

**SB 38**

LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
DIRECTOR OF TAXATION

SANDRA L. YAHIRO  
DEPUTY DIRECTOR

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DEPARTMENT OF TAXATION  
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**SENATE COMMITTEE ON HEALTH  
TESTIMONY REGARDING SB 38  
RELATING TO TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES**

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

**DATE: FEBRUARY 9, 2009**

**TIME: 2:45PM**

**ROOM: 016**

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This measure, among other things, proposes to increase the tobacco tax on non-cigarette tobacco items. This measure also creates a new special fund

The Department of Taxation (Department) takes **no position on the tax provisions** in the measure; however **opposes the special fund because the tax increase does not assist in closing the general fund budget gap.**

**Creation of new special funds will not help with this year's budget constraints.** Regardless of the merits of the special fund proposed in this legislation, the Department cannot support a tax increase of this kind to be deposited into a special fund. Any sin tax increase this session must be deposited to the benefit of the general fund.

This bill will result in a \$1.75 million per year revenue gain for the Community Health Center Special Fund.



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 to Increase the Tax on Other Tobacco Products, SB 38**

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Thank you for this opportunity to testify in support of an increase on the tax on tobacco products other than cigarettes. 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 has long supported increasing taxes on tobacco products as a means to reduce youth consumption of tobacco. We thank the Senate Committee on Health for hearing this measure.

The Coalition supports raising the tax on other tobacco products as well as expanding the definition of "tobacco products" to explicitly include smokeless tobacco. The Coalition recommends that a portion of any new tobacco tax revenue fund tobacco prevention and cessation programs.

Raising the tax on tobacco products is a win-win for our State. A tax increase will not only bring revenue into our State but it will reduce youth tobacco use. SB 38 also presents an opportunity for lawmakers to dedicate funds to tobacco prevention and control efforts.

#### Health is Promoted By Increasing the Tax on Tobacco Products Other Than Cigarettes

By increasing the percent of the wholesale price of each tobacco product sold, use of smokeless tobacco by adults and young people will decrease. This will result in a decline in the serious health conditions that arise from use of smokeless tobacco including cancer of the esophagus pharynx, larynx, stomach, and pancreas, gum disease, and the risk of cardiovascular disease. Adolescents and young adults are two to three times more sensitive to tobacco price changes than adults—less youth will begin to start using smokeless tobacco and more will reduce their consumption. Hawaii has seen an increase in youth use of smokeless tobacco despite our decreasing smoking rates. This is a concern because children and adolescents who use smokeless tobacco, especially if they are male, are at an increased risk to become cigarette smokers.

#### **Rates of Smokeless Tobacco Use in 2003 and 2007**

	2003	2007
High School students	2.8%	3.7%
Middle School students	1.7%	2.8%

(Hawaii State Department of Health, Data Highlights from the 2007 Hawaii Youth Tobacco Survey (YTS) and Comparisons with Prior Years. September 2008)

#### Significant Revenues Can Be Generated from an Increase in the Tax on Other Tobacco Products

The chart on the next page shows rough estimates of how much revenue our State may see if the tax on other tobacco products is increased. The figures are based on two averages: the five-year and the ten-year averages of taxes on other tobacco products as viewed at the Department of Taxation's website.

**Revenue Projections for Tax on Other Tobacco Products**

Revenue Projections	Based on 5-Year Average	Based on 10-Year Average
60% of purchase price (20% increase fr current rate)	\$3,826,354.45	\$3,322,278.00
70% of purchase price (30% increase fr current rate)	\$4,145,217.32	\$3,599,134.50
80% of purchase price (40% increase fr current rate)	\$4,464,080.19	\$3,875,991.00
90% of purchase price (50% increase fr current rate)	\$4,782,943.06	\$4,152,847.50
100% of purchase price (60% increase fr current rate)	\$5,101,805.93	\$4,429,704.00

**Revenues Should Be Directed to Fund Tobacco Prevention and Control**

At a time when there are threats to fund tobacco prevention and control, the Coalition would like to see all, if not a portion of the revenues from the increase in the tax on other tobacco products dedicated to tobacco prevention and control. This will ensure that the comprehensive tobacco prevention and control work in Hawaii continues. Those who want help in quitting tobacco should have the services to help them. 88% of smokers want to quit someday; 61% have tried to quit in the past year. The revenues collected from tobacco should support services for them. The significant gains are at risk if tobacco prevention and control efforts are not funded and maintained.

