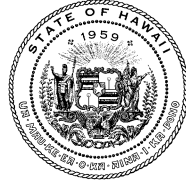


DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Wednesday, March 4, 2015
Time: 11:00 A.M.
Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 145, H.D. 1, Relating to Taxation

The Department of Taxation (Department) opposes H.B. 145, H.D. 1, and offers the following comments for the Committee's consideration.

H.B. 145, H.D. 1 creates a refundable income tax credit equal to an unspecified percentage of costs incurred for producing cigars in the State. This measure requires that the taxpayer have filed income tax returns in the State for the five consecutive years preceding the year in which the credit is claimed. Additionally, the measure allows all or a portion of the credit to be assigned to an assignee, and allows assignees to further assign all or a portion of the portion of the credit they have been assigned. H.D.1 has a defective effective date and applies to taxable years beginning after December 31, 2112.

First, the Department notes that this measure's requirement that a qualified producer have filed five consecutive years of income tax returns may be unconstitutional because it attempts to create a tax incentive that favors residents over non-residents. The Department defers to the Department of the Attorney General for final analysis on the constitutionality of the provision. However, the Department notes that, regardless of constitutionality, any person can, at any time, file five years' worth of back income tax returns, report zero income on those returns, and instantly meet the requirements of this provision. If the intent is to restrict the credit to persons who have been residents of Hawaii for five years prior to claiming the credit, this provision does not accomplish that.

Second, the Department notes that the provisions allowing for assignment and re-assignment of the tax credit would be administratively burdensome, be extremely difficult to enforce, and creates the potential for significant abuse. This provision essentially allows the

taxpayer to sell tax credits, and raises issues similar to those associated with the Qualified High Technology Business Investment Credit, which was very problematic and costly for the State. It is also unclear why this provision is necessary as the credit is refundable. The need to sell tax credits arises where the tax credit is nonrefundable and the taxpayer generating the credit does not and will not have a tax liability to use the credit against. Further, tax administration becomes difficult where the Department ultimately denies a credit claim and assignees have already claimed the credit on their respective tax returns.

Third, the Department notes that, as written, the assignment of this tax credit would be a taxable transaction and be subject to Federal income tax, State income tax and possibly Hawaii general excise tax.

Fourth, subsection (d) defines "net income tax liability" as net income tax liability reduced by all other credits allowed under this chapter. This provision is in direct conflict with section 235-91.5, Hawaii Revised Statutes, which expressly requires that refundable credits be applied before nonrefundable credits. The Department suggests the deletion of this definition.

Finally, the definition of "qualifying costs" is significantly overbroad. As the definition currently reads, a "qualifying cigar producer" would generate a credit on any costs incurred from the operation of the business including lease costs, payroll, fringe benefits, utility costs, etc. The definition would also allow a cigar producer to produce some cigars in the State to qualify for the credit, but generate a credit for all costs incurred in the State, even costs paid to an out-of-state contractor. The Department suggests tightening the definition to be more specific to prevent potential abuse.

Thank you for the opportunity to provide comments.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

H.B. NO. 145, H.D.1, RELATING TO TAXATION.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, March 4, 2015

TIME: 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): **WRITTEN TESTIMONY ONLY**

(For more information, contact Hugh R. Jones,
Supervising Deputy Attorney General at 586-1473.)

Chair Luke and Members of the Committee:

The Department of the Attorney General offers the following written comments on this bill.

This bill, if adopted into law, could be challenged as violating the Equal Protection or Privileges and Immunities Clauses of the United States Constitution or both.

This bill establishes a refundable income tax credit for qualified cigar producers. A qualified cigar producer is a taxpayer who “produces, in the State, cigars for sale.” See H.B. No. 145, H.D. 1, subsection (h), page 4, lines 8-10. The credit is based on the amount of the qualifying costs incurred during the taxable year. The qualifying costs are costs “incurred by a qualified cigar producer pursuant to the operation of a business that produces, in the State, cigars for sale.” See H.B. No. 145, H.D.1, subsection (h), page 4, lines 11-13. Moreover, the “taxpayer shall have filed income tax returns in this State for a period of not less than five consecutive years immediately prior to making a claim for credit under this section.” See H.B. No. 145, H.D.1, subsection (f), page 3, lines 16-19.

