SB 185

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 185
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 18, 2009
TIME: 3:15PM
ROOM: 016

This measure establishes a new chapter in Title 14, Hawaii Revised Statutes, to provide for the assessment and collection of a surcharge tax on soda.

The Department of Taxation (Department) **opposes the tax increase** contained in this measure and recommends that this measure be held.

A TAX INCREASE—The Department opposes this tax increase. The Department does not support tax increases, especially increases that will not benefit the general fund or raise revenue for the general expenditures of the state. This tax increase will simply increase the costs to consumers to fund narrow programs.

A HIGHLY REGRESSIVE TAX INCREASE ON THE POOR—This measure is highly regressive in that it impacts poor more than the rich as a percentage of income. Anecdotal evidence suggest that the poor are more likely to consume the sugary drinks sought to be regulated in this measure. Thus, it impacts the poor the most.

UNNECESSARY STRUCTURE—The Department suggests that new tax chapter contained in this measure is overly complicated to achieve its purpose. If the intent is to keep this surcharge as a tax under the tax code, it should be simply added as a surcharge to the general excise tax, similar to the county surcharge tax. This will allow for all of the procedural provisions and the certainty of the well-developed general excise tax law to control administration.

ADDS COMPLEXITY ON BUSINESSES—Also, this measure will make it more difficult for mom-and-pop and other small businesses to comply with Hawaii's already burdensome business environment. Under this measure, a business must apply to sell soda when soda is not an otherwise regulated product.

RESOURCE INTENSIVE—The Department also opposes this measure because it does not have the resources to administer this. The Department would need additional resources that have not been factored into the budget. The Department will need to invest in computer enhancements and personnel to administer this tax that could reach several million dollars.

In short, the Department opposes this measure as a regressive tax increase. The Department also suggests that the Committee explore alternative means to assessing this surcharge as an add-on to existing frameworks.

This legislation results in an indeterminate revenue impact due to unspecified data in the bill.

Hawai'i Primary Care Association
345 Queen Street | Suite 601 | Honolulu, HI 96813-4718 | Tel: 808.536.8442 | Fax: 808.524.0347
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To: **The Senate Committee on Health**
The Hon. David Y. Ige, Chair
The Hon. Josh Green, MD, Vice Chair

Testimony in Support of Senate Bill 185
<u>Relating to Taxation</u>
Submitted by Beth Giesting, CEO
February 18, 2008, 3:15 p.m. agenda, Room 016

The Hawaii Primary Care Association strongly supports this bill to levy a tax on soft drinks. There is abundant evidence of the perniciousness of soft drink consumption, as it contributes thousands of empty calories to the average diet per year. The pervasive use of soft drinks has also reduced consumption of more nutritious liquids such as milk and water.

According to the Center for Science in the Public Interest, "carbonated soft drinks are the single biggest source of calories in the American diet, providing about 7 percent of calories; adding in noncarbonated drinks brings the figure to 9 percent. Teenagers get 13 percent of their calories from carbonated and noncarbonated soft drinks." America's soft drink habit contributes to:

- Obesity and related problems. Diabetes, especially the alarming rise in teen-onset diabetes, is strongly linked to soft drink consumption.
- Dental caries and osteoporosis. Soft drinks provide sugar and chemicals that contribute to the problem as well as reducing milk consumption.

Drinking soft drinks may also add to the risk for kidney stones and childhood allergies (due to additives and coloring).

As we have agreed that it is appropriate to attach "sin taxes" to tobacco products and alcohol, it is time to recognize that soft drinks, too, do a lot more harm than good. It is entirely appropriate to allocate tax receipts to public health and community health center programs that need a lot more resources to educate the public to reduce consumption and to treat the health problems that arise from bad soft drink habits.

Thank you for the opportunity to add our support for this measure.

HAWAII FOOD INDUSTRY ASSOCIATION
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February 18, 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: SB 185 RELATING TO TAXATION OF SOFT DRINKS

Chairs & Committee Members:

We oppose SB 185

While the Legislature has measures that would ban aspartame, we have this measure to tax soft drinks. Sounds to us like this is more of a hidden tax than a measure to address the real issue, which is education.

