

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

**Testimony in SUPPORT of HB0748
RELATING TO ENVIRONMENTAL PROTECTION**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Hearing Date: 2/16/2023 Room Number: 329

- 1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor's
- 2 Executive Budget Request for the Department of Health's (Department) appropriations and
- 3 personnel priorities.
- 4 **Department Testimony:** The Department supports this measure which seeks to expand on
- 5 2022's Act 152 extending prohibitions on the manufacturing, distribution, and use of products
- 6 containing per- and poly-fluoroalkyl substances (PFAS). This measure expands the prohibition
- 7 to additional types of food containers, food service ware, cosmetics and personal care products
- 8 and its implementation would likely decrease the overall burden of PFAS contamination in
- 9 Hawaii's environment.
- 10 The Department supports this measure which seeks to expand on 2022's Act 152 extending
- 11 prohibitions on the manufacturing, distribution, and use of products containing per- and poly-
- 12 fluoroalkyl substances (PFAS). This measure expands the prohibition to additional types of food
- 13 containers, food service ware, cosmetics and personal care products and its implementation
- 14 would likely decrease the overall burden of PFAS contamination in Hawaii's environment.
- 15 While the Department supports this measure, implementation and enforcement may be difficult.
- 16
- 17 Thank you for the opportunity to testify on this measure.

February 14, 2023

Committee Chair Nakashima & Vice Chair Sayama
House Commerce and Consumer Protection Committee
Hawaii State Legislature
415 South Beretania Street
Honolulu, HI 96813

RE: Oppose unless amended: HB 748/SB 504

Chair Nakashima and Vice Chair Sayama:

Good morning/afternoon, Chair Nakashima and Members of the Committee. On behalf of the members of the Personal Care Products Council (PCPC), I am writing to express our opposition to HB748 as currently drafted, legislation to ban the sale of PFAS in cosmetics. PCPC appreciates the intent of the language and seeks additional amendments to harmonize the bill with other recently enacted state laws.

The Personal Care Products Council is the leading national trade association representing cosmetics and personal care products companies and serving as the voice on scientific, legal, regulatory, legislative and international issues for the global cosmetics industry. The personal care products industry holds sacred the trust families put in the safety of their products. Our member companies invest substantial resources in scientific research and safety processes to ensure we are precisely following all laws and regulations and providing safe products to our consumers. PCPC and its member companies have a long history of going above and beyond what is required by law and a long history of working with various stakeholders at all levels of government on public policy.

President Biden recently signed the Modernization of Cosmetic Regulation Act (MoCRA) of 2022.

The Modernization of Cosmetics Regulation Act (MoCRA) of 2022 was included in the Consolidated Appropriations Act of 2023 that was signed into law by President Biden on Dec. 29, 2022. PCPC applauds Congress for spearheading the effort on cosmetics modernization and thanks bipartisan Members of Congress and the Administration for working together to modernize Federal regulatory oversight of cosmetics and personal care products marketed in the U.S.

This long-awaited, historic legislation gives the FDA additional tools to ensure the safety of cosmetics, protects consumers and reinforces consumer confidence in the products they trust and enjoy every day. MoCRA represents significant reform of FDA's cosmetics authorities, which was signed into law by President Franklin D. Roosevelt in the 1938 Food, Drug & Cosmetic Act. MoCRA also brings the FDA's oversight of the beauty and personal care industry more in line with other categories the Agency regulates and contributes to global regulatory alignment. We ask that you amend the language to ensure that it is consistent with federal and other state laws.

PCPC seeks harmonization with other recently enacted state laws

In concept, PCPC supports the phase out of the PFAS class of chemicals in cosmetics and personal care products. However, we are seeking amendments to provide regulatory certainty. PCPC is requesting amendments to clarify that the definitions in our sector are consistent with existing Hawaii code and consistent with other recently enacted PFAS laws. Cosmetics and personal care products companies remain committed to advancing innovative product technologies that address a wide variety of consumer needs.

For example, California AB 2771 was signed by Governor Newsom in September 2022 and phases out PFAS in cosmetics. CA AB 2771 builds upon CA AB 2762, signed into law by Governor Newsom in 2021, which bans certain cosmetic and personal care ingredients,

Specific concerns with HB748 as currently drafted- PCPC seeks harmonization with definitions already codified in Hawaii statute PCPC requests that the term “ingredient” and “manufacturer” have the same meaning as in section 321-30.4.

"Ingredient" has the same meaning as that term is defined in subdivision (e) of Section 700.3 of Part 700 of Chapter 1 of Title 21 of the Code of Federal Regulations and does not include any incidental ingredient as defined in subdivision (l) of Section 701.3 of Part 701 of Chapter 1 of Title 21 of the Code of Federal Regulations.

"Manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.

For all of the reasons I outlined today, PCPC respectfully asks that you oppose HB748 unless amended. We welcome the opportunity to dialogue with you on the legislation and thank you for your consideration and the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'KJ', is written over a light gray rectangular background.

Kelsey Johnson
Vice President, State Government Affairs
Personal Care Products Council

February 14, 2023

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For all of the reasons I outlined today, PCPC respectfully asks that you oppose HB748 unless amended. We welcome the opportunity to dialogue with you on the legislation and thank you for your consideration and the opportunity to comment.

