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PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE  
ON  
JUDICIARY

TWENTY-NINTH STATE LEGISLATURE  
REGULAR SESSION, 2017

FRIDAY, FEBRUARY 24, 2017  
2:00 P.M.

TESTIMONY ON HOUSE BILL NO. 1081 H.D.2  
RELATING TO CITATIONS FOR BEAUTY CULTURE VIOLATIONS

TO THE HONORABLE SCOTT Y. NISHIMOTO, CHAIR,  
AND TO THE HONORABLE JOY A. SAN BUENAVENTURA, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 1081 H.D.2, Relating to Citations for Beauty Culture Violations. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports Section 1 of this Administration bill and offers comments on Section 2 of the bill.

Section 1 of House Bill No. 1081 H.D.2 authorizes RICO to issue citations to beauty culture licensees for certain violations of the beauty culture laws. The

citation process requires personal service of the citation upon the licensee and affords the licensee the opportunity to request a hearing to contest the citation within twenty calendar days. Section 1 also provides that failure to pay any assessed fine within thirty calendar days may subject the licensee to further disciplinary action.

Section 1 of House Bill No. 1081 H.D.2 establishes a citation process as an additional enforcement tool to address the following specific, technical beauty culture violations by licensees or permittees: (1) failure to conspicuously display a license or permit while engaged in the practice of cosmetology; (2) failure of a beauty shop owner or beauty school to ensure that only appropriately licensed or permitted individuals engage in the practice of cosmetology in the beauty shop or beauty school; (3) failure of a beauty shop to conspicuously display a sign indicating that a price list is available upon request; (4) failure of a beauty school to identify instructors and instructor-trainees with appropriate name tags; (5) failure of a beauty school to operate with an instructor-student ratio of one instructor for every twenty-five students or with a minimum of two licensed instructors; and (6) failure of a beauty school that performs work on members of the public to conspicuously display a sign indicating work is performed by students under supervision.

Section 1 of House Bill No. 1081 H.D.2 will expedite RICO's enforcement of certain technical violations of the beauty culture laws and will promote swift compliance by licensees and permittees. Section 1 will also enable RICO staff to concentrate its efforts and resources on other violations.

Section 2 of House Bill No. 1081 H.D.2 requires a cosmetology license for persons who sell or demonstrate beauty products or techniques for promotional purposes, unless the person is not compensated and obtains written consent to provide the service from the person receiving the service.

RICO notes HAR §16-78-36(4) specifically exempts manufacturer's representatives or sales persons who sell beauty products or techniques for promotional purposes without compensation from cosmetology licensing requirements. While we appreciate enforcement concerns about the sale and demonstration of beauty products, we are concerned that requiring licensure for anyone who is paid to sell beauty products would require licensure for conduct not traditionally covered under Hawaii law. We believe to address the inconsistency and facilitate appropriate enforcement, specific amendments to the definitions of "cosmetologist" and "cosmetology" would be necessary and that further discussion with the Board and stakeholders is appropriate.

Thank you for the opportunity to testify in strong support of Section 1 of House Bill No. 1081 H.D.2 and to offer comments on Section 2 of the bill. I will be happy to answer any questions the Committee may have.



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**TESTIMONY OF TINA YAMAKI  
PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
February 24, 2017**

**Re: HB 1081 HD 2 RELATING TO CITATIONS FOR BEAUTY CULTURE VIOLATIONS**

Good morning Chair Nishimoto and members of the House Committee on Judiciary. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide, nonprofit trade association committed to the growth and development of the retail industry. Our mission is to promote the welfare of the retail industry, serve as an advocate for the retail industry, and provide information and training to advance the interests of the retail industry.

RMH **STONGLY OPPOSES** H.B. 1081 HD 2 Relating To Citations For Beauty Culture Violations, which we believe would have a detrimental effect on Hawaii's retail industry. This bill calls for every employee who sells or demonstrates a beauty product or technique to meet cosmetology licensing requirements unless the person obtains prior written consent to provide the service from the person receiving the service. This bill will affect **ALL** retailers who sells beauty products like perfume, shampoo, lotion, bath and hand soap, hairspray and makeup to name a few. Every employee from not only "beauty experts" but all cashiers in such establishments that include but not limited to large box, department, hardware, discount, grocery and convenience stores would have to obtain a cosmetology license if they sell these types of products.

It is our understanding that the requirements for a cosmetology license includes 1800 hours of beauty school instruction and 3600 hours of apprenticeship in addition to being a high school graduate or possess an education equivalent to the completion of high school. Retailers employ cashiers who sometimes are not high school graduates nor possess a GED or are still in high school. Furthermore, there is a significant cost to attend a beauty school as well as for the license and a license renewal. This cost will not be absorb by the retailers but passed on to the customers and would attribute to an increase in the cost of living in Hawaii.

Retailers like so many in other industries are finding it difficult to fill the open positions that they have with unemployment being so low. A measure like this would make it even more difficult to find qualified employees or those already employed but who do not qualify for a cosmetology license may be let go.