As a diabetic, I used very little sugar in anything. What I never realized was that it wasn't the sugar that was causing the problem, but rather the carbohydrates that turned into sugar when I ate bread, rice, potatoes, corn, or a multitude of foods that were high in carbohydrates. Now that I'm educated, I am better able to control my blood sugar with medication, diet, and exercise. Placing the blame on soft drinks is easy when it can generate millions of dollars in revenues for the state. Addressing the real cause of diabetes required much more creativity.

Using New York's proposed tax on soft drinks as a means of discouraging the consumption of sugary drinks is really the New York Legislature's way of justifying another tax.

Remember that everyone can have a special interest in this issue, including Hawaii generating income on sugar production. Fruit juice drinks are high in natural sugar. Not good for a diabetic, unless the blood sugar goes down into the 70s.

Education has to be on what our human energy and waste management systems do with the food we consumer, and what we eat may be turned to sugar by our energy management system, creating a situation making us vulnerable to being a diabetic.

Taxing isn't the answer to health issues. It is the answer to balancing your budget.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Soft drink surcharge tax

BILL NUMBER: SB 185; HB 438 (Identical)

INTRODUCED BY: SB by Chun Oakland; HB by M. Lee, Bertram, Mizuno and 1 Democrat

BRIEF SUMMARY: Adds a new chapter to HRS to establish a soft drink surcharge tax of $___ per can or container of soft drink sold in the state. Defines "soft drink" as any soda, juice, no non-alcoholic beverage that is sold in containers and contains more than _____ per cent sugar; provided that a soft drink is not coffee, tea, cocoa, a diet soda, a water product or a fruit drink that contains 70% or more natural juice. The surcharge tax shall be levied on the seller of the soft drink.

Establishes a soft drink special fund to be administered by the department of health. Moneys in the special fund shall be used to: (1) educate the public with respect to the dangers of sugary soft drinks and a sugary diet and suggestions to lead a healthier lifestyle; (2) fund projects that support a healthier lifestyle without sugary drinks and sugary diet; (3) support community health centers with respect to this chapter; and (4) support any other project or program that furthers the purposes of this chapter.

Requires sellers of soft drinks to register with the director of taxation and pay a one-time fee of $20 as a precedent to selling soft drinks in the state. Delineates provisions for the filing of returns, penalty provisions, recordkeeping, appeals, administration and enforcement of the surcharge tax.

Requires the director of health to publish a listing of all soft drinks that are subject to the surcharge tax on the department of health's website.

EFFECTIVE DATE: January 1, 2010; applicable to tax years beginning after December 31, 2009

STAFF COMMENTS: This measure proposes to establish a soft drink surcharge tax of $____ on soft drinks containing ____ per cent sugar to encourage taxpayers to adopt a healthier lifestyle. It should be noted that the use of the tax system as a social tool in its attempt to deter the sale of soft drinks is an inefficient use of the tax system. While diet soft drinks are not subject to the proposed soft drink surcharge, other studies have indicated that diet soft drinks may also contribute to weight gain, diabetes, and other health problems. It should be noted that while this measure is aimed at sugar based soft drinks, what about "super-sized" meals, high calorie snack foods and desserts? Will another tax be imposed on these items in the future since the enactment of this measure may open the door for other similar measures targeted at "unhealthy foods?"

While no amount of the tax is specified in the proposed measure, it is questionable whether the amount of revenues derived will be sufficient to adequately fund the proposed program, especially if the measure succeeds in reducing consumption of "sugary drinks" and resulting in less tax revenue. If it is the intent of the legislature to fund such healthy living programs, it would be preferable to provide a direct appropriation for such programs to ensure adequate funding to achieve its goals.

Raising more money to fund a new state programs without any idea of what services or modalities will be effective and just how much those specific services will cost is an irresponsible and reckless use of public resources. Having no idea of the services to be provided and how much they will cost is a demonstration that policy makers believe that money will solve all problems.

This measure should be recognized for what it is, the expansion of government. It should be noted that the tax proposed in this measure amounts to nothing more than a replacement for general fund financing. In the long run, the consuming public will pay this tax as the cost will be passed on in the cost of the soft drinks similar to the bottle fee. Because these costs will be imbedded in the product, the public will not hold government accountable, rather they will vent their anger at the businesses for increasing the costs. The tax proposed in this measure should be viewed as a discriminatory tax increase on sugary soft drinks. What advantage it has is that the department of health would be able to get away with funding another program without incurring the political wrath of the voting public who will blame the retailer.