Thank you for the opportunity to testify. The Coalition strongly encourages you to pass this measure out of Committee.



American Heart Association | American Stroke Association

*Learn and Live.*

Serving Hawaii

## Testimony for SB 38 "Relating To Tobacco"

The American Heart Association supports the intent of SB 38, but recommends several amendments.

A portion of new funds realized from any tobacco tax increase should be directed toward further tobacco prevention and education. Hawaii current investment remains well below the Centers for Disease Control's recommended spending in tobacco and prevention. The CDC recommends that Hawaii invest \$15.2 million per year on tobacco prevention, education and cessation programs to fully achieve success in reducing tobacco dependence. Hawaii currently receives \$11.3 million a year for tobacco prevention and cessation, which includes both state and federal funds. It is not clear how much the state actually invests annually in tobacco prevention and cessation, but it is likely below \$10 million per year.

In addition, the AHA recommends that the state attempt to set the tax on "other tobacco" products at a level comparable to what its cigarette tax will be when the current cigarette tax increase is fully implemented in 2011. In the future, any cigarette tax increases should be accompanied by a comparable increase in the tax on other tobacco products to insure that hikes in cost for one type of tobacco product don't drive potential young customers toward the cheaper type of tobacco. The goal of any tobacco tax increase should be primarily to achieve a reduction in use of tobacco products, especially by price-sensitive young people. The costs to the state for medical care alone related to tobacco use far outweigh the benefits in taxes collected on tobacco sales.

### What do nicotine and tobacco smoke do to the body?

Nicotine causes a short-term increase in blood pressure, heart rate and the flow of blood from the heart. It also causes the arteries to narrow. Users of smokeless tobacco are exposed to levels of nicotine that are comparable to cigarette smokers. In addition, smoke from other tobacco products like cigars include carbon monoxide, which reduces the amount of oxygen the blood can carry. This, combined with the nicotine effects, creates an imbalance between the demand for oxygen by the cells and the amount of oxygen the blood can supply. Tobacco smoke also increases the risk of developing hardening of the arteries and heart attacks in several ways. First, carbon monoxide damages the inner walls of the arteries, encouraging fatty buildups in them. Over time, this causes the vessels to narrow and harden. Nicotine may also contribute to this process. Smoking also causes several changes in the blood that make clots—and heart attack—more likely. Cigar and pipe smoking increases the risk of abdominal aortic aneurysm by as much as six times compared to never-smokers. Smoking cigars or pipes doubles the risk of fatal stroke compared to never-smokers. Smoking cigars or pipes and cigarettes increases the risk for fatal stroke by six times compared to never-smokers. Pipe smoking has been found to increase coronary heart disease risk by almost as much as cigarette smoking. Some studies have shown that smokeless tobacco results in as much as a 40 percent increased risk of dying from cardiovascular disease.

### Caution About Switching to a Weight-Based Tobacco Tax System

Legislators should be cautioned about falling into the tobacco companies' trap of switching to a weight-based formula for calculating the tax on "other tobacco" products rather than through a percentage of the wholesale or retail price. Over time, such shifts to a weight-based tax dramatically reduce the portion of state revenues gained from their smokeless tax, reducing the effective tax on the kinds of higher-priced premium products that the larger companies sell and increasing the effective tax on lower-priced brands, predominantly sold by smaller competitors.

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Fax: 808-538-3443

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

In contrast, a percentage-of-price tax levies a fixed percentage tax on all smokeless products, ensuring that those products that bring in higher amounts of revenue and profits also pay higher amounts per can or dose while still paying the exact same percentage tax as less profitable brands. Taxing by weight also provides a massive tax break to the new generation of smokeless tobacco products (e.g. Ariva, Stonewall, Snus products) that can weigh as little as one-tenth as much as standard smokeless products. Accordingly, states with weight-based smokeless or moist snuff taxes will see their revenues shrink as this new wave of super-low-weight products takes over more and more of the total smokeless market. To ensure that smokeless tobacco brands that engage in unfair competition or predatory pricing still pay reasonable amounts of tax, the state could simply add a minimum tax onto its existing percentage-of-price tax system.

But it is not just an issue of premium versus lower-price brands. The vast majority of kids who use smokeless tobacco use the higher-priced premium brands, such as Copenhagen. By ultimately lowering the price on the smokeless tobacco products most popular with kids, shifting to a weight-based tax would increase smokeless tobacco use among youths.