We also have a concerns about the exception provision of the customer having to sign a written consent form to provide the service of completing their transaction to purchase such items as lipstick, deodorant, hair gel, skin cleanser ... This is not a customer friendly service. Retailer are already operating on thin margins and face stiff competition from online retailers. This bill may push more customers away from brick and mortar stores and encourage them to purchase items on line.

We respectfully ask that you hold this proposal. Again mahalo for this opportunity to testify.

**PRESENTATION OF THE  
BOARD OF BARBERING AND COSMETOLOGY**

TO THE HOUSE COMMITTEE ON  
JUDICIARY

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Friday, February 24, 2017  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1081, H.D. 2, RELATING TO CITATIONS FOR  
BEAUTY CULTURE VIOLATIONS.**

TO THE HONORABLE SCOTT Y. NISHIMOTO, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Margaret Williams and I am a member of the Board of Barbering and Cosmetology ("Board"). Thank you for the opportunity to present testimony in support of SECTION 1 of House Bill No. 1081, House Draft 2, Relating to Citations for Beauty Culture Violations, and to provide comments relating to SECTION 2 of the measure. This bill proposes to authorize the Regulated Industries Complaints Office ("RICO") to issue citations to beauty culture licensees and permittees for violations of specific beauty culture laws. The citation process requires personal service of the citation upon the licensee or permittee and affords the licensee or permittee the opportunity to request a hearing to contest the citation within twenty calendar days. The measure also authorizes the assessment of fines for each violation and provides that the failure to pay any assessed fine within thirty calendar days may subject the licensee or permittee to further disciplinary action.

House Bill No. 1081, House Draft 2, proposes to establish this citation process to provide an alternative means by which the Board can address specific, technical beauty

culture violations, expedite RICO's enforcement efforts, and promote timely compliance by licensees and permittees.

SECTION 2 of the measure proposes to expand the scope of beauty culture licensure to include both the sale and demonstration of beauty culture products or techniques for promotional purposes. The law currently provides specific exemptions from licensing requirements, including exemptions from licensure for a person practicing cosmetology at any place for educational purposes; for a person providing care to patients and residents at health care, nursing, mental, or correctional facilities; and for a person practicing cosmetology at a charitable event. The bill will clearly require that any person selling or demonstrating beauty culture products or techniques for promotional purposes be licensed under HRS chapter 439, unless the person is not compensated and obtains written consent to provide the service from the person receiving the service. The Board has not met to discuss this particular provision of House Bill No. 1081, House Draft 2, but notes that SECTION 2 of the bill will eliminate an exemption from licensure that currently exists.

Thank you for the opportunity to present testimony on House Bill No. 1081, House Draft 2, Relating to Citations for Beauty Culture Violations. I will be available to answer any questions that the Committee may have.



Executive Officers:

John Erickson, Young's Market Company –Chair  
Beau Oshiro, C&S Wholesale – Vice Chair  
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Barry Taniguchi, KTA Superstores – Advisor  
Derek Kurisu, KTA Superstores – Immediate Past Chair  
Lauren Zirbel, Executive Director

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TO: COMMITTEE ON JUDICIARY  
Rep. Scott Nishimoto, Chair  
Rep. Joy San Buenaventura, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: Friday, Feb. 24, 2017  
TIME: 2:00 p.m.  
PLACE: Conference Room 325

RE: HB1081, HD2 (Beauty Culture Violations)  
Position: Oppose

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.

HB1081, HD2 seeks to expedite RICO's enforcement of violations of Hawaii's beauty culture laws, which are found in HRS 439. While we support the intent of this measure, we are deeply concerned that the bill, as currently written, will inadvertently include and negatively impact businesses that are not within the legal definitions for Barbering and Cosmetology.

In particular, we oppose Part II, line 14c, which reads:

(c) The licensing requirements in this chapter and in any corresponding administrative rules that govern the practice of cosmetology **shall apply to any person selling or demonstrating beauty products or techniques** for promotional purposes ...

The words "shall apply to any person selling or demonstrating beauty products" could be interpreted to include salespeople at grocery stores, convenience stores and pharmacies since these establishment usually sell cosmetics, hair dye and other beauty related products. At

certain times of the year, brands will offer promotional merchandise such as special flavors or colors, which are usually seasonally or holiday themed. If this bill is passed in its current form, then sales clerks will be required to obtain a cosmetology license in order to sell these basic, everyday products.

HRS 439-1 defines "beauty operator" to mean "one of the following licensure categories: cosmetologist; hairdresser; esthetician; or nail technician." In turn, "cosmetologist" is defined as "a person who engages in the practices of a hairdresser, an esthetician, and a nail technician for compensation."

We believe it is unnecessary and extremely overreaching to require a grocery clerk to undergo formal cosmetology training and licensure in order to help customers and/or process the sale of makeup and other beauty products at the register.

For this reason, we request the deletion of Part II, line 14c from this bill.

Thank you for the opportunity to provide testimony.