It is the proliferation of programs and regulations, such as this measure would impose, that have increased the cost of doing business and living in Hawaii. Any of the other numerous "worthy" programs which are important to the health and safety of the community, should be funded out of legislative appropriation. The proposed tax merely expands the size of government programs, is irresponsible and is an affront to the already beleaguered taxpayer. That added cost will have to be built into the cost of the products consumers purchase in the grocery and department stores around the state. Thus, the added imposition becomes nothing more than an increase in the price of the product which is not recovered by the consumer. Yet these costs have to be administered and, no doubt, the imposition and collection of the proposed tax does nothing more than insure there is another person on the public payroll.

Finally, as we have learned from the beverage container deposit fee, unless people's habits are changed, no financial disincentive, save one that is confiscatory, will discourage or encourage certain types of human behavior. Further, economics more than not dictates what families consume. For example, fresh vegetables and fresh fruit which contribute to a healthier diet are sometimes beyond the means of the poor so they tend to consume large quantities of carbohydrates because they are cheap and filling but not particularly healthy. If the intent is to promote healthier eating patterns, then that goal can be achieved only with education and understanding on the part of families to replace unhealthy choices with healthy choices.

Digested 1/29/09

People Serving People

HRA

est. 1947

Hawaii Restaurant Association

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February 9, 2009

Senator David Y. Ige, Chair
Committee on Health
Hawaii State Senate
State Capitol Rm 215
Honolulu, Hawaii 96813

Dear Chair Ige:

The Hawaii Restaurant Association stands in opposition to SB 185 assessing a surcharge on all non-diet soft drinks sold in Hawaii.

Seventy percent (70%) of Americans across the country oppose this tax as is proposed in New York according to the latest Rasmussen Reports dated January 27, 2009.

This bill is an excuse to tax the consumer in light of state revenue shortfalls because not everyone that drinks the non diet soft drinks is obese.

The administrative process as proposed will also impose tremendous hardship on businesses especially the small businesses. We also don't believe that many of the Point of Sales (cash register) systems could handle this type of transaction.

Tackling obesity and diabetes are noble causes but we don't believe this is the right approach.

Thank you for giving us the opportunity to share our views with your committee and feel free to call on us.

Sincerely,

Victor Lim
Chairman

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

HEARING Wednesday, February 18, 2009
3:15 pm
Conference Room 016
State Capitol, Honolulu, Hawaii 96813

RE: SB185, Relating to Taxation

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 strongly opposes SB185, which assesses a surcharge on all soft drinks sold in the state.

As responsible citizens, we share your concern with the growing health problems caused by individuals' over-consumption of food and beverages and their reluctance to participate in physical activity required to maintain good health. However, these are social concerns that already are and should be addressed by government as a function of general public welfare revenues.

Our primary opposition is with increased costs, both to retailers AND to consumers.

Retailers (sellers) will bear additional administrative costs: identifying applicable beverages, updating systems when new products are introduced in the marketplace, maintaining accurate records, and preparing and submitting reports and payments to the Department of Taxation.

Consumers will bear additional grocery costs as the surcharge must and will be passed on to customers.

At a time when businesses are struggling to keep doors open and retain staffing levels, AND consumers are struggling to keep their heads above water, we respectfully ask your consideration to NOT add greater burden to our cost of doing business or our cost of living.

We urge you to hold SB185. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill

Carol Pregill, President

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AMERICAN BEVERAGE ASSOCIATION

Written Testimony of David Thorp
Director, Government Affairs
American Beverage Association
1101 16th Street, N.W.
Washington, D.C. 20036

Before the Hawaii Senate Committee on Health
Subject: S.B. 185, Relating to Taxation

February 18, 2009 - 3:15 p.m.

Good afternoon, Chair Ige, Vice Chair Green and Members of the Committee,

Thank you for the opportunity to testify on S.B. 185 which assesses a surcharge on all soft drinks sold in the State. **The American Beverage Association strongly opposes this bill.**

The American Beverage Association (ABA) is the trade association representing the non-alcoholic beverage industry which includes hundreds of beverage producers, distributors, franchise companies and supporting businesses that employ more than 217,000 people across the country. The beverage companies throughout Hawaii directly employ over 500 workers and indirectly impact the jobs of thousands of other across the state.