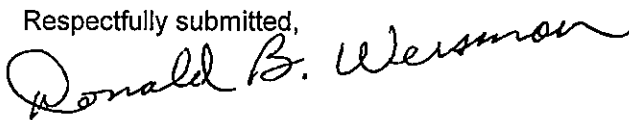
#### **Setting Smokeless Tobacco Tax Rates Effectively**

Simply raising all state tobacco taxes will produce enormous benefits by reducing overall tobacco use, with an especially powerful negative effect on tobacco use by kids. At the same time, it is important to make sure that the tax rates on all tobacco products are roughly comparable, to minimize shifts from one tobacco product to another cheaper one and to maximize the overall reduction in tobacco use.

One way to create comparable rates is to make sure that the cigarette, smokeless, and other tobacco product tax rates – or the proposed increased rates – all roughly equal to the same percentage of the underlying prices for the products (either those charged to consumers or those charged by the manufacturers to wholesalers). While Hawaii's cigarette taxes are set as certain amounts per cigarette, it is possible to translate those amounts into percentages of the prices charged by manufacturers through the manufacturer price data available from the U.S. Department of Agriculture's Economic Research Service and from other sources. Another option is to compare the state cigarette tax per pack amount to the average retail price of cigarettes in the state, while also translating the other tobacco product taxes into retail price percentages.

In conclusion, it is important to both maintain a balance between the taxes on cigarettes and the tax on "other tobacco" products in order to continue to drive down Hawaii's youth smoking rates. It is just as important to maintain the level of investment in tobacco prevention, education and cessation programs at or near the CDC's minimum recommended amounts. The AHA strongly recommends that a portion of any new tobacco tax revenue be earmarked to support those life-saving programs.

Respectfully submitted,



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



February 7, 2009

Committee on Health  
Senator David Ige, Chair  
Senator Josh Green, MD, Vice Chair

**Hearing:**

2:45 P.M., Friday, February 9, 2009  
Hawaii State Capitol, Room 016

**RE: SB38, Relating to Tax on Tobacco Products other than Cigarettes**

**Testimony in Strong Support**

Chair Ige and Vice Chair Green, and members of the Committee on Health. My name is George Massengale and I am the Director of Government Relations for the American Cancer Society Hawaii Pacific Inc. Thank you for the opportunity to testify in strong support of SB38, which increases the excise tax on tobacco products other than cigarettes; and designates 33.3% of the proceeds to the community health centers special fund.

The American Cancer Society Hawaii Pacific Inc., was founded in 1948, and is a community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service. This mission is consistent with the Society's ambitious 2015 goals of slashing the cancer mortality rate by 50%, reducing the incidence of cancer by 25%, and improving the quality of life of cancer patients and survivors by reducing the pain and suffering that cancer causes.

Oral and pharyngeal cancer continues to be a significant health problem in the United States and in Hawaii. Approximately 30,000 new cases of oral cancer are diagnosed each year. In Hawaii, the oral/pharyngeal cancer rate is 9.2% per 100,000 of population. Currently, one-third of those patients who receive a diagnosis of oral cancer will eventually die of their disease. The long term survival of oral cancer patients is, as in most cancers, directly proportional to early detection, diagnoses, and treatment.

The use of tobacco products, cigarettes, cigar, pipes, and smokeless tobacco products (spit, snuff, and chewing tobacco) has emerged as a major preventable risk factor for a number of oral diseases and disorders. Unfortunately, shameless marketing of tobacco products to our children and young adults is having a negative impact in Hawaii. The use rates for smokeless tobacco products is moving upwards, as indicated by the increase in tax revenues on these products.

**Raising the tax on other tobacco products—making the case.** First we note that there is a provision in this bill that would put additional moneys into the community health centers special fund, we believe that there are other equally important reasons to increase this tax:

1. The current tax rate of 40% of the wholesale prices was established in 1965 and has never been increased. Other states have much higher rates; Massachusetts has a 90% rate, Maine 78%, Washington 75%, Minnesota 70%, and Oregon 65%.
2. It is well established by scientific research and the experiences of numerous states that increasing the state tax rates on non-cigarette tobacco products not only raises new revenues but also helps to reduce tobacco use levels, especially among youth.
3. With Hawaii's economy in dire straits, substantially raising the tax rate and dedicating portions of the increase to tobacco control and other safety net health programs, such as community health centers, will ensure the sustainability of those programs as additional demands are placed on them by laid off workers, the underinsured and uninsured.