A court may conclude that this bill is unconstitutional because it does not expressly articulate a legitimate government interest served by the legislation sufficient to withstand constitutional challenge based on the Equal Protection or Privileges and Immunities Clauses of the United States Constitution or both.

The Equal Protection Clause prohibits discrimination against a nonresident based solely on residency. See, e.g., Williams v. Vermont, 472 U.S. 14 (1985) (use tax credit for sales taxes

paid on cars purchased in other states invalidated because it was only available to Vermont residents). The Hawaii Supreme Court has recognized that the Equal Protection Clause applies where a tax operates unequally on persons or property of the same class. In re Swann, 7 Haw. App. 390, 776 P.2d 395 (Haw. Ct. App. 1989).

Similarly, under the Privileges and Immunities Clause, a state may not impose higher taxes on nonresident individuals than it imposes on its own citizens.¹ However, a discriminatory tax could be sustained if legitimate reasons for the tax exist and the discrimination bears a substantial relation to those reasons. Lunding v. New York Tax App. Trib., 522 U.S. 287 (1998) (alimony deduction for residents only struck down as violating the Privileges and Immunities Clause).

This bill arguably violates the Equal Protection and Privileges or Immunities Clauses or both because it expressly favors residents over nonresidents.² To insulate this bill from possible constitutional challenge, we recommend either of two possible remedies: (1) that the bill be amended to provide that the exclusion is available to all taxpayers; or (2) that a legitimate government purpose substantially related to that purpose be articulated within the preamble of the bill.

¹The Privileges and Immunities Clause does not apply to corporations. Toomer v. Witsell, 334 U.S. 385 (1948).

²A few existing tax related statutes have residency requirements. To date, these statutes have not been subject to constitutional challenge.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

96813 Tel. 536-4587

Honolulu, Hawaii

SUBJECT: INCOME, Credit for qualified cigar producers

BILL NUMBER: HB 145, HD-1

INTRODUCED BY: House Committee on Consumer Protection and Commerce

EXECUTIVE SUMMARY: Provides a tax credit of an unspecified amount for qualified cigar producers. The credit is refundable, and it is also assignable. First, there is no reason for a credit to be assignable if it is refundable. Second, as a practical matter this credit is a subsidy to one special industry that would have to be paid for by the rest of us. Care should be taken before enacting a subsidy of this kind, otherwise state dollars, and not just the tobacco, will be going up in smoke!

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow qualified cigar producers to claim an income tax credit of _____% of the qualifying costs incurred during the taxable year.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified production costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rule. If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code of 1986, no tax credit shall be allowed for those costs for which the deduction is taken. The basis for eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed.

Permits a taxpayer eligible to claim a tax credit under this section to assign all or a portion of a tax credit under this section to any assignee; who may subsequently assign a tax credit or any portion of a tax credit assigned under this subsection to one or more assignees. A taxpayer may claim a portion of a tax credit and assign the remaining tax credit amount. A tax credit assignment made pursuant to this subsection shall be irrevocable and shall be made on a form prescribed by the department of taxation. A taxpayer claiming a tax credit under this section shall submit a copy of the completed assignment form to the department in the tax year in which the assignment is made and shall attach a copy of the form to the tax return on which the tax credit is claimed.

Tax credits in excess of a taxpayer's income tax liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

Requires all claims, including any amended claims, for tax credits to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

Stipulates that to qualify for this tax credit, a taxpayer shall have filed income tax returns in this state for a period of not less than five consecutive years immediately prior to making a claim for credit.

Requires the director of taxation to prepare the necessary forms to claim a credit and may also require the taxpayer to furnish information to ascertain the validity of the claim for credit.