ABA members offer consumers myriad brands, flavors and packaging choices and a full range of drink options including soft drinks, diet soft drinks, ready-to-drink teas, bottled waters, water beverages, 100 percent juice, juice drinks, sports drinks and energy drinks.

S.B. 185 is a discriminatory tax

S.B. 185 seeks to impose yet another state tax on soft drinks, juices and certain other beverages. This tax is aimed directly at consumers and jobs. S.B. 185 unfairly lays the blame for obesity on the consumption of one particular product. The proposal also unfairly singles out and financially penalizes consumers of refreshment beverages to help pay for health programs.

The proposed tax perpetuates the myth that taxing one product will make a difference in obesity, or even contribute to fighting the problem. It won't – this is about money, not fighting obesity. Taxing soft drinks or any other single food or food ingredient to pay for health programs is simplistic and unjustified.

Obesity is a Complex Problem with No Simple Solution

Many factors contribute to obesity and related health problems. Singling out one particular product for taxation isn't going to make a dent in a problem as complex as obesity. If Hawaii wants to get serious about obesity, we need to encourage a balanced diet with sensible consumption of all foods and beverages and promote more physical activity and exercise for all citizens. Taxing soft drinks or any other single food or food ingredient to pay for health programs is simplistic and unjustified.

Local Consumers Can't Afford Another Beverage Tax

Hawaii's consumers are already overburdened with taxes and they already pay several taxes on beverages, including:

- five-cent deposit
- one-cent handling fee
- one-half percent gross receipts tax from the wholesaler
- four percent gross receipts tax from the retailer

Another Beverage Tax Hurts Local Workers

Lost sales damage our local beverage companies which directly support over 500 workers across the state, pay tens of millions of dollars in wages and benefits, and generates over $100 million annually in state and federal taxes.

States and Voters are Rejecting Beverage Taxes

Since 1992, no state has implemented a new beverage excise tax. Recognizing that these unfair taxes cause economic damage, eight states have repealed their beverage taxes. In fact, voters of Maine in November 2008 overwhelming rejected (64%) a beverage tax to fund healthcare programs.

A new nationwide Rasmussen Report survey showed that 70 percent of Americans oppose a national tax on all non-diet soft drinks, while only 18 percent supported the idea of an "obesity tax" on regular soda like the one proposed by New York Gov. David Paterson. The survey underscores that Americans, who are already struggling to keep their jobs and pay for groceries, fear that more taxes on middle-class life will only increase their financial burden and put even more jobs at risk during a time of record job losses

Beverage Taxes Hit Those Least Able to Pay

This tax would hit those who can least afford to pay the higher costs, especially those in middle- and lower-income brackets. It is not fair to put the extra burden on them. Hawaii families already pay some of the highest taxes in the nation and are struggling in this difficult economy. There could not be a worse time to ask them to pay more for the products they consume.

We encourage this Committee to reject an inequitable and regressive tax on our products and consumers and instead look to broad-based, comprehensive mechanisms to address the complex problem of obesity.

Sincerely,

David Thorp

David Thorp
Director, Government Affairs
American Beverage Association

The Association of Food, Beverage and Consumer Products Companies

February 10, 2009

The Honorable David Y. Ige
Chair, Senate Health Committee
415 South Beretania Street
Honolulu, HI 95814

RE: SB 185 (Oakland) – OPPOSE

Dear Senator Ige:

On behalf of the Grocery Manufacturers Association (GMA), I am writing to express our opposition to Senate Bill 185, which would impose a soft drink surcharge tax on the seller at a rate to be determined per can or container of soft drink sold in Hawaii. The measure is scheduled for a hearing in the Senate Health Committee on February 18.

GMA represents the world's leading food, beverage and consumer products companies. The Association promotes sound public policy, champions initiatives that increase productivity and growth and helps to protect the safety and security of the food supply through scientific excellence. The GMA board of directors is comprised of fifty-two chief executive officers from the Association's member companies. The $2.1 trillion food, beverage and consumer packaged goods industry employs 14 million workers, and contributes over $1 trillion in added value to the nation's economy. In Hawaii, GMA member companies employ 438 people at 10 facilities.