**The Society believes that a tax increase should be substantial and would recommend at least doubling the rate. In 2008, the Department of Taxation reported \$3.47 million in tax collections on other tobacco products. We would also point out that quadrupling the rate could produce \$13.88 million in revenues.**

We are in complete support of depositing the 33.3% of the proceeds collected into the community health centers special fund we are in complete support. As our economy continues to spiral downward, there will be many job layoffs. Thousands will lose their health coverage and will join the roles of the insured or underinsured. Our state's community health centers have been the safety net for those individuals who are unable to obtain primary health care. It is critical that we ensure the sustainability of our community health centers. We should not reduced access to care options in the coming hard times. It should be noted that community health centers also provide critical follow-up services for cancer patients with limited resources. In addition, our community health centers are on the front-line in providing screenings for the detection of cancers. If these services were not available many more of our residents would die from cancer.

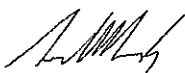
Last Friday, we testified on a similar tax measure before the House health committee. Their bill had a provision to allocate a portion of the tax collected into a cervical and breast cancer screening special fund to ensure that all women will be able to continue receive pap tests and mammography. We would ask that this committee consider earmarking a percentage of the tax collected be deposited into this fund. We would recommend a percentage that would generate approximately \$200,000 annually.

In closing, we would note that we believe that this is a good bill. It accomplishes several purposes. It is a sin tax that could generate substantial revenues thus helping our state's fiscal crisis. It will provide addition funding for our states "health safety net" community health centers. It could also fund cervical and breast cancer screenings, and finally it will deter adult and youth tobacco use, which will in turn drive down not only oral cancer rates but the rates of other cancers related to tobacco use.

**Finally, we would respectfully request that the committee look favorably on our recommendations to substantially increasing the tax, at the least doubling the tax and allocating a percentage of the revenues into the cervical and breast cancer special fund.**

Mahalo for the opportunity to provide testimony in support of this measure.

Very truly yours,



George S. Massengale, JD  
Director of Government Relations



Tax Projections for Tax Increase on Other Tobacco Products  
 (based on figures available at [http://hawaii.gov/tax/a5\\_3txcolrptarchive.htm](http://hawaii.gov/tax/a5_3txcolrptarchive.htm))

<b>Tax Revenue from All Other Tobacco Products</b>									
1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
\$1,996,927.55	\$2,941,354.86	\$3,226,137.75	\$1,863,027.99	\$1,715,058.32	\$1,768,560.86	\$2,328,664.60	\$5,403,121.97	\$2,972,625.71	\$3,470,170.39
	<b>Total</b>	<b>Yearly Average</b>		<b>1999-2008 Total</b>					
2004-2008	\$15,943,143.53	\$3,188,628.71							
1999-2008	\$27,685,650.00	\$2,768,565.00							
<b>Revenue Projections</b>	<b>Based on</b>		<b>Based on</b>						
	<b>Yrly Avg Over 5 Years</b>		<b>Yrly Avg Over 10 Years</b>						
	60% (20% incr)	\$3,826,354.45		\$3,322,278.00					
	70% (30% incr)	\$4,145,217.32		\$3,599,134.50					
	80% (40% incr)	\$4,464,080.19		\$3,875,991.00					
	90% (50% incr)	\$4,782,943.06		\$4,152,847.50					
	100% (60% incr)	\$5,101,805.93		\$4,429,704.00					



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**TO: Senate Committee on Health**

**FOR: Hearing Scheduled for 2:45 pm  
Monday February 9, 2009**

**RE: TESTIMONY IN SUPPORT SB 38 Relating to Tax on  
Tobacco Products Other Than Cigarettes**

**Chair Ige, Vice Chair Green and Committee Members:**

The American Lung Association of Hawaii supports SB 38, which increases the tobacco tax on tobacco products other than cigarettes. Our mission is to save lives by improving lung health and preventing lung disease through research, education and advocacy.

The tax has not been raised on non-cigarette products since 1965. With the taxes on cigarettes on the increase, these products are becoming an attractive alternative to both current cigarette smokers and those experimenting with tobacco products. It is well documented that all of these products pose significant health hazards.

The American Lung Association in Hawaii urges the Committee to consider raising the tax even higher than the proposed 60% of the wholesale price to 100% of the wholesale price. This would help to deter use of these dangerous products, especially for young people to whom they are being heavily marketed. In addition it will bring in needed revenue to the state.

