

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



**LATE**

FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
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To: The Honorable David Y. Ige, Chair  
and Members of the Senate Committee on Ways and Means

Date: Tuesday, January 29, 2013  
Time: 9:00 a.m.  
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. No. 653 Relating to Health

The Department of Taxation (Department) appreciates the intent of S.B. 653, and offers the following comments for your consideration. The Department defers to the Department of Health on the merits of this bill's effect on health and to the Department of the Attorney General with respect to the enforcement of the tobacco tax.

S.B. 653 amends the tobacco tax by replacing the term "large cigars" with the term "premium cigars" and giving that term a definition requiring that, in addition to the weight currently required under the definition of "large cigar," the cigar be constructed entirely of tobacco and that its wholesale price be greater than two dollars. The measure further amends the rate at which such cigars are taxed.

The Department notes that the language of the bill also allows for the retroactive application of the tax rate, which the Department cannot support. Retroactive application of the tax rate also creates administrative and implementation challenges for the Department. Instead, the Department suggests that any rate changes be made on a prospective basis so that the implementation can be planned and taxpayers have adequate notice in order to make any necessary changes.

This measure changes the tax rate at HRS § 245-3(a)(13), the paragraph which currently taxes large cigars, and under this measure would tax premium cigars. However, the Department is unclear whether the amendment is meant to impose a tax per cigar or a percentage tax on the wholesale rate of the cigar. The Department recommends amending this paragraph for clarity.

The Department also recommends that lines 7 and 8 of page 2 of this bill be amended by adding the italicized portion as follows: "...wholesaling for \$2 or more *per cigar* ..."

Thank you for the opportunity to provide comments.

**LATE**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**SENATE COMMITTEE ON WAYS AND MEANS**  
**SB0653, RELATING TO HEALTH**

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.**  
**Director of Health**

**January 29, 2013**  
**9:00AM, Room 211**

1 **Department's Position:** The Department of Health(DOH) opposes the new definition and exemption  
2 of premium cigars, the limited increase in the tax and the revised methodology from a percentage-of-  
3 price to a fixed dollar tax, however DOH appreciates the intent of this measure to curtail tobacco use  
4 among adolescents and young adults by increasing the tax on other tobacco products, but

5 **Fiscal Implications:** Potential revenue from the tax to the general fund.

6 **Purpose and Justification:** SB0653 proposes to replace the definition of large cigar with a new  
7 definition of premium cigar and alter the tax rate on other tobacco products and premium cigars.

8 Smoking and tobacco use are the leading cause of preventable death and disease in Hawaii,  
9 claiming 1,100 lives each year and creating \$336 million in annual health care costs directly attributable  
10 to smoking. Cigar smoking is addictive, and cigar smoke, like cigarette smoke, contains toxic and  
11 cancer-causing chemicals that are harmful to both smokers and nonsmokers. There is no safe tobacco  
12 product, and there is no safe level of exposure to tobacco smoke. Cigar smoking causes oral cavity  
13 cancers and cancers of the larynx, esophagus, and lung.

1           There are fewer federal regulations for cigars than there are for cigarettes and other tobacco  
2 products. This, as well as their lower taxes, is resulting in increased popularity and usage. While  
3 cigarette smoking is declining across the nation, total consumption of cigars has increased dramatically.  
4 Between 2006 and 2010, cigar consumption nationally increased by 123%. In Hawaii, current adult  
5 cigar used tripled from 3.2% in 2006 to 10.8% in 2010.

6           The Department of Health has reservations that redefining cigars would have the potential to  
7 create a loophole for little cigars and cigarillos. According to Campaign for Tobacco Free Kids, the  
8 proposed definition of premium cigar would not preclude manufacturers of non-premium cigars to assert  
9 that their products are covered by the exemption from taxation.

10           Because an increase in tobacco tax has been proven to result in decreased consumption by adult  
11 and youth smokers, the Department of Health does support an increase in taxing other tobacco products.  
12 However, an increase from 70% to 85% still would not provide tax parity, nor would adjusting the  
13 methodology of imposing a tax set as a percentage of the products value to a fixed-dollar rate. Ideally,  
14 other tobacco products should be taxed at the same amount as cigarettes.

15           Thank you for the opportunity to comment.

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**Cc:** [copd.hawaii@yahoo.com](mailto:copd.hawaii@yahoo.com)  
**Subject:** Submitted testimony for SB653 on Jan 29, 2013 09:00AM  
**Date:** Monday, January 28, 2013 3:16:07 PM

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SB653

Submitted on: 1/28/2013

Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Chang	Hawaii COPD Coalition	Support	No

Comments: Raising Taxes on ALL Other Tobacco Products, WITHOUT SPECIAL CARVE OUTS is Good; exempting any tobacco product sets a very bad precedent.