GMA is opposed to the proposed beverage tax because the tax is arbitrary, discriminatory, regressive, and inefficient to administer and collect. Any tax on food is regressive and unfair because it places a disproportionate burden on lower-income households who can least afford to pay the tax because a larger percentage of their income goes toward food purchases. In today's economy, the Hawaii Legislature should not impose additional tax burdens on its citizens.

In an effort to generate much needed revenue during the early 1990s, several jurisdictions reluctantly implemented selective sales taxes on certain food and beverage products. The new taxes never generated the projected revenue for those jurisdictions, in part, because complexity prevented their proper collection and administration. With widespread confusion among retailers and consumers over what items were taxable, the governments were unable to rely on the tax as a predictable stream of income. Since then, every state that enacted a selective tax has repealed it. In the November 2008 general election, the citizens of Maine rejected a new beverage tax, through a ballot question, by almost a two to one margin.

GROCERY MANUFACTURERS ASSOCIATION
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Selective food and beverage taxes put small retailers at a competitive disadvantage because the proper collection of these confusing taxes requires sophisticated programmable scanning devices. Even large retailers can have trouble in determining which items should be taxed at a different rate than other food products.

For these reasons, the Grocery Manufacturers Association must respectfully oppose SB 185.

Sincerely,

Caroline Silveira
Director, State Affairs
Grocery Manufacturers Association

THE LEAGUE OF WOMEN VOTERS OF HAWAII

LATE

TESTIMONY ON SB 185 RELATING TO TAXATION

Committee on Health
Wednesday, February 18, 2009
3:15 p.m.
Conference Room 016

Testifier: Jean Aoki, LWV Legislative Liaison

Chair Ige, Vice Chair Green, members of the Committee on Health,

The League of Women Voters of Hawaii opposes SB 185 which would assess a surcharge on all soft drinks sold in the state.

We agree completely with the explanation in Section 1 which talks about the problem of obesity and also the illnesses that are caused by the consumption of too much sugar. Our quarrel is not with the importance of educating the public on the negative impacts of soft drinks nor our taking active steps to discourage the excessive consumption of sodas. Our concern is with the use of our taxation system to achieve that end.

Our taxation system is based on the honor system mostly with the majority of citizens honestly declaring all taxable income. We do so because we know that taxes are necessary for governments at all levels to operate and take care of the needs that we, as individuals, cannot do for ourselves. We developed the public school system because we knew that democracy could not thrive without an educated citizenry.

But more and more, we are using taxes to enforce certain behaviors besides welcoming the revenues the taxes bring in. Congress and state legislatures give tax exemptions and preferences because they feel that will help the economy and the benefits will trickle down, among other less honorable reasons for doing so. We have looked for added revenues from the so-called "sin" taxes on tobacco and alcohol. And now, soda pop will join the other sins. How about adding chocolate candy and fast food hamburgers.

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THE LEAGUE OF WOMEN VOTERS OF HAWAII

All of these exemptions and add ons have created a federal tax system so complex that the system has created a constituency that is dependent on that complexity--- the certified public accountants. We have a tax system, federal and state, that has become more and more regressive. At the federal level, what was once a very progressive income tax has become less and less so, with rates at the top level being lowered and all kinds of deductions being added. The very regressive FICA tax has had its surplus tossed into the general fund and used to give tax cuts or used for government operations. Since there is no prospect for these "loans" ever being repaid, the workers at the lower end of the pay scale for whom 100% of their wages are subject to the FICA tax, workers who already pay their fair share of the income tax are now, in effect, paying a surtax on their incomes. In other words, equity and fairness have been taken out of our tax system. Meanwhile, we have special lower rates for investment income and higher rates for "earned" income. Income should be plain income for tax purposes.

Our tax system should be used mainly to collect taxes to run our government and to fund those programs that are necessary for the well-being of our community. What we should not be doing is to complicate the system by adding special taxes for behavior change, and values change, mostly hitting the population that is least able to afford the taxes.

When people are able to understand the tax system, and regard it as fair and equitable, doing what it is supposed to do in the most efficient manner, they are more willing to respect it and pay their fair share. When they regard it as unfair, many lose respect for the system, and will try to look for ways to pay less than their share.

We ask you to hold this bill in committee.

Thank you for this opportunity to testify on SB

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