

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: anne.e.lopez@hawaii.gov
Subject: Submitted testimony for SB2066 on Feb 7, 2014 09:00AM
Date: Wednesday, February 05, 2014 12:10:40 PM
Attachments: [SB2066_ATG_02-07-14_HTH_CPN.pdf](#)

SB2066

Submitted on: 2/5/2014

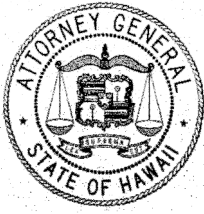
Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Lopez	Department of the Attorney General	Oppose	Yes

Comments: Earl Hoke, Deputy Attorney General, will be present at the hearing on SB2066.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

S.B. NO. 2066, RELATING TO HEALTH.

BEFORE THE:

SENATE COMMITTEES ON HEALTH AND ON
COMMERCE AND CONSUMER PROTECTION

DATE: Friday, February 07, 2014

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): David M. Louie, Attorney General, or
Earl Hoke, Deputy Attorney General

Chairs Green and Baker and Members of the Committees:

The Department of the Attorney General opposes this bill because the title of this bill “RELATING TO HEALTH” conflicts with the constitutional requirements of article III, section 14, of the Hawaii Constitution.

While this bill is titled “RELATING TO HEALTH,” we note that this bill seeks solely to amend portions of the tax code with no apparent nexus between this legislation and health related matters. A close reading of this bill makes clear that the purpose of this bill is to provide a legislative vessel to increase the tax on tobacco products. As such, we are concerned that the substance of the bill is driven by fiscal concerns, which are subject areas more related to taxation, in general, rather than health. Further, the title of the bill fails to give proper notice to those who may be interested in knowing about and testifying on the issue of the taxation of tobacco products.

The Hawaii Constitution provides that each law shall embrace but one subject, which shall be expressed in its title. We note that, article III, section 14, of the Hawaii Constitution provides in relevant part that: “No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title.” The case law in this area, as articulated by the Hawaii Supreme Court, in Schwab v. Ariyoshi, 58 Haw. 25, 30 (1977), held that the purpose of requiring a single subject is,

“[F]irst, to prevent hodge-podge or logrolling legislation, second, to prevent surprise or fraud upon the Legislature by means of provisions in bills of which titles give no intimation; and third, to

apprise the people of proposed matters of legislation . . . To avoid improper influences which may result from intermixing in one and the same Act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.”

In summary, the title of the bill, “RELATED TO HEALTH” lacks sufficient notice of the tax ramifications of the bill and nexus to health related matters to satisfy the requirement that the title and subject of the bill have a proper relation to each other as required by article III, section 14, of the Hawaii Constitution.

As such, we recommend that this bill be held in Committee.

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SUBJECT: TOBACCO, Increase rate on tobacco products

BILL NUMBER: SB 2066

INTRODUCED BY: Green and Baker

BRIEF SUMMARY: Amends HRS 245-3 to increase the tax on tobacco products other than cigarettes and large cigars to ___% of the wholesale price sold by the wholesaler or dealer on and after July 1, 2015; provided that if the excise tax rate of 16 cents for each cigarette or little cigar increases on or after January 1, 2015, the excise tax rate equal to ___% of the wholesale price for each article or item of tobacco products, other than large cigars, shall automatically increase by the same percentage in the increase of the excise tax rate per cigarette or little cigar.

EFFECTIVE DATE: July 1, 2014

STAFF COMMENTS: Currently tobacco products, other than large cigars, are taxed at 70% of the wholesale price of the product. Beginning on January 1, 2015 tobacco products, other than large cigars, shall be taxed at ___% of the wholesale value.

Care should be exercised in attempting to generate additional revenues from specific excise taxes like the tobacco tax as it should be noted that Hawaii's tax rates on these products are among the highest in the nation. Not only would another rate increase reaffirm the perception that Hawaii is a tax hell, but it would probably have an effect on the patterns of consumption of taxed product. Such a hike will, no doubt, have an effect on behavioral responses and affect actual consumption of these products and it will probably drive consumers to find other sources for these products that would not incur the tax. Mail order and Internet sales are sources of product that could escape taxation as well as black market purchases made from the military reservations in Hawaii. So instead of seeing growing collections from higher tax rates, lawmakers may just find that collections will drop due to its effect to discourage consumption and send consumers to other markets. 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 consumption or shift it in ways that would avoid the tax. In fact, in the states of New Jersey and Maryland, lawmakers there counted on an increase in the cigarette tax 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 products for specific programs or services.

For this very reason, earmarking the tax for a specific project or program could actually backfire. For example, should cigarette consumption decline, the amount earmarked for the cancer center will also decline. What will the cancer research center then do if the resources are not sufficient to maintain operations? If it is the intent of the legislature to provide adequate revenue to Hawaii cancer research, a direct appropriation would be preferable.

SB 2066 - Continued

It should be noted that the hikes in the cigarette tax have begun to have an effect on collections not only locally but also nationally. For the first time in the continual drive to raise the tax on cigarettes, collections have fallen below their previous levels. For whatever reason, the rise in rate has jeopardized this source of revenue. If nothing else, lawmakers need to make up their minds whether or not they see this tax a source of revenue or a means by which deter consumption.

Digested 2/6/14

February 5, 2013

TO: Chair Josh Green and Members of the Senate Committee on Health
Chair Rosalyn Baker and Members of the Senate Committee on
Commerce and Consumer Protection

FROM: Cigar Association of America, Inc.
(William Goo)

RE: **SB 2066** - Relating to Health
Hearing Date: February 7, 2014
Time: 9:00 a.m.

My name is William Goo. I represent the Cigar Association of America, Inc. (CAA).

CAA opposes SB 2066. To the extent that this bill may be focused in part on the use of tobacco products by adolescents and young adults, it would impact users of products such as pipe or smokeless tobacco. These products are not typically favored nor used by adolescents and young adults in Hawaii. To the extent that the bill attempts to equalize the tax rate on such products with the tax rate on cigarettes, they are very different products. For example, pipe tobacco is not consumed in the same manner as cigarettes and cigarette consumers are not likely to substitute cigarettes for pipe tobacco. Increasing the tax on such products which is already among the highest in the nation would be devastating for those consumers who have responsibly chosen to use them.

Thank you for considering this testimony.

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: teresa.parsons@hawaii.edu
Subject: Submitted testimony for SB2066 on Feb 7, 2014 09:00AM
Date: Tuesday, February 04, 2014 10:51:23 PM

SB2066

Submitted on: 2/4/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

Comments: Senators, As a nurse, I support this bill to place an additional tax on cigars. Similar to other tobacco products, the burden to the Public Health is too high. Those who choose to consume tobacco products should underwrite the cost of their care when cancer occurs. Mahalo for allowing me to submit testimony in SUPPORT of this measure.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB2066 on Feb 7, 2014 09:00AM*
Date: Tuesday, February 04, 2014 2:12:46 PM

SB2066

Submitted on: 2/4/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: lynhowe1946@yahoo.com
Subject: *Submitted testimony for SB2066 on Feb 7, 2014 09:00AM*
Date: Wednesday, February 05, 2014 5:54:42 PM

SB2066

Submitted on: 2/5/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lyn Howe	Individual	Support	No

Comments:

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