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**LATE**

To: The Honorable David Y. Ige, Chair, Committee on Ways and Means  
The Honorable Michelle N.Kidani., Vice Chair, Committee on Ways and Means  
Members, Senate Committee on Ways and Means  
From: Jessica Yamauchi, Executive Director  
Date: January 29, 2013  
Hrg: Senate Committee on Ways and Means; Tues., January 29, 2013 at 9:00 a.m. in Rm 211  
Re: **Opposition to SB 653, Relating to Health**

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Thank you for the opportunity to offer testimony in opposition of SB 653 which repeals the definition of large cigars and adds a new definition of a premium cigar.

The Coalition for a Tobacco Free Hawaii (Coalition) is an independent organization in Hawaii working to reduce tobacco use through education, policy and advocacy. Our organization is a small nonprofit organization of over 100 member organizations and 2,000 advocates that works to create a healthy Hawaii through comprehensive tobacco prevention and control efforts. The Coalition also supports the public through its Smoke-Free Homes Initiative, designed to create smoke-free apartments and condos through voluntary policy adoption.

A tobacco product is still a tobacco product, weather it is organic or hand-constructed or made for adult consumers. Cigar smoking is addictive and cigar smoke, similar to cigarette smoke, contains toxic and cancer-causing chemicals that are harmful. The effects of nicotine and hazards of second-hand smoke remain the same.

Although cigarette smoking is declining across the nation, cigar smoking has been increasing. According to the Department of Health, adult cigar use has tripled from 3.2% in 2006 to 10.8% in 2010.

Additionally, the Coalition is concerned about the potential loophole that could be created by redefining premium cigars. For this reason, the Coalition strongly opposes changing the definition to accommodate premium cigars.

While we appreciate the intent to raise taxes on other tobacco products, besides cigarettes and small cigars, for the purpose of curtailing tobacco use among adolescents and young adults, the recommended level is still not in line with our current state cigarette tax. According to Tobacco-Free Kids, the taxes on other tobacco products needs to be 106% of the wholesale price in order to achieve tax parity.

Thank you for the opportunity to testify on this matter.

A handwritten signature in black ink that reads 'Jessica Yamauchi' in a cursive script.

Jessica Yamauchi, M.A.  
Executive Director



**LATE**

American Cancer Society  
Cancer Action Network  
2370 Nuʻuanu Avenue  
Honolulu, Hawaiʻi 96817  
808.432.9149  
[www.acscan.org](http://www.acscan.org)

Senate Committee on Ways and Means  
Senator David Ige, Chair  
Senator Michelle Kidani, Vice Chair

Hearing: January 29, 2013; 9:00 a.m.

### **SB 653 – Relating to Health**

Cory Chun, Government Relations Director – Hawaii Pacific  
American Cancer Society Cancer Action Network

Thank you for the opportunity to provide testimony in opposition of SB 653, which repeals the definition of large cigars, establishes a new definition for premium cigars, increases the tax on other tobacco products except for premium cigars, and reduces the tax on premium cigars.

The American Cancer Society Cancer Action Network (ACS CAN) is the nation's leading cancer advocacy organization. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

Cigars, regardless of how the tobacco is grown or processed, are not a safer alternative to cigarettes. Cigars contain the same cancer-causing substances as cigarettes and other tobacco products and contain more tobacco due to its size. Because cigars contain more tobacco than cigarettes, and because they often burn for much longer, they give off greater amounts of secondhand smoke. The use of tobacco in any form may also induce nicotine dependence and harm health.

While this measure tries to provide a competitive advantage for locally grown and produced tobacco, ACS CAN cannot support reducing taxes for *any* tobacco product. Reducing the taxes on “premium” cigars while raising the taxes on other tobacco products, including little cigars, also has a very high potential to lower the price of certain cigars, making them more affordable and appealing to young people.

This measure also increases the tax on other tobacco products, excluding premium cigars, from 70% to 85% of the wholesale price. While ACS CAN generally supports the increase of other tobacco products, the committee should note that it

would not create tax parity with the cigarette tax. The committee should also note that cigars are *already* taxed at a lower rate of 50% of the wholesale price compared with other tobacco products. This new proposal is an even further reduction of cigar taxes.

Like all other tobacco products, cigars should be subject to taxation and manufacturing and marketing rules to reduce the deadly and costly burden of tobacco use. Cigars, whether large, small, or premium, should be taxed at rates equivalent to cigarettes.

