer Institute’s Center to Reduce Cancer Health Disparities to reduce cancer disparities through community-based participatory cancer education, training and research among racial and ethnic minorities and underserved populations. ‘Imi Hale is housed within Papa Ola Lokahi, a non-profit community-based agency dedicated to improving the health status of Native Hawaiians and others in the state and Native Hawaiians across the continental U.S. by advocating, initiating, and maintaining culturally appropriate strategic actions.

Support SB 528

" 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 528 out of Committee.



Senator David Ige, Chair
Senator Josh Green, Vice Chair
Committee on Health
State Capitol, Honolulu, Hawaii 96813

HEARING Monday, February 09, 2009
 2:45 pm
 Conference Room 016

RE: **SB 528, Relating to Tobacco**

Chair Ige, Vice Chair Green, 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, 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 this year. Hawaii's retailers are struggling to maintain operations, and, more specifically, to retain their employees and avoid layoffs.

Eliminating 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. Thank you for your consideration and for the opportunity to comment on this measure.

President

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

Ryan Tsuji

From: Michael758 [michael808a@hawaiiantel.net]
Sent: Sunday, February 08, 2009 2:46 AM
To: HTHTestimony
Subject: testimony

Categories: Blue Category

Dear Senate Health Committee;

Bill: SB528 OPPOSED

I'm opposed to this hate and this madness. Would you please leave our people that smoke alone? This bill is a waste of time!

Respectfully, Michael Zehner

750 Amana st. #608, Honolulu, HI 96814

952-0275



American Heart Association | American Stroke Association

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Testimony for SB 528, Relating To Tobacco

The American Heart Association of Hawaii supports SB 528 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, 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.

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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Fax: 808-961-2827

Kauai:
(Serviced by Oahu office)
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Fax: 808-538-3443

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

From: Kari Wheeling [kariw@hmhb-hawaii.org]
Sent: Friday, February 06, 2009 3:58 PM
To: HTHTestimony
Subject: Testimony SB 528 on 2/9 @ 2:45pm in rm 16

Categories: Blue Category

Date: February 9, 2009
Committee: Senate Health
SB 528: Relating to Tobacco

Honorable Chairperson Ige and Members of the Senate Health Committee:

My name is Kari Wheeling, Project Coordinator of Healthy Mothers Healthy Babies Coalition of Hawaii (HMHB). HMHB is in support of SB 528 that makes permanent the retail tobacco permit law.

HMHB has been working on tobacco control, offering brief intervention trainings for over 5 years. We have a strong vested interest in protecting the health of pregnant and parenting women and their families. Making the law permanent will help the State maintain a complete list of tobacco retailers to help enforce various laws related to tobacco, including making sure retailers are selling cigarettes that are taxed and not to minors.

Tobacco use is the leading preventable cause of death in the United States. An estimated 165,100 adults in Hawaii smoke cigarettes even though this single behavior will result in death or disability for half of all regular smokers. Each day, nearly 4,000 young people under 18 years try their first cigarette; and each day another 2,000 other kids become new regular smokers. Roughly, one in three of them will eventually die from tobacco-related illnesses. Paralleling the enormous toll on Hawaii's health is the economic burden of tobacco use, estimated to be more than \$309 million per year in medical expenditures and another \$283 million per year resulting from lost productivity. The harmful effects of smoking do not end with the smoker. Babies of women who smoke during pregnancy are more likely to have lower birth weights, and increased risk of death from sudden infant death syndrome, and respiratory distress. In addition, secondhand smoke has harmful effects on nonsmokers.

We appreciate your consideration of this measure. Mahalo for this opportunity to testify today.



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON HEALTH

DATE: Monday, February 9, 2009 **TIME:** 2:45 PM

LOCATION: State Capitol, Room 016

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

Chair Ige and Members of the Committee:

The Attorney General supports this bill, but **recommends that it be amended to conform to S.B. No. 847.**

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 2008, 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 \$4,700,000 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.

This bill is similar to S.B. No. 847 in that both bills delete the sunset provision in Act 131. However, we favor S.B. No. 847 because (1) its section 1 contains an explanation of why the sunset provision is being deleted, and (2) its section 4 (section 3 in H.B. No. 528) specifies an effective date of June 30, 2009, which avoids the possibility of this bill taking effect after the sunset date of July 1, 2009. Otherwise, the two bills are identical.

We respectfully request passage of this bill with revisions to conform to S.B. No. 847.