Defines “qualifying cost” as costs incurred by a qualified cigar producer pursuant to the operation of a business that produces, in the state, cigars for sale. Further defines “cigar” and “qualifying cigar producer” for purposes of the measure.

STAFF COMMENTS: The proposed measure would grant a tax credit to local cigar makers who produce cigars in the state as a way to allow them to compete with mail-order and out-of-state suppliers. While the measure allows taxpayers to claim the credit regardless of a taxpayer’s need for tax relief, the proposed credit is nothing more than a partial subsidy by the state to local cigar makers. This type of targeted tax incentive creates winners and losers, the winners being those in the favored industry who receive the incentives and the losers being the rest of us who have to pay for them.

One interesting feature of this bill is that it enables a taxpayer to assign the credit to someone else. Typically this feature can be useful for nonrefundable credits, where it would allow the taxpayer to sell the credits at a discount if it is unable to use the credits against its own liability. However, this feature makes no sense for a refundable credit, as this one is, because the taxpayer can get 100 cents on the dollar from the state and would have no motivation to sell them.

When judging targeted tax incentives, such as this one, we all should be mindful of these observations of the 2001-2003 Tax Review Commission:

Targeted tax incentives are generally only demonstrably good for those relatively few taxpayers that qualify for the benefits, and may not be demonstrably good for anyone else.

They are not supported by rules of sound tax policy. In the first instance, they decrease State revenue and add complexity to the tax system. They may also be unfair to other businesses. Almost all of the present incentives lack accountability, and therefore create something of a “black hole” in State fiscal responsibility. A targeted tax incentive does not appropriate hard earned and increasingly scarce revenues. Rather, it creates a tax benefit of unknown proportions against future revenues, before the revenues are collected and subjected to the legislative appropriation process.

Appropriations to favored businesses, or subsidies, are rarely enacted. Every public appropriation is publicly scrutinized. A tax incentive is a potential “black hole,” because it is a future benefit of unknown proportions, which is determined by the favored taxpayer’s interpretation of what the tax credit should be, and is claimed on a tax return which is confidential.

Digested 3/2/15



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

March 4, 2015

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 145 HD 1
RELATING TO TAXATION

Room 308
11:00 AM

Aloha Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,932 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFB supports HB 145 HD 1, which establishes a refundable income tax credit for qualified cigar producers.

The Hawaii cigar industry shows considerable promise and is a prime example of a value added niche-market product that can boost the local economy and Hawaii's profile. Creating an income tax credit on locally produced product would level the competitive playing field in terms of alternatives that are purchased online and shipped into the state, without the benefit of taxation on those products. Clearly the legislature would see fit to support the locally grown product over the imported variety..

Please support this growing industry by passing HB 145 HD 1.

Thank you for the opportunity to testify on this measure.



Executive Officers:

John Schilf, RSM Hawaii - Chairperson
Derek Kurisu, KTA Superstores - Vice Chair
Lisa DeCoito, Aloha Petroleum - Treasurer
John Erickson, Frito-Lay - Secretary
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

TO:
COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: March 4, 2015
TIME: 11am
PLACE: Conference Room 308

RE: HB145

Position: Support

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.

We support this measure. A taxation rate for large cigars of the lesser of: fifty cents for each large cigar; or fifty per cent of the wholesale price is a fair and reasonable rate for these products.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 2:05 PM
To: FINTestimony
Cc: venetadarkstar@yahoo.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph S Wanczyk	Individual	Support	No

Comments: Aloha I support this measure because because if it doesn't pass it will effect my job. I work for the Kauai Cigar company. We are a small local cigar company. We grow the tobacco locally, and produce a fine product generally used for celebration. Being a s mall company this bill could really hurt our company. Sorry I could not attach a file, I hope this is enough. Please let this bill pass. Mahalo. Yours truly, Joseph S. Wanczyk

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 OPPOSING HB 145, HD1 “Relating To Taxation”

The American Heart Association **OPPOSES** HB 145, HD1 “Relating to Taxation.”