On behalf of the 154,000 people who struggle to breathe I thank you your consideration on this important measure.

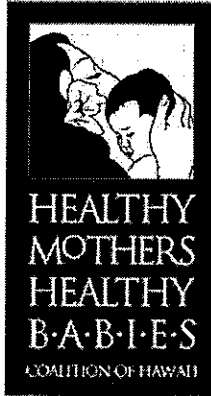
Respectively submitted,

Jean Evans, MPH  
Executive Director  
American Lung Association of Hawaii

**Improving Life**

**One Breath at a Time**

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



February 6, 2009

Committee: Committee on Health

Bill: SB 38

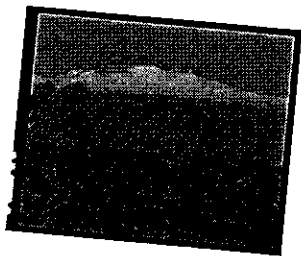
Honorable Chairperson, Vice Chairperson and Members of the Committee

My name is Jackie Berry, Executive Director of Healthy Mothers Healthy Babies Coalition of Hawaii. HMHB IS IN STRONG SUPPORT OF THE INTENT OF SB 38. This Bill would increase the tobacco tax on tobacco products other than cigarettes from 40% to 60% of the wholesale price. Tax increases will not only bring in additional revenue to provide services, they will reduce tobacco use, particularly among our young people. Youth are two to three times more sensitive to tobacco price changes than adults. Chew as well as new and emerging products are being marketed to youth, and, it is working – rates of smokeless tobacco use among high school students rose from 2.8% to 3.7% between 2003 and 2007.

HMHB is particularly concerned about tobacco use by young women. Research indicates the importance healthy behaviors prior to pregnancy have on birth outcomes. What women do prior to pregnancy will affect their babies. Healthy Women have healthy babies, and healthy women do not use tobacco products.

We urge your support for the passage of this bill.

Mahalo for your consideration of this issue and our testimony.



## Tobacco-Free Big Island

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**MISSION**

"To provide tools to inspire all segments of our diverse community to eliminate tobacco use and exposure in East Hawaii."

**ACTIVE MEMBERS**

American Cancer Society, East Hawaii Unit  
American Lung Association of Hawaii  
American Heart Association, Hawaii Island  
Hamakua Health Center  
Bay Clinic, Inc.  
Hui Malama Ola Na OIwi  
Tobacco Education & Assistance Program  
Boys & Girls Club of the Big Island  
Salvation Army Family Intervention Services  
Keaau Youth Business Center  
Hale Kipa, Neighbor Island Office  
REAL, East Hawaii  
Plus many dedicated individuals

**FOCUS**

Youth Prevention & Education  
Youth & Adult Treatment/Cessation  
Clean Air: Reducing Secondhand Smoke  
Disparate Populations  
Protection of MSA for Tobacco Control

**FUNDED BY**

Coalition for a Tobacco-Free Hawaii  
Hawaii Department of Health's  
Tobacco Prevention & Education Program

February 6, 2009

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

RE: TESTIMONY IN SUPPORT OF SB 38  
Relating to Tax on Tobacco Products Other than Cigarettes  
Hearing on Monday, February 9, 2009, 2:45 p.m.  
Conference Room 106, State Capitol

My name is Tracie Yoshimoto, Coalition Coordinator of Tobacco-Free Big Island, an alliance of organizations, businesses and dedicated volunteers who work together to eliminate the harms of tobacco use in East Hawaii (Hamakua, Hilo, Puna and Ka'u).

Please accept this testimony in support of SB 38, which would increase the tobacco tax on tobacco products other than cigarettes from 40% to 60% of the wholesale price.

This tax increase will bring in revenue and reduces tobacco use. All if not some of the revenue should be dedicated to funding tobacco prevention and control efforts like treatment groups and youth prevention programs.

Chew as well as new and emerging products are being marketed to youth—with flavored tobacco and stunning packaging designed to lure young people. By increasing the price of tobacco, smokeless tobacco use will decrease among both adults and youth. In particular, youth are two to three times more sensitive to tobacco price changes than adults.

Tax rates of other tobacco products (OTC) must be increased based on percentage price and be comparable to that of cigarettes to ensure declines in use. This will lead to improved health as smokeless tobacco use can lead to cancer of the esophagus, pharynx, larynx, stomach, and pancreas; gum disease; and risk of cardiovascular disease.

