

LATE

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630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



March 30, 2016

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The Honorable Rosalyn H. Baker, Chair
and Members
Committee on Commerce, Consumer Protection, and Health
State Senate
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Members:

Subject: House Bill 2626, HD1, SD1 Relating to Underground Storage Tanks

We support House Bill 2626, HD1, SD1, which, in part, prohibits the issuance of permits for new underground storage tanks (USTs) within one hundred yards of the shoreline and authorizes permits for existing USTs for purposes of repair or replacement of the existing UST.

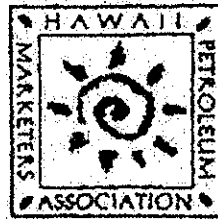
However, we respectfully request that the provision prohibiting the operation of and renewal of a permit for an UST within one hundred yards of the shoreline beginning January 1, 2045 and the effective date of this measure both be amended to reflect the date of January 1, 2020. Establishing earlier dates for implementation emphasizes the necessity for immediate preparation to help protect our marine environment and underground aquifers by reducing risks posed by the inundation of USTs caused by climate change and rising sea levels.

Thank you for your consideration of our written testimony on House Bill 2626, HD1, SD1.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

LATE



TO: SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair

FROM: Richard Parry
President of the Hawai'i Petroleum Marketers Association

HEARING

DATE: Wednesday, March 30, 2016

TIME: 10:00 a.m.

PLACE: State Capitol, Conference Room 229

RE: Testimony on H.B. No. 2626 HD1 SD1 Relating to Underground Storage
Tanks

Chair Baker, Vice Chair Kidani, and Members of the Senate Committee on Commerce, Consumer Protection, and Health, I am Richard Parry, President of Hawai'i Petroleum Marketers Association ("HPMA"). HPMA is a non-profit trade association comprised of members directly marketing petroleum products across the Hawai'ian Islands. Our membership includes individuals or companies who operate as either independent marketers, jobbers or distributors of petroleum products and who buy petroleum products at the wholesale level and sell or distribute such products to all classes of trades. HPMA's primary purpose is to protect and advance its members' legislative and regulatory interests in the Hawaiian Islands and Washington, D.C.

H.B. No. 2626 HD1 SD1 bans the issuance of new permits for underground storage tanks within one hundred yards of the shoreline, unless the new permit is for purposes of repairing or replacing an existing underground storage tank. Unfortunately, H.B. No. 2626 HD1 SD1 prohibits the continued operation of an existing underground storage tank within one hundred yards of the shoreline beginning on 1/1/2045.

HPMA would like to comment on H.B. No. 2626 HD1 SD1. As currently drafted, the outright ban of the continued operation of an existing underground storage tank is an unconstitutional regulatory taking which impairs the value of property without payment of just compensation to the property's owner. After 1/1/2045, H.B. No. 2626 HD1 SD1, will effectively wipe out almost all existing gasoline stations along the coastline of all the major islands; the Waianae coast and Hilo Harbor would be particularly hard hit.

HPMA, however, believes H.B. 2626 HD1 SD1 is unnecessary, extremely premature, and does not correlate with existing hard scientific evidence. The bill justifies the UST ban within 100 yards of the shoreline after 1/1/2045, based on claims that the sea

Testimony of the Hawaii Petroleum Marketers Association
Page 2

H.B. No. 2626 HD1 SD1 Relating to Underground Storage Tanks
Hearing Date: Wednesday, March 30, 2016 at 10:00 a.m.

level will rise, however, most scientists forecast that the sea level will rise by no more than a few feet by the year 2100. The proponents of this bill banning USTs within 100 yards of the shoreline beginning 1/1/2045 also cite to the Hawaii renewable portfolio standards as being complementary. We disagree since the Hawaii renewable portfolio standards apply only to electrical utilities in Hawaii. Again, this bill puts the State at risk for the taking of property without just compensation.

HPMA also believes H.B. 2626 HD1 SD1 is unnecessary because there are already adequate safeguards in place. The United States Congress enacted the Clean Water Act in 1972 which made it unlawful to discharge any pollutant into the ocean. In addition, this Legislature enacted the Shoreline Protection Act in 1975 to preserve, protect and, where possible, to restore the natural resources of the coastal zone of Hawai'i. All future tank owners near the shoreline are required to obtain a Special Management Area (SMA) permit (as were almost all owners of existing underground storage tanks near the shoreline) and to comply with all the protections and oversight by state and county agencies afforded by the Shoreline Protection Act and the Coastal Zone Management law.

Underground storage tanks have been effectively and safely regulated for decades by the U.S. Environmental Protection Agency ("EPA") and the State Department of Health. Since 1984, the EPA has developed and established operating requirements and technical standards for double-wall tank design and installation, leak detection monitoring, spill and overfill control, corrective action, and tank closure, including annual inspections. The EPA and DOH recently further strengthened regulations of these fuel systems. The modern technology for underground storage tanks is very safe, and the EPA has also established rigorous operator training, inspections, delivery prohibition, secondary containment, and financial responsibility requirements for all owners and operators of underground storage tanks.

For USTs located in a flood zone or near the shoreline, we strictly follow industry installation standards such as Recommended Practice 100 from the Petroleum Equipment Institute (PEI) and Recommended Practice 1615 from the American Petroleum Institute (API) by (1) burying USTs deeper and/or increasing the amount of backfill/pavement to anchor the system, including anchoring USTs using deadman anchors and hold-down straps or a concrete collar to add extra weight, and (2) equipping fuel lines with automatic shutoff valves and adding vent pipe extensions.

Thank you for the opportunity to comment on H.B. No. 2626 HD1 SD1.