Cigar use is a significant public health concern. Cigars—just like cigarettes and other tobacco products—are not safe. Cigar smoking exposes users to toxic chemicals; causes cancer of the oral cavity, larynx, esophagus, and lung; and increases risk for heart disease, chronic obstructive pulmonary disease, and aortic aneurysm. Exposure to secondhand cigar smoke also places nonsmokers at risk.

While cigarette smoking has been gradually declining in the United States, cigar smoking has recently increased dramatically. More importantly, cigar smoking is not limited to adults; it is the second most common form of tobacco use among youth. Among high school students, while cigarette smoking declined between 2005 and 2011, cigar use did not change statistically. The most recent data available show that 13.1 percent of high school students currently smoke cigars (17.8% among boys; 8.0% among girls). Cigars also appeal to youth because they, unlike cigarettes, can be purchased individually.

Cigars are Under Taxed & Less Restricted. The federal government and almost all of the states compound these problems by sharply under-taxing cigars compared to cigarettes, often making smaller cigars a less-expensive alternative to cigarettes. Moreover, many laws and restrictions pertaining to cigarettes – such as federal laws banning flavored cigarettes, blocking illegal Internet sales and restricting cigarette marketing – do not apply to cigars.

While HB145, HD1 does not propose to reduce or cap cigar taxes, it potentially could have the same effect. There is nothing to keep cigar producers who benefit from an income tax credit on their business from passing on those savings in the form of reduced pricing for their products. For the reasons outlined above, that would be counter-productive to improving health in Hawaii and reducing the many negative effects that tobacco use has to health in our state. **Legislators’ priority, as outlined in Article IX of the State Constitution, should be to “provide for the protection and promotion of the public health.”**

Because of these reasons, the AHA strongly opposes suggestions that cigar taxes be capped or reduced. If anything, cigar taxes should be increased to create parity with cigarette taxes in Hawaii.

The American Heart Association urges legislators to oppose HB 145, HD1.

Respectfully submitted,

Donald B. Weisman

*“Building healthier lives,
free of cardiovascular
diseases and stroke.”*

life is why™ es por la vida™ 全为生命™

Please remember the American Heart Association in your will.





American Heart Association | American Stroke Association

Hawaii Government Relations/Community Relations Director

life is why™



*“Building healthier lives,
free of cardiovascular
diseases and stroke.”*

life is why™ es por la vida™ 全为生命™

Please remember the American Heart Association in your will.



March 3, 2015

TO: Chair Sylvia Luke and Members of the House Committee on Finance

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

RE: **HB 145, HD1**- Relating to Taxation
Hearing Date: March 4, 2015
Time: 11:00 am

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

CAA **opposes** HB145, HD1 which provides a tax credit to a Hawaii qualified cigar producer. This measure as drafted would only serve to benefit a local producer and may have constitutional implications relating to violations of the Commerce Clause.

Thank you for considering this testimony.

hawaiiCigar

ASSOCIATION

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Wednesday, March 4, 2015
Time: 11:00 a.m.
Place: Conference Room 308, State Capitol

From: Les Drent
for the Hawaii Cigar Association

Re: HB145 HD1 Relating to Taxation

Dear Representative Luke and Members of the House Committee on Finance,

The Hawaii Cigar Association is comprised of a broad coalition of consumers, manufacturers, wholesalers, and retailers of fine cigars, and we **SUPPORT** the tax credit language for qualified cigar producers in Hawaii outlined in HB145 HD1.

A proposed tax credit could offset the disparity that exists in HRS section 245-1. In 2013 Hawaii Senate agreed that premium cigar sellers whose products are intended for adult consumers (including cigars produced with Hawaii grown tobacco) are unfairly burdened by the current percentage tax. In 2014 the Hawaii House agreed that large cigars are unfairly burdened by the current percentage tax. Both sides acknowledged that this tax places Hawaii cigar retailers at a disadvantage when competing with those selling cheaper cigars through mail order. The Legislature further acknowledged that few if any consumers filed usage taxes for mail order purchases, creating a loss of revenue for the state.

