

HB 896 HD 1

**Measure
Title:**

RELATING TO TOBACCO.

**Report
Title:**

Retail Tobacco Permit; Repeal Sunset

Description:

**Makes permanent the retail tobacco
permit law. (HB896 HD1)**

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

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**SENATE COMMITTEE ON HEALTH
TESTIMONY REGARDING HB 896 HD 1
RELATING TO TOBACCO**

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

DATE: MARCH 16, 2009

TIME: 2:30PM

ROOM: 016

This bill proposes to amend Act 131, Session Laws of Hawaii 2005, by amending section 9 by deleting the repeal date.

The House Committee on Health passed this measure unamended.

The House Committee on Finance amended the effective date to June 30, 2009.

The Department of Taxation (Department) **strongly supports** this legislation.

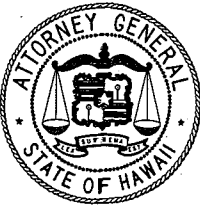
**SIGNIFICANT TIME, EFFORT, AND MONEY HAS GONE INTO MAKING SURE
THE ENFORCEMENT OF THIS LAW IS A TOP PRIORITY.**

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 sever 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:

H.B. NO. 896, H.D.1, RELATING TO TOBACCO.

BEFORE THE:

SENATE COMMITTEE ON HEALTH

DATE: Monday, March 16, 2009 **TIME:** 3:00 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 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 16, 2009

To: Senate Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair

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

Re: HB 896 HD1 RELATING TO CIGARETTES

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.



March 14, 2009

Committee on Health
Senator David Ige, Chair
Senator Josh Green, M.D., Vice Chair

Hearing:

3:00 P.M., Monday, March 16, 2009
Hawaii State Capitol, Room 016

RE: HB896, HD, Relating to Tobacco

Testimony in Support

Chair Ige, Vice Chair Green, and members of the Committee on Health. Once again thank you for the opportunity to testify in support of HB896, HD1, 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 HB896, HD1, be passed on for additional hearings by the Ways & Means Committee.

Mahalo for giving me the opportunity to provide testimony in support this measure. Please do not hesitate to contact me directly if you require any additional information.

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: Senator David Y. Ige, Chair, Committee on Ways and Means
Senator Josh Green, M.D., Vice Chair, Committee on Ways and Means
Members, Senate Committee on Health

From: Trisha Y. Nakamura, Policy and Advocacy Director *TYN*

Date: March 13, 2009

Hrg: Senate Committee on Health; March 16, 2009 at 3:00 p.m.

Re: **Strong Support for HB 896, HD 2, Relating to Tobacco**

Thank you for the opportunity to testify in strong support of HB 896, HD 2 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 HB 896, HD 2 out of Committee. Thank you for the opportunity to testify on this matter.



American Heart Association | American Stroke Association

Learn and Live.

Serving Hawaii

Testimony for HB 896, HD 1, Relating To Tobacco

The American Heart Association of Hawaii supports HB 896, HD 1 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 HB 896, HD 1, 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 HB 896, HD 1.

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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free of cardiovascular
diseases and stroke."***