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STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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DIRECTOR

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DEPUTY DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-SEVENTH
REGULAR SESSION OF 2014

FEBRUARY 12, 2014
2:10 PM

TESTIMONY IN OPPOSITION TO H. B. 2108, RELATING TO GIFT CARDS.

TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,
AND TO THE HONORABLE DEREK S. K. KAWAKAMI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify in opposition to H. B. 2108, Relating to Gift Cards. My name is Bruce B. Kim and I am the Executive Director of OCP.

H. B. 2108 would add a new chapter to the Hawaii Revised Statutes ("HRS") regulating gift cards, enforced by OCP, characterize a gift card as value held in trust for the beneficiary of the card, make the value of the cards recoverable in a bankruptcy, require the submission of annual reports to the OCP by gift card issuers, and empower

the OCP to adopt Chapter 91, HRS administrative rules.

This legislation would conflict with the existing HRS § 481B-13, Gift certificates, which OCP already enforces, and which already includes gift cards. HRS § 481B-13 has been a part of Chap. 481B since 1992. OCP has been very successful over the years in obtaining restitution for consumers stemming from violations of § 481B-13's gift card provisions. Moreover this proposed legislation does not repeal HRS § 481B-13, which would raise the question of which law should be used for enforcement purposes in the event of a violation, and arbitrarily creates disparate treatment depending on whether the merchant issued a paper gift certificate or a gift card.

OCP's opposition to this bill is premised not only on the conflict with the existing gift certificate statute, but also due to the cost and operational difficulties OCP would encounter in accepting, filing, and processing annual reports from gift card issuers. Moreover, consumers buying gift cards typically do not buy them for their own use and may not know who the ultimate recipient of the gift card will be when the gift card is purchased. As such, it would be extremely difficult for the issuer to know who the beneficiary of the card would be at the time of purchase.

Under the current statute (HRS § 481B-13), OCP can and has compelled gift card issuers to fulfill the obligations they have incurred by issuing gift cards or certificates, even in bankruptcy. If consumers have encountered issues with taking advantages of the benefits of gift cards, OCP welcomes complaint referrals and will investigate said complaints and prosecute them to the extent that the law allows.

Testimony on H. B. 2108
February 12, 2014
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Thank you for the opportunity to submit testimony in opposition to H. B. 2108. I would be happy to answer any questions members of the committee may have.



Executive Officers:
Stanley Brown, ConAgra Foods - Chairperson
John Schilf, RSM Hawaii - Vice Chair
Derek Kurisu, KTA Superstores - Treasurer
Lisa DeCoito, Aloha Petroleum - Secretary
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
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Telephone : 808-533-1292

TO:
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Angus McKelvey, Chair
Rep. Derek Kawakami, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 12, 2014
TIME: 2:10pm
PLACE: Conference Room 325

RE: HB 2108

Position: Opposition

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers and distributors of food and beverage related products in the State of Hawaii.

This bill would create a huge additional administrative burden for sellers of gift cards. Some businesses, especially smaller businesses, may not have the resources to meet these additional demands. This could mean that certain businesses are simply not able to issue gift cards if this legislation is passed. Potentially preventing businesses from providing this product to their customer does not serve the business or the customer.

Here in Hawaii we have adequate laws regarding redemption and expiration of gift cards; these regulations exist to protect beneficiaries of gift cards. The additional rules proposed in this bill are not necessary. Other states do not have this type of regulation. We believe that placing these kinds of unnecessary burdens on businesses is not in anyone's best interest, especially given that we already pay such high prices for food and many other products here in Hawaii.

The end result is that this would create additional expense for the issuer of a gift card; it costs time and creates an additional bookkeeping obligation, and this additional expense will ultimately be borne by the consumers.

Please vote no on this measure.

Thank you for the opportunity to testify.

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Wednesday, February 12, 2014
2:10 p.m.

TESTIMONY ON HOUSE BILL NO. 2108, RELATING TO GIFT CARDS.

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Neil Fujitani and I thank you for the opportunity to present testimony in support on House Bill No. 2108, Relating to Gift Cards. House Bill No. 2108 requires an issuer of gift cards to hold any moneys from the sale of gift cards in trust for the protection of the consuming public.

The intent of this measure is to prevent fly-by-night businesses from, basically, stealing unsuspecting consumers' income. Although House Bill No. 2108 proposes to require an issuer of a gift card to maintain a separate trust account for the funds paid to the issuer for the future purchase or delivery of goods or services, by limiting the gift card to any electronic card, the measure does not go far enough to protect the consumer. In order to prevent harm to the consumer, the definition of gift card should be expanded to also include any and all other types of vouchers used to exchange value.