Island retailers estimate that 90 percent of all mail order cigars bought in Hawaii are purchased from unlicensed sources. If you doubt the impact this has on tax revenue, consider that the state collected nearly \$1.6 million in large cigar taxes in 2011, yet there were only sixty-nine filings (fewer than six a month on average) for that year from unlicensed sources.

Under SB401, a flat rate tax of \$.50 would be applied to large cigars. This would incentivize Hawai'i residents to purchase competitively priced premium cigars from legitimate in-state sources, generating an additional \$1 million in tax revenue. (That estimate is based on the \$2 average wholesale price of a premium cigar).

Under the current tax regime, and after subtracting the Federal tax of \$.40 per cigar, a tax of \$.80 per premium cigar is assessed by dealers and wholesalers, bringing the average wholesale price to \$2.80, or \$5.60 on average when retailed. This can seriously distort the retail price of a premium cigar sold in Hawai'i. For example, the Kauai Cigar Company is taxed between \$1.60 to \$2 on cigars costing \$4 or more under the current 50 percent ad valorem. Once that cigar is keystoned for retail, it costs \$10 to \$12. Why would any Hawai'i consumer purchase cigars at these prices when they can buy a similar cigar through mail order

For More Information on the Hawaii Cigar Association please visit

hawaiicigarassociation.org

at half the price?

If you doubt the potential windfall in added revenue that a flat tax on large cigars would provide, consider the cigarette tax stamp implemented in 2000 as an analogy. In that case tobacco tax revenue jumped from \$42 million in 2000 to more than \$66 million in 2002. This was the direct result of a weakened black market and fewer sales of untaxed cigarettes, along with enforcement by the Attorney General's Tobacco Tax Enforcement Unit. There is good reason to believe that a similar jump in revenue would occur with large cigars once the disparity created by the ad valorem 50 percent tax is resolved.

According to a 2012 United States Department of Commerce Economic & Statistics Administration Report, mail order and electronic sales have grown at the staggering rate of 14 percent per year on average over the past decade. Empirical data show that states such as Oregon, Rhode Island, Washington, Wisconsin and Iowa that have high tobacco taxes but that also cap large cigar taxes at \$.50 have generated significantly higher tax revenue—the direct result of relieving a competitive disadvantage afflicting local business.

In 2013 the Arkansas state legislature joined Connecticut, Iowa, Oregon, Washington, Rhode Island, Michigan, Wisconsin and Vermont in recognizing that a tax cap or flat rate tax on cigars encourages more in-state sales, leading ultimately to higher tax revenue. In my humble opinion, Hawai'i should be next.

On behalf of all those in our state who support the large cigar industry, we thank you for your effort to bring parity to all under Hawaii law.

Sincerely,

A handwritten signature in black ink, appearing to read "Les Drent". The signature is written in a cursive, flowing style.

Les Drent
for the Hawaii Cigar Association



CAP THE CIGAR TAX!

Create Fairness and Equal Opportunity for Hawaii Businesses

Tax Caps in other US States with high % Cigar Taxes

Arkansas
(68% mfr. price, 50¢ cap)

Connecticut
(50% wholesale, 50¢ cap)

Florida
(no tax on cigars)

Iowa
(50% wholesale, 50¢ cap)

Michigan
(32% wholesale, 50¢ cap)

New Hampshire
(No tax on premium cigars)

Oregon
(65% wholesale price, 50¢ cap)

Pennsylvania
(no tax on cigars)

Rhode Island
(80% wholesale price, 50¢ cap)

Wisconsin
(71% mfr. price, 50¢ cap)

Washington
(95% taxable sales price, 75¢ cap)

US Government
(52.75% mfr. price 40.26¢ cap)

hawaiicigarassociation.org



To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Wednesday, March 4, 2015
Time: 11:00 a.m.
Place: Conference Room 308, State Capitol

From: Les Drent
for the Kauai Cigar Company

Re: HB145 HD1 Relating to Taxation

Dear Representative Luke and Members of the House Committee on Finance,

The Kauai Cigar Company, its employees, and industry partners are intrigued by the language contained in HB145 HD1, and would like to thank Hawaii lawmakers for their creative insight. We would **SUPPORT** a tax credit for qualified cigar producers in Hawaii, as it would help to level the playing field for this sector of the farming industry.