This is an opportunity to bring in much needed revenue. I support the bill and ask that you pass it out of committee.

Mahalo in advance for your consideration. Please contact me if you have any questions.

Sincerely yours,

Tracie Yoshimoto, Coalition Coordinator



## Written Testimony SB 38, pg. 1 of 2

February 6, 2009

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

**RE: TESTIMONY IN SUPPORT OF SB 38  
Relating to Tax on Tobacco Products Other than Cigarettes  
Hearing on Monday, February 9, 2009, 2:45 p.m.  
Conference Room 106, State Capitol**

My name is Jay Ihara and I'm the SMART Moves and Prevention Director with the Boys Club of the Big Island. I am testifying in support of SB 38, which would effectively increase the tobacco tax on other tobacco products (OTC) other than cigarettes from 40% to 60% of the wholesale price.

All if not some of the revenue should be dedicated to funding tobacco prevention and control efforts like cessation classes (many want to quit; should have services to help).

This tax increase will bring in revenue and reduces tobacco use.

Chew as well as new and emerging products are being marketed to youth—with flavored tobacco and stunning packaging designed to lure young people.

By increasing the price of tobacco, smokeless tobacco use will decrease among both adults and youth. In particular, youth are two to three times more sensitive to tobacco price changes than adults.

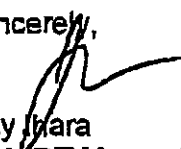
Youth use of smokeless tobacco is up among both high school students and middle school students. **Rates of Smokeless Tobacco Use in 2003 and 2007. An increase from 2.8% up to 3.7% in high school students; increase from 1.7% to 2.8% for middle school students** (Hawaii State Department of Health, Data Highlights from the 2007 Hawaii Youth Tobacco Survey (YTS) and Comparisons with Prior Years. September 2008)

Tax rates of other tobacco products (OTC) must be increased based on percentage price and be comparable to that of cigarettes to ensure declines in use. This will lead to improved health as smokeless tobacco use can lead to cancer of the esophagus, pharynx, larynx, stomach, and pancreas; gum disease; and risk of cardiovascular disease.

This is an opportunity to bring in much needed revenue. I support the bill and ask that you pass it out of committee.

Please accept this as my written testimony in support of SB 38. Thank you in advance for your consideration. Please contact me if you have any questions.

Sincerely,



Jay Ihara  
SMART Moves & Prevention Director  
Boys & Girls Club of the Big Island  
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(808) 961-5536 Ext. 103  
email: [jay@bgcbi.com](mailto:jay@bgcbi.com)

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** TOBACCO, Increase tax; disposition of revenues

**BILL NUMBER:** SB 38; HB 895 (Identical)

**INTRODUCED BY:** SB by Baker, English, Green, Hemmings, and 1 Democrat; HB by Yamane

**BRIEF SUMMARY:** Amends HRS section 245-1 to amend the definition of "tobacco products" to include smokeless tobacco and pipe tobacco.

Amends HRS section 245-3 to increase the tax on the wholesale price of tobacco products from 40% to 60%.

Amends HRS section 245-15 to provide that after September 30, 2009, 33 1/3% of the amount of tax collected on tobacco products other than cigarettes shall be deposited into the community health centers special fund.

**EFFECTIVE DATE:** Upon approval

**STAFF COMMENTS:** The proposed measure increases the tax on tobacco products other than cigarettes and diverts 33 1/3% of the amount collected on tobacco products other than cigarettes into the community health centers special fund. The measure also provides that smokeless tobacco and pipe tobacco shall be subject to the tobacco tax.

While lawmakers and taxpayers may believe this earmarking of the tobacco tax will insure that the designated programs will be funded into the future, it should be remembered that the rising cost of the product may, in fact, jeopardize funding of these programs. The state cigarette tax is scheduled to rise to \$2.60 per pack by the year 2011. In addition, the federal government is also considering an increase on the order of 61 cents per pack. Should this latter increase be adopted, the tax per pack of cigarettes in Hawaii will rise to \$3.21. As the product becomes more expensive, there will, no doubt, be a reduction in consumption or more untaxed product purchased. This, in turn, will jeopardize the funding of the specified programs making this resource less and less dependable as a funding mechanism for the earmarked programs.