Thank you for the opportunity to provide testimony in support.

LATE



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Consumer Protection and Commerce
Wednesday, February 12, 2014 at 2:10 P.M.
Conference Room 325, State Capitol**

RE: HOUSE BILL 2108 RELATING TO GIFT CARDS

Chair McKelvey, and Vice Chair Kawakami, and Members of the Committee:

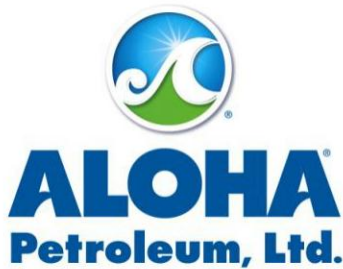
The Chamber **opposes** HB 2108 Relating to Gift Cards.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

This bill would impose a heavy burden for businesses selling gift cards. It may be difficult for some businesses, particularly smaller businesses, to have the proper resources to satisfy these requirements. This legislation hurts businesses as some will be unable to offer this product to customers.

The current laws regarding redemption and expiration of gift cards are adequate to service both businesses and customers of Hawaii. This bill imposes unnecessary regulations on businesses and it does not serve anyone’s best interest, considering that we already pay such high prices for food and many other products in Hawaii.

Thank you for the opportunity to testify on this matter.



TO: HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Representative Angus McKelvey, Chair
Representative Derek Kawakami, Vice Chair

FROM: Richard Parry
President and Chief Executive Officer of Aloha Petroleum, Ltd.

HEARING

DATE: Wednesday, February 12, 2014
TIME: 2:10 p.m.
PLACE: State Capitol, Conference Room 325

RE: Testimony in Opposition to H.B. No. 2108 Relating to Gift Cards

Chair McKelvey, Vice Chair Kawakami, and Members of the House Committee on Commerce and Consumer Protection, I am Richard Parry, President and Chief Executive Officer of Aloha Petroleum, Ltd. ("Aloha Petroleum").

Aloha Petroleum opposes H.B. No. 2108, which seeks to require the issuer of gift cards to maintain personal information on the beneficiaries of gift cards and to further hold in a trust account monies received for the payment of gift cards.

Requiring businesses to maintain personal information on the beneficiaries of gift cards, track the status of those gift cards, and prepare an annual report would be onerous to administer and significantly increase operational costs for local businesses. As the name implies, gift cards are often purchased as gifts for other individuals. Often times, the ultimate recipient is unknown at the time the gift card is purchased, and sometimes the gift cards are "re-gifted" to others. Therefore, it would be extremely difficult, if not impossible, to identify and track all beneficiaries entitled to receive the benefits of a gift card.

This bill also requires that all funds received for the payment of gift cards be held by the card issuer in a separate trust account. Many times, gift cards are not redeemed by the beneficiary for several months, if not years. Simply put, there would be little to no economic benefit for companies to sell gift cards if the funds could not be used immediately, but had to be held in trust indefinitely, presumably until the cards are redeemed. For Aloha Petroleum, it would not be economically feasible to continue to sell gift cards if this legislation passed into law. By preventing businesses from

Testimony of
Aloha Petroleum, Ltd.



H.B. No. 2108
Hearing Date:
Feb. 12, 2014

providing this product to their customers, it would not serve either the businesses or their customers.

Please vote no on this measure.

Thank you for the opportunity to testify in opposition to HB 2108.

LATE

kawakami3-Benigno

From: Lim Victor (US Partners) <victor.lim@partners.mcd.com>
Sent: Tuesday, February 11, 2014 4:09 PM
To: CPCtestimony
Cc: Slovin & Ito; Levy Harlan; Kaneko Veronica; Okazaki Melanie; Roger Morey
Subject: HB2108 Relating to Gift Cards

Dear Chair Angus L.K. McKelvey and Members of the House Committee on Consumer Protection and Commerce,

I am writing in Opposition to HB 2108 relating to Gift Cards.

Although I applaud the intent of the bill to try and protect the consumer, the consequences of this bill with it's language will actually do the opposite especially those of us that are part of a national brand. This bill will prevent us from offering Gift Cards at no cost and no fees to the consumer because having to have separate accounting for just cards sold in Hawaii will be very expensive and cumbersome.

Thank you for giving me the opportunity to share my views.

Sincerely,

Victor Lim