For years, our business has been paying much more than its fair share of taxes as a result of an extremely high cost of production here in the Islands. Because the tax rate is percentage based, our competitors are selling the same size cigars, but are able to charge less tax as a result of a much lower cost of goods. Furthermore, many of our competitors' cigars are made entirely by machine and sell at very low price points, thus driving the tax liability to a mere fraction of what Kauai Cigar Company must pay every month on its M19 returns.

Also impacting our farming business negatively is the loss of sales as a result of many Hawaii consumers purchasing lower priced mail order premium cigars from outside of Hawaii. We strongly believe that few, if any, of these consumers file usage tax returns on their out of State purchases. We lose, the Department of Revenue loses, and ultimately the people of Hawaii lose with the loss of tax collection.

Even under this unfair tax structure, no farm laborer is paid less than fifteen dollars per hour, and full time employees receive the benefit of full health care insurance, paid in full by the company. Every employee is covered by Worker's compensation insurance, and Temporary Disability Insurance. When you add all this together and tax the final product at 50% what you have are cigars that are priced between ten to twenty dollars by the time they hit store shelves. And at these prices, we would venture to guess that these cigars never reach the hands of a youth consumer!

For all these reasons listed, all of us at Kauai Cigar Company applaud each and every Hawaii Legislator that recognizes our hard work, and our right to be treated fairly under Hawaii tax code.

Sincerely,

Les Drent
Farmer/President

Kauai Cigar Company
6200 Kawaihau Road, Unit B, Kapaa, HI 96746 USA
Ph: 808-822-4495 Fax: 808-822-9731



To: The Honorable Sylvia Luke, Chair, Committee on Finance
The Honorable Scott Y. Nishimoto, Vice Chair, Committee on Finance
Members, House Committee on Finance
From: Jessica Yamauchi, Executive Director
Date: March 3, 2015
Hrg: House Committee on Finance; Wednesday, March 4, 2015 at 11:00 a.m. in Rm 308
Re: **Strong Opposition for HB 145 HD1, Relating to Taxation**

Thank you for the opportunity to offer testimony in *strong opposition* of HB 145 HD1 which establishes a refundable income tax credit for qualified cigar producers.

The Coalition for a Tobacco Free Hawaii (Coalition) is a program of the Hawaii Public Health Institute working to reduce tobacco use through education, policy and advocacy. Our program consists of over 100 member organizations and 2,000 advocates that work to create a healthy Hawaii through comprehensive tobacco prevention and control efforts.

Cigars are TOBACCO products.

Cigar smoking is addictive, and cigar smoke, similar to cigarette smoke, contains toxic and cancer-causing chemicals that are harmful to both smokers and nonsmokers. Cigar smoking causes oral cavity cancers (cancers of the lip, tongue, mouth and throat) and cancers of the larynx, esophagus and lung. There is no safe tobacco product and no safe level of exposure to tobacco smoke.

Although cigarette smoking is declining across the nation, cigar smoking has been increasing. According to the Department of Health adult cigar use in Hawaii has increased from 3.2% in 2006 to 4.3% in 2010. Youth cigar use is also increasing. Results from the 2013 Hawaii Youth Tobacco Survey show that 4.9% of public high school students reported currently using cigars and 14% are experimenting with cigars.

Cigars are under-taxed and less regulated than cigarettes.