However, this proposal highlights one of the distortions that occurs when product price increases and consumption either decreases or in the case where the tax is based on the cost or value of the product, tax collections will be adversely affected. Until 1993, all tobacco products were taxed at a rate of 40% of the wholesale value of the product plus the 0.5% general excise tax rate and, of course, the 4% general excise tax at retail. When the tax on cigarettes was converted to a per unit basis in 1993, it put all cigarettes, regardless of value, on parity. So inexpensive product was taxed at the same rate as more expensive product even though the difference in cost may have been attributed only to the cost of marketing and advertising the more costly product. As lawmakers increased the tax per pack over the years and the cost of making the product also increased the retail price, smokers had three choices, either

pay more for their preferred brand, quit smoking, or trade down to a less costly product. While quitting smoking will definitely spell a loss in tax revenues for the state, trading down to a less costly brand will not.

This is an important point to note with respect to all other tobacco products. While this measure increases the tax on all other tobacco products from 40% to 60%, lawmakers should consider restructuring the way other tobacco products are taxed to insure stability in the collection from the sales of these products. Instead of continuing to set the tax as a percent of the wholesale value, consideration should be given to moving to a per unit approach like the taxing of cigarettes. While there are no multiples of other tobacco products like cigarettes per pack, these products are usually sold by the weight. So the larger the package of tobacco products, be it chewing tobacco or pipe tobacco, the more the tax would be. Thus, three ounces of pipe tobacco, no matter what the value of the product, would be taxed like another container of three ounces of pipe tobacco. Similarly, cigars that are fatter and, therefore, weigh more than say cigarillos which are thinner, would be taxed according to the overall weight of the product. As a result, when the cost of the product rises, and the behavioral reaction is to trade down to a less costly product, the amount of tax the state receives will be the same, thus stabilizing the collections from this source.

In making the conversion to so many cents per ounce, lawmakers may want to utilize the current tax collected on the most expensive product and divide that amount by the number of ounces. While this will result in an initial bump in collections as the tax on less costly product will see an increase, it will bring parity to these types of products and stabilize collections as users migrate to less costly brands or products as the cost rises.

While not contained in this bill, the notion that the state general fund can be balanced with an increase in "sin" taxes on tobacco and alcohol products is ludicrous. First, as noted above, the higher one pushes the cost of these products, the greater the possibility of actually seeing a decline in consumption as consumers moderate or eliminate consumption. Second, much of the consumption of these products, in particular alcoholic beverages, is made by visitors which, as hotels have reported, are dwindling in numbers. Thus, the base for both of these tax resources will begin to shrink until the visitors return. Thus, these tax resources cannot be counted upon to raise the revenues to balance the state budget. Thus, legislators will suffer great angst in raising these taxes and will have very little to show for their political risk. In fact, as was evidenced in the states of New Jersey and Maryland, lawmakers there counted on an increase in the cigarette taxes to help balance their budgets only to learn that collections actually went down below their prior levels. Thus, care should be exercised in targeting these resources for a quick fix to the state's financial woes.

Finally, lawmakers need to remember that the amount payable to the state under the Master Settlement Agreement (MSA) with the tobacco companies is dependent on the amount of product purchased and consumed in the state. With the rise in the federal tax and potential state tax increases, there is no doubt that it will affect consumption of this product and, therefore, the amount of money the state receives under the MSA.



## Hawai'i Primary Care Association

345 Queen Street | Suite 601 | Honolulu, HI 96813-4718 | Tel: 808.536.8442 | Fax: 808.524.0347  
www.hawaiipca.net

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 38**  
**Relating to Tax on Tobacco Products Other Than Cigarettes**

**Submitted by Beth Giesting, CEO**

**February 9, 2009, 2:45 p.m. agenda, Room 016**

The Hawaii Primary Care Association urges your support for this measure that would increase taxes on tobacco products and direct part of the funding to the community health center special fund. We believe that both of these purposes are good and timely public health policy.

We would ask that the committee consider increasing the percentage of the tax in order to provide a stronger deterrent, especially for young people who are more sensitive to costs.



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**From:** Michael Zehner [mz9995@hotmail.com]  
**Sent:** Sunday, February 08, 2009 2:36 AM  
**To:** HTHTestimony  
**Subject:** testimony

**Categories:** Blue Category

Dear Senate Health Committee;

Bill: SB38 OPPOSED

I'm opposed to this hate and this madness. Would you please leave our people that smoke alone?

