

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON FINANCE
MARCH 1, 2011**

MEASURE: H.B. No. 1455 H.D. 1
TITLE: Relating to Petroleum Products.

Chair Oshiro and Members of the Committee:

DESCRIPTION:

This bill adds a new section to Chapter 486H, Hawaii Revised Statutes ("HRS"), which authorizes gasoline dealers to enter into cooperative purchasing agreements to acquire discounts on gasoline purchases, pursuant to an agreement entered into between the participants.

POSITION:

The Commission defers to the Legislature on whether the State should allow such cooperative gasoline purchasing agreements between gasoline dealers and provides comments on the bill.

COMMENTS:

Allowing cooperative purchasing agreements contemplated in this bill raises anti-trust issues under both State and Federal anti-trust laws, as this bill expressly provides that these cooperative purchasing agreements for gasoline would not be in restraint of trade. The Commission, however, defers to the Office of the Attorney General on these anti-trust matters.

This bill was amended to address the concerns that the Commission expressed earlier by removing the reference to the Commission adopting rules regarding cooperative purchasing agreements. Accordingly, the Commission has no remaining concerns and continues to defer to the Office of the Attorney General on anti-trust matters.

Thank you for the opportunity to testify.



Western States Petroleum Association

House Committee on Finance

DATE: Tuesday, March 1, 2011
TIME: 10:00 a.m.
PLACE: Conference Room 308
RE: HB1455 HD1: Relating to Petroleum Products

I am testifying on behalf of the Western States Petroleum Association (known as WSPA) in opposition to HB1455 HD1. WSPA is a non-profit trade association representing a broad spectrum of petroleum industry companies in Hawaii and five other western states. The purpose of HB1455 HD1 is to allow gasoline dealers to enter into cooperative purchasing agreements to acquire discounts on gasoline purchases.

WSPA is opposed to this measure on the basis that it is special interest legislation designed to protect a select group of competitors from the antitrust laws. State and federal antitrust laws are designed to protect consumers from anticompetitive practices. In addition, Hawaii can enact an exemption from its own antitrust laws, but Federal law also prohibits agreements in restraint of trade and Hawaii cannot create an exemption from Federal law. This measure may also be unconstitutional to the extent that it interferes with any existing contractual agreements.

Thank you for giving WSPA the opportunity to testify today.

For Agenda #1, Tuesday, March 1, 2011-10:00 a.m.

To: Rep. Marcus R. Oshiro, Chair of the Committee on Finance

From: Stan Morinaka, Independent service station dealer from Kauai

Re: **Testimony in support of HB 1455 HD1**

Mr. Chairmen and Members of the Committee on Finance. 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 HB 1455, HD 1.

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.

HB 1455 HD1 would permit independent dealers to form a co-op which would give us the ability to negotiate bulk purchasing prices for gasoline. I strongly support this bill. This would go a long way towards helping businesses like mine.

Currently, I have to compete with Costco as well as other big box retailers who are planning to expand the number of their stations on the island. Without the ability to form a co-op, small independent dealers like me will not be able to offer product to the consumers at competitive prices. Since the inception of the giant retailers, I have seen my volume drop down from 250,000 gallons to 150,000 gallons **per month!** A co-op would allow me to offer my gas at the same price as my competitors. I can't do that now because my base cost is higher than theirs.

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 humbly ask that you pass HB 1455, HD 1 and help us to keep local businesses alive and thriving. Thank you.

For Agenda #1, Tuesday, March 1, 2011-10:00 a.m.

Re: HB 1455, HD1

Mailelani Cox [cox011@hawaii.rr.com]
February 27, 2011

Testimony in Support of HB 1455 HD1– Allows gasoline dealers to enter into cooperative purchasing agreements to acquire discounts on gasoline purchases.

I am Maile Cox, an independent gasoline dealer on the island of Kauai, and am testifying in support of HB 1455HD1.

HB 1455 HD1 will give independent dealers the opportunity to form a co-op to purchase large quantities of product from manufacturers in order to get the same volume discounts from manufacturers that are currently only given to big box retailers and company owned and operated stations.

This will level the playing field so that independent dealers will then be able to charge customers the same prices as big box retailers and company owned and operated stations who receive volume discounts from manufacturers. Consumers will benefit because they will have a choice between an independent dealer and the big box retailers and pay the same prices.

Big box retailers are afforded price breaks because they presumably purchase their product in large quantities. However, current Hawaii law limits the amount of gas that a tanker can hold and deliver at any given time, to a maximum of 10,000 gallons. Therefore, even if a big box retailer presumably orders more product than an independent retailer, it will take the same amount of tankers to haul the fuel to the stations.

Independent dealers are not given the same discount for volume purchases even though he/she may buy the same volume of gas or more. Independent dealers need the ability to receive the same discounts given to the big box retailers and gasoline company owned and operated stations in order to survive and compete in this market as they must pay higher prices per gallon when buying product and therefore cannot lower their prices to consumers without going out of business.

Testimony for the House Committee on Finance
Rep. Marcus Oshiro, Chair

HB1455, HD1

My name is Jason Kim and I run two service stations located at 94-673 Kupuohi St., Waipahu and 94-609 Ukee St., Waipahu, on the island of Oahu. I am testifying in support of HB 1455, HD1.

For many years I have tried to sell gasoline at my stations at a price that would be competitive with any other location on my island. I felt that customers would be attracted by a lower price and what I didn't make in margin would be offset by the increase in volume.

COSTCO and other low priced marketers, particularly company operated locations have made this a difficult proposition as margins and volume have declined at my location. HB 1455 HD1 would offer me a chance to once again be competitive as I could buy gasoline at a reduced cost which would allow me to offer lower street prices. My customers would be happy as they could reduce their automotive costs and I should be able to reverse the trend of declining volume at my stations.

This bill would offer me the chance to be competitive and would also give me a feeling of security as predatory pricing by company operated stations would be less of an issue. I urge the passage of this measure.