The federal government and almost all of the states across the country under-tax cigars compared to cigarettes. The Coalition is extremely concerned with creating a tax credit for producing and selling tobacco products which can in turn lower the cost of cigars (a tobacco product) to consumers. Smoking and tobacco use are the leading cause of preventable death and disease in Hawaii, claiming 1,200 lives each year and generating \$526 million in annual medical costs.

The Coalition strongly opposes reducing taxes on large cigars and we ask you to remain strong on tobacco control and respectfully ask you to hold this bill in committee.



Thank you for the opportunity to testify on this matter.

A handwritten signature in black ink, appearing to read 'Jessica Yamauchi', written in a cursive style.

Jessica Yamauchi, M.A.
Executive Director

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 7:55 AM
To: FINTestimony
Cc: kaupenakaauwai@gmail.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Chad k kaaauwai	Individual	Support	No

Comments: This bill would help create more jobs for locals and ease the tax burden put on cigar production here on Hawaii. This will also help our company here on Kauai grow to employ more people.

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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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 01, 2015 4:13 PM
To: FINTestimony
Cc: christopherthebartender.maxwell@gmail.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/1/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Maxwell	Individual	Oppose	No

Comments: How a bill originally designed to benefit the state, the public, and small businesses ends up coming out of committee benefitting only on person in the state is amazing. As worded, this bill does not benefit the state in any way, will not benefit the public in any way, and will not benefit small business in any way, with one exception. The sole manufacturer of cigars in Hawaii manufactures the bulk of their cigars in Nicaragua. This will provide a tax credit to an entity paying most of their manufacturing employees offshore. What a waste of lawmaker's time and taxpayer dollars to benefit one man.

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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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 01, 2015 8:01 PM
To: FINTestimony
Cc: ferneliusdd@yahoo.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/1/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Donald Fernelius	Individual	Support	No

Comments: I want to support local business, but I do not now because of high cost. So I don't to save money! This will make local store competitive in the cigar market! Semper Fi Don

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 7:34 AM
To: FINTestimony
Cc: g.m.calvo23@gmail.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Guillermo Calvo	Individual	Support	No

Comments: I support this because will create more jobs.

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 01, 2015 9:17 PM
To: FINTestimony
Cc: myers_florida@rocketmail.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/1/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Johnathon Myers	Individual	Support	No

Comments: I am writing to you today as a consumer of premium cigars and to urge you to support and vote yes on House Bill 145 ("HB 145"). Thank you for your time and attention to this matter.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 7:43 AM
To: FINTestimony
Cc: messin99@aol.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Messina	Individual	Support	No

Comments: It will help create more jobs and help the companies grow.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 7:26 AM
To: FINTestimony
Cc: trevpless@gmail.com
Subject: Submitted testimony for HB145 on Mar 4, 2015 11:00AM

HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Trevyn Pless	Individual	Support	No

Comments: I fully support this legislation and believe it will help create more stable jobs in this state.

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finance1-Kim

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 12:01 PM
To: FINTestimony
Cc: elyes-m@hotmail.com
Subject: *Submitted testimony for HB145 on Mar 4, 2015 11:00AM*

HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

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

Comments:

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FIN-Jo

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 11:21 PM
To: FINTestimony
Cc: brksilva@gmail.com
Subject: *Submitted testimony for HB145 on Mar 4, 2015 11:00AM*

HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Bronson K. Silva	Individual	Support	No

Comments:

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FIN-Jo

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 03, 2015 10:02 AM
To: FINTestimony
Cc: tai1983@gmail.com
Subject: *Submitted testimony for HB145 on Mar 4, 2015 11:00AM*

HB145

Submitted on: 3/3/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Tai Erum	Individual	Support	No

Comments:

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finance1-Kim

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Sent: Monday, March 02, 2015 7:13 PM
To: FINTestimony
Cc: makule@maui.net
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HB145

Submitted on: 3/2/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Medeiros	Individual	Support	No

Comments:

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LATE

From: mailinglist@capitol.hawaii.gov
 Sent: Tuesday, March 03, 2015 4:02 PM
 To: FINTestimony
 Cc: gigidrent@gmail.com
 Subject: *Submitted testimony for HB145 on Mar 4, 2015 11:00AM*

HB145

Submitted on: 3/3/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
gigi Drent	Individual	Support	No

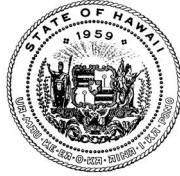
Comments:

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LATE

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in OPPOSITION to HB0145, HD1
RELATING TO TAXATION**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: March 4, 2015

Room Number: 308

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health (DOH) opposes HB0145, HD1 which
3 establishes a refundable income tax credit for qualified cigar producers after December 31, 2112.
4 The DOH defers to the Department of Taxation as to interpretation and implications of this
5 measure.

6 The DOH opposes this measure intended to singularly benefit those who produce and sell
7 cigars which contain toxic, carcinogenic chemicals that produce even more secondhand smoke
8 than cigarettes. Cigars, in all shapes and sizes, are addictive and harmful products that cause
9 cancer, heart disease, and chronic obstructive pulmonary disease (COPD).¹ There is neither a
10 public health nor fiscal justification for providing cigar producers a special tax credit treatment
11 for selling a product that causes disease and death.

12 The DOH is most concerned about the public health implications, as creating tax credits
13 for producing and selling tobacco products encourages increased smoking and discourages
14 quitting. Cigar smoking is addictive, and cigar smoke, like cigarette smoke, contains toxic and
15 cancer-causing chemicals that are harmful to both smokers and non-smokers. There is no safe
16 tobacco product, and there is no safe level of exposure to tobacco smoke.

17 Smoking and tobacco use are the leading cause of preventable death and disease in
18 Hawaii, claiming 1,200 lives each year and generating \$526 million in annual medical costs

¹ National Cancer Institute (NCI), *Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9*, 1998. Economic Research Service, U.S. Department of Agriculture (USDA). U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.

1 directly attributable to smoking, according to the Centers for Disease Control and Prevention
2 2014 report, “Best Practices for Comprehensive Tobacco Control Programs.”

3 Cigar smoking is not a safe alternative to cigarette smoking. The U.S. Surgeon General
4 has declared that cigar smoke contains the same toxic substances as cigarette smoke, with
5 varying concentrations of these constituents found in different types and sizes of cigars. In fact,
6 a single large cigar can contain as much tobacco and nicotine as an entire pack of cigarettes.
7 Cigar smoking causes oral cavity cancers (cancers of the lip, tongue, mouth, and throat) and
8 cancers of the larynx, esophagus, and lungs. Cigar smokers are also at an increased risk for heart
9 disease, an aortic aneurysm, and COPD.

10 Cigars have fewer federal regulations than cigarettes and other tobacco products. This, as
11 well as their lower taxes, is resulting in increased popularity. While cigarette smoking is
12 declining across the nation, total consumption of all cigars has increased dramatically. Between
13 2006 and 2010, cigar consumption nationally increased by 123%.

14 In Hawaii, current cigar use tripled from 3.2% in 2006 to 10.8% in 2010. Youth cigar
15 use is also increasing. In the 2013 Hawaii Youth Tobacco Survey, 4.9% of public high school
16 students reported currently using cigars and 14% are experimenting with cigars.

17 Thank you for the opportunity to testify.



From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 03, 2015 5:40 PM
To: FINTestimony
Cc: hoagd001@hawaii.rr.com
Subject: *Submitted testimony for HB145 on Mar 4, 2015 11:00AM*

HB145

Submitted on: 3/3/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

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

Comments:

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 Sent: Wednesday, March 04, 2015 2:19 PM
 To: FINTestimony
 Cc: DORI_DORI240SX@YAHOO.COM
 Subject: *Submitted testimony for HB145 on Mar 4, 2015 11:00AM*

HB145

Submitted on: 3/4/2015

Testimony for FIN on Mar 4, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Miles Escajeda	Individual	Support	No

Comments:

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