Respectfully, Michael Zehner

750 Amana st. #608, Honolulu, HI 96814

952-0275

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 09, 2009 9:02 AM  
**To:** HTHTestimony  
**Cc:** santosj001@hawaii.rr.com  
**Subject:** Testimony for SB38 on 2/9/2009 2:45:00 PM  
**Attachments:** SUPPORT SB 38.doc

Testimony for HTH 2/9/2009 2:45:00 PM SB38

Conference room: 016  
Testifier position: support  
Testifier will be present: No  
Submitted by: LorrieAnn Santos  
Organization: Individual  
Address: 45-415 Loli Street Kaneohe, HI  
Phone: 258-5811  
E-mail: [santosj001@hawaii.rr.com](mailto:santosj001@hawaii.rr.com)  
Submitted on: 2/9/2009

**Comments:**

Previous testimony submitted 2/6/09 via e-mail contained an error. Please support a tax increase on other tobacco products by passing SB 38 out of committee.

## SUPPORT SB 38

Please support SB 38 relating to tax on tobacco products other than cigarettes, which is long over due.

Please also consider adding a provision to require that the proceeds to Hawai`i's Community Health Centers be specifically earmarked for tobacco prevention and cessation services and programs. So that these funds, unlike the Tobacco Master Settlement Agreement funds are appropriated for its intended purpose – to prevent the tobacco industry from marketing tobacco products to youth and to recover State resources spent addressing tobacco-related health problems and disabilities through the provision of tobacco cessation.

To quote Dr. Richard Carmona 17th Surgeon General of the U.S., "Our highest priority has to be keeping children from beginning to use tobacco products."

Please support a tax increase on other tobacco products by passing SB 38 out of Committee.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 09, 2009 9:17 AM  
**To:** HTHTestimony  
**Cc:** lsantos@papaolalokahi.org  
**Subject:** Testimony for SB38 on 2/9/2009 2:45:00 PM  
**Attachments:** SUPPORT SB 38.doc

**Categories:** Blue Category

Testimony for HTH 2/9/2009 2:45:00 PM SB38

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](mailto: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 38

Please support SB 38 relating to tax on tobacco products other than cigarettes, which is long over due.

Please also consider adding a provision to require that the proceeds to Hawai'i's Community Health Centers be specifically earmarked for tobacco prevention and cessation services and programs. So that these funds, unlike the Tobacco Master Settlement Agreement funds are appropriated for its intended purpose – to prevent the tobacco industry from marketing tobacco products to youth and to recover State resources spent addressing tobacco-related health problems and disabilities through the provision of tobacco cessation.

To quote Dr. Richard Carmona 17th Surgeon General of the U.S., "Our highest priority has to be keeping children from beginning to use tobacco products."

Please support a tax increase on other tobacco products by passing SB 38 out of Committee.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 09, 2009 9:33 AM  
**To:** HTHTestimony  
**Cc:** jwalker1@hhsc.org  
**Subject:** Testimony for SB42 on 2/9/2009 2:45:00 PM

Testimony for HTH 2/9/2009 2:45:00 PM SB42

Conference room: 016  
Testifier position: support  
Testifier will be present: No  
Submitted by: Jerry Walker  
Organization: West Kauai Medical Center / KVMH  
Address: 4643 Waimea Canyon Drive Waimea, HI  
Phone: (808) 338-9222  
E-mail: [jwalker1@hhsc.org](mailto:jwalker1@hhsc.org)  
Submitted on: 2/9/2009

**Comments:**

The Kauai Region (West Kauai Medical Center / KVMH; West Kauai Clinics - Waimea, Eleele, Kalaheo; Mahelona Medical Center / SMMH) supports SB42. The revenues obtained from this increased tax would provide funding for the HHSC Regions to be able to cope with the financial crisis forecast for FY2010, FY2011 and beyond.

## SUPPORT SB 38

Please support SB 38 relating to tax on tobacco products other than cigarettes, which is long over due.

Please also consider adding a provision to require that the proceeds to Hawai'i's Community Health Centers be specifically earmarked for tobacco prevention and cessation services and programs. So that these funds, unlike the Tobacco Master Settlement Agreement funds are appropriated for its intended purpose – to prevent the tobacco industry from marketing tobacco products to youth and to recover State resources spent addressing tobacco-related health problems and disabilities through the provision of tobacco cessation.

To quote Dr. Richard Carmona 17th Surgeon General of the U.S., "Our highest priority has to be keeping children from beginning to use tobacco products."

Please support a tax increase on other tobacco products by passing SB 779 out of Committee.