Thank you for the opportunity to provide testimony on this issue.



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**Date:** Tuesday, January 29, 2013 2:14:31 PM

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SB653

Submitted on: 1/29/2013

Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Chong	Individual	Support	No

Comments: I am in support of this legislation as it "evens" the playing field for local tobacconists and will eventually increase tax revenue by stimulating the tax base and keeping Hawaii dollars IN Hawaii.

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Bronson Kekūpa‘a Silva

1811 East West Rd.  
Honolulu, HI 96848  
(202) 709-9611  
brksilva@gmail.comCommittee on Ways and Means  
Tuesday, January 28, 2013

Testimony of Bronson Kekūpa‘a Silva in support of SB 653

Aloha Mr. Chairman and Members of the Committee on Ways and Means:

My name is Bronson Kekūpa‘a Silva. I am a voter and resident of Hawai‘i. I truly appreciate the opportunity to address you today as a fellow constituent. I am strongly in favor of Senate Bill 653.

Unlike “large cigar[s]”, which are currently defined under HRS § 245-1, “premium cigar[s]” are a completely handmade product made entirely of natural tobacco leaves. The process of growing, pruning, curing, fermenting, sorting, and rolling natural tobacco leaves is a very skilled handcraft. Additionally, unlike cigarettes and machine-made cigars, premium cigars do not use artificial flavors or additives. It is my belief that the definition of “large cigar”, currently provided under Section 245-1 of the Hawaii Revised Statutes, does not properly define and factor the unique attributes of premium cigars. I support the addition of a new definition of “premium cigar” and the deletion of the definition of “large cigar” under HRS § 245-1 as stated in SB 653.

The State of Hawaii as a whole is moving towards supporting local agriculture and businesses in the hope of fostering a stronger independent local economy. Nevertheless, not all local businesses benefit from this trend. Hawaii’s tobacco shops and premium cigar manufacturer currently face very steep taxes on their tobacco products. In addition to taxes provided by law, Section 245-3 of the Hawaii Revised Statutes imposes an excise tax to 50% of the wholesale price of each cigar. Tourists and local residents who consume premium cigars do recognize the steep prices of premium cigars in Hawai‘i. Tourists purchase competitively priced imported cigars over locally-grown premium cigars. Local Hawai‘i residents often purchase cigars from competitively priced online wholesalers instead of local tobacco shops. I support the purpose of SB 653 in addressing the clear disadvantage that Hawaii’s premium cigar industry currently faces by changing the tax rate on sales of tobacco products and premium cigars under HRS § 245-3.

Thank you very much for the opportunity to testify in support of Senate Bill 653. Please let me know if you have any questions.

Mahalo,

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Bronson Kekūpa‘a Silva

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Subject:** Submitted testimony for SB653 on Jan 29, 2013 09:00AM  
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SB653

Submitted on: 1/28/2013

Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Damien Kahalelio	Individual	Oppose	No

Comments: Stop increasing taxes on cigars in Hawaii. I support a tax cap of \$.50 per cigar to allow local businesses to compete with on-line cigar merchants.

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SB653

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Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Alvarez	Individual	Oppose	No

Comments:

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SB653

Submitted on: 1/28/2013

Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas sneed	Individual	Support	No

Comments:

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**LATE**

Hi,

I am in support of SB653.

I am definitely in favor of reducing the tax on premium cigars and capping them at \$0.50 per cigar. I buy and smoke a lot of cigars. Right now, I buy a few from local stores, but my big purchases are online through retailers that do not have prohibitive cigar taxes. I am able to pay a lower cost per cigar including shipping. If SB653 were passed then more of my dollars would go to local retailers and keep the money in the state. Thank you.

Jarrett

Re: SB 653 Definition of premium cigar and tax cap!

As a resident of Hawaii I understand the difficult financial situation that exists. We all should do our part to help close the budget gap, however, the premium cigar industry has already contributed much more than its fair share and the current tax rate is disproportionate to other businesses in Hawaii:

- In 2009, President Obama signed into law raising the Federal Tax on cigars by 700% (.05cents per cigar to .43 cents per cigar) At that time the State of Hawaii's share of revenues increased as the additional Federal Tax is included into the cost of goods and the OTP tax is based upon the cost of goods.
- Just a few years ago in 2009 the State of HAWAII increased its cigar tax from 40% to 50% representing a 25% increase in this tax.
- Our current tax rate on premium cigars of 50% just exacerbates the problem of lost local sales to mainland internet and catalog retailers. Consumers will shop for the lowest price on a product, regardless of the product - including cigars. Already, the majority of consumer cigar sales in the United States are Internet and mail-order business-based. Our current tax rate has only driven business out of the state and to mainland mail order and Internet-based retailers. Not only has the state lost potential OTP tax revenues, it also loses GE excise taxes, business income taxes, and other related taxes paid by the small business owner. Even though this is anecdotal I would estimate over 90% of cigars enjoyed in Hawaii are bought via mail order in order to circumvent our tax. I am very tuned into the industry here with both retailers and consumers. Virtually all the cigar enthusiasts I know buy a few single cigars locally but their larger purchases are mail order.
- I am in absolute support of SB 653 to have flat cigar tax cap on large cigars that would allow Hawaii retailers to be competitive with mainland internet and catalog retailers. A .50 cent tax cap per cigar is a fair number that would make Hawaii retailers competitive. For example, Rhode Island has a high tax but caps each cigar at \$.50 cents. This cap has served to increase tax revenues in Rhode Island as cigars are more competitively priced with online sellers. The recent increases New York made (75%) to their cigar tax has decimated the industry so much so that they are now considering a cap per cigar. Other states that have very high taxes like Washington State and Oregon have also implemented caps that have rejuvenated the industry and increased state tax revenues. Washington tax revenue from large cigar sales nearly tripled between 2007-2010. Having a cap would be a win-win situation for the retailers, the consumers, and for the state in increased tax revenue.

Sincerely,

Jon Fia  
808 672 6665

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SB653

Submitted on: 1/28/2013

Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Michael	Individual	Support	No

Comments: I am in support of a cap of .50cents on the sale of premium cigars in Hawaii.

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SB653

Submitted on: 1/28/2013

Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Raymond Wong	Individual	Support	No

Comments: Simplifying and reducing the taxation will bring more sales to local retailers that are now being lost to national on-line sales sites. Local tax revenue should actually increase.

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SB653

Submitted on: 1/28/2013

Testimony for WAM on Jan 29, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Samuel Adams	Individual	Support	No

Comments:

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## Petition for Support of a Tax Cap, or Flat Rate Tax on Large and Small Cigars

Dear Hawai'i Legislators:

We encourage you to place a tax cap, or flat rate tax of 50 cents on large cigars and 16 cents on small cigars in order to:

- Protect businesses and jobs that support the sale of not only locally grown cigars but also premium, handmade cigars. The current 50 percent unlimited tax negatively impacts our economy.
- Create fairness and help Hawai'i cigar retailers who pay their taxes, compete with mail-order businesses that sell cigars within Hawai'i without paying taxes and whose customers do not file usage taxes.
- Protect a local agricultural industry that pays higher tobacco taxes as a result of higher production costs.
- Support and protect tax revenue generated from the sale of large cigars in Hawai'i.

Respectfully Submitted,

Signature:  Printed Name: Sue Okada

Business Name (if applicable): \_\_\_\_\_

Street Address: 3133 Jerves Street City: Lihue State: HI

Zip: 96766 Telephone: 808 245 8257 Email Address: sueann@hawaii.edu

Add personal comments here, or attach additional testimony:

*Please leave this petition with retailer for collection, or fax to: 808-822-9731*

For More Information on the Hawaii Cigar Association please visit

**hawaiicigarassociation.org**

**LATE**



**Petition for Support of a Tax Cap,  
or Flat Rate Tax on Large and Small Cigars**

Dear Hawai'i Legislators:

We encourage you to place a tax cap, or flat rate tax of 50 cents on large cigars and 16 cents on small cigars in order to:

- Protect businesses and jobs that support the sale of not only locally grown cigars but also premium, handmade cigars. The current 50 percent unlimited tax negatively impacts our economy.
- Create fairness and help Hawai'i cigar retailers who pay their taxes, compete with mail-order businesses that sell cigars within Hawai'i without paying taxes and whose customers do not file usage taxes.
- Protect a local agricultural industry that pays higher tobacco taxes as a result of higher production costs.
- Support and protect tax revenue generated from the sale of large cigars in Hawai'i.

Respectfully Submitted,

Signature:  Printed Name: Steven Nakata

Business Name (if applicable): \_\_\_\_\_

Street Address: 3886 Hunakai Street City: Lihue State: HI

Zip: 96766 Telephone: 808-245-8221 Email Address: nakatas@hawaii.edu

Add personal comments here, or attach additional testimony:

*Please leave this petition with retailer for collection, or fax to: 808-822-9731*

For More Information on the Hawaii Cigar Association please visit

**[hawaiicigarassociation.org](http://hawaiicigarassociation.org)**