

For Agenda, Wednesday, March 2, 2011-2:05 p.m.

To: Rep. Gilbert S.C. Keith-Agaran, Chair, Committee on Judiciary

From: Brian Marumoto

Re: Testimony in support of HB 1456 RELATING TO THE PETROLEUM INDUSTRY

Makes unfair trade practices by the petroleum industry subject to administrative rather than criminal penalties. Decreases the amount of the fines imposed for each violation. Imposes fines for each day of violation.

Aloha Chair Keith-Agaran and Members of the Committee on Judiciary:

Under the current provisions of section 486B-4, Hawaii Revised Statutes, anyone who engages in unlawful profiteering is in violation of this chapter and subject to criminal penalties. However, in order to enforce the provisions of this law, one must prove that the violator had criminal intent. This is a very high standard and may be difficult to prove. It will take additional time and resources from an already strapped department, thus making the prosecution of any violation highly unlikely or so after-the fact that irreparable damages may have already occurred.

HB 1456 would change the penalty from a criminal fine of not more than \$10,000 or five years imprisonment, to an administrative fine of not more than \$5000 per day for each day of violation.

We believe that enforcement will be workable with these changes which will in turn result in a greater disincentive for anyone to violate the provisions of Chapter 486B.

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To: Rep. Gilbert Keith-Agaran, Chair of the Committee on Judiciary

From: Stan Morinaka, Independent service station dealer from Kauai

Re: Testimony in support of HB 1456

Mr. Chairmen and Members of the Committee on Judiciary. I wish that I could be here to testify in person today. Unfortunately, I am in the process of renegotiating the lease for my station. I am strongly in favor of H.B. No. 1456.

To give you a perspective on what's happened on the island of Kauai, forty years ago when I started my business, we had so many independent dealers that we were able to form an association. Today, there are only 2 independent service stations dealers left on our island and I am one of them. The rest of the stations are company owned and operated. And if I am not able to renegotiate a favorable lease, they will force me out of business as well. So without your help, it won't be long before all of the service stations on Kauai will be controlled by the oil companies.

So with a higher cost basis and an increase in lease rental of the station, I will not be able to compete and will have to close my business. If that happens, the company will take over the operation and run it. How are local businesses expected to survive under these conditions?

During times of hardship and disasters, it has been the small local businesses that have stayed open and helped the community. Who will be there for the people of Kauai if there is another crisis in the future and the small mom and pops are no longer there? Also, the income that we generate goes back to support the local

economy. So if small businesses like mine are forced to close, where will the tax revenue that supports the County and the State come from?

I know that there are state laws that are supposed to regulate the industry but they are virtually useless because they are never enforced. Changing the penalty provisions to make enforcement possible will help to level the playing field. That is why I support HB 1456. It is at least a step in the right direction.

I humbly ask that you pass HB 1456 and help us to keep local businesses alive and thriving. Thank you.