Sincerely,

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Kelsey Johnson
Vice President, State Government Affairs
Personal Care Products Council

HB-748-HD-1

Submitted on: 2/15/2023 1:26:06 PM

Testimony for CPC on 2/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dave Mulinix	Our Revolution Hawaii	Support	Remotely Via Zoom

Comments:

Aloha Chair [Nakashima](#), Vice Chair [Sayama](#), and Committee Members: [Amato](#), [Belatti](#), [Gates](#), [Hashem](#), [Hussey-Burdick](#), [Lowen](#), [Onishi](#), Pierick, [Tam](#),

On behalf of Our Revolution Hawaii's 5,000 members and supporters statewide, we stand in STRONG SUPPORT, with amendments, of the passage of HB748 that prohibits the manufacture, sale, offer for sale, distribution for sale, and distribution for use of any food packaging, food service ware, cosmetic, or personal care product that contains perfluoroalkyl and polyfluoroalkyl (PFAS) substances.

Given the recent contamination at Red Hill of PFAS-laden *Aqueous Film Forming Foam (AFFF)* fire suppressant concentrate, and knowing that there are PFAS-free foams available which are a safe and effective replacement product, we strongly urge the Committee to amend HB748 to include banning AFFF as well. Oahu is already suffering from the contamination of these forever-chemicals due to the Navy's criminal negligence at Red Hill. Hawaii cannot afford to further risk contamination of our finite resources and risk the health of our communities.

We also strongly urge the Committee to amend HB748 to strike the section that seeks to delay the implementation of Act 152 as it applies to food packaging in 2024, and keep the section that broadens the application of PFAS prohibitions in food service ware, cosmetics, and personal care products. The further protections as noted in HB748 HD1 should be added, and should not remove the protections already signed into law by Act 152 (2022) and set to begin 2024.

We strongly support this legislation because it is essential to help protect the health and safety of people of Hawaii from the ill health effects of PFAS exposure. A recent review from the U.S. Centers for Disease Control and Prevention outlines a host of health effects associated with PFAS exposure, including liver and pancreatic cancer; liver damage; decreased fertility; increased risk of asthma and thyroid disease; weakened childhood immunity; low birth weight; endocrine disruption; increased cholesterol; and excessive weight gain in children and dieting adults.

PFAS substances have been dubbed "forever chemicals", because they are extremely persistent and can permanently stay in our bodies, the air, the land, and our water. Currently, there are no medical procedures that can clear PFAS from the body or our environment, so the best step we can take is to remove the source of the exposure from our environment, and HB748 is an excellent step forward in reducing our exposure to PFAS contamination.

Please pass this important measure with the suggested amendments to prohibit the manufacture, sale, offer for sale, distribution for sale, and distribution for use of any food packaging, food service ware, cosmetic, or personal care product that contains PFAS.

Mahalo for your kind attention,

Dave Mulinix, Cofounder & Hawaii State Organizer

Our Revolution Hawaii

HB-748-HD-1

Submitted on: 2/13/2023 5:57:33 PM

Testimony for CPC on 2/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Please take these toxic chemicals out of our products. Please support this bill.

HB-748-HD-1

Submitted on: 2/14/2023 12:27:08 AM

Testimony for CPC on 2/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Clair Mason	Individual	Support	Written Testimony Only

Comments:

Aloha chair, vice chair, and members of the committee,

My name is Clair Mason, I am from Kailua-Kona, and I stand in **strong support of HB748**. PFAS have no place in Hawai'i's green future. We must act now to remove these toxins from our environment before it's too late. Please pass HB748 so we can catch up to our climate change deadlines. Mahalo for your work and for considering my testimony.

Clair Mason

HB-748-HD-1

Submitted on: 2/14/2023 2:42:46 PM

Testimony for CPC on 2/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

In support of HD1.

HB-748-HD-1

Submitted on: 2/14/2023 5:40:48 PM

Testimony for CPC on 2/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

PFAs are very scary chemicals that last nearly forever and are highly carcinogenic. We have all already had exposure to these and are carrying them in our bodies. Please pass this bill to limit additional cumulative exposure to these damaging chemicals.

HB-748-HD-1

Submitted on: 2/14/2023 9:42:59 PM

Testimony for CPC on 2/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor

HB-748-HD-1

Submitted on: 2/15/2023 1:09:20 PM

Testimony for CPC on 2/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

Please pass this important measure to prohibit the manufacture, sale, offer for sale, distribution for sale, and distribution for use of any food packaging, food service ware, cosmetic, or personal care products that contain PFAS, but **with the requested amendments listed below.**

Given the recent contamination at Red Hill of PFAS-laden aqueous film-forming foam (AFFF) concentrate, and knowing that there are PFAS-free foams available which are a safe and effective replacement product, I strongly urge the Committee expand the scope of this measure to include banning AFFF as well. Oahu is already suffering from the contamination of these forever-chemicals due to the Navy's criminal negligence at Red Hill. Hawaii cannot afford to further risk contamination of our finite resources and risk the health of our communities.

Last, **I strongly urge the Committee strike the section in HB748 that seeks to delay the implementation of Act 152 as it applies to food packaging in 2024**, and keep the section that broadens the application of PFAS prohibitions in food service ware, cosmetics, and personal care products. The further protections as noted in HB748 HD1 should be **added**, and should not remove the protections already signed into law by Act 152 (2022) and set to begin 2024.

Mahalo for your consideration of these amendments and for the opportunity to testify on this important measure.



February 15, 2023

Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
Committee on Consumer Protection & Commerce
Wednesday, February 15, 2023
2:00 pm
Via Videoconference

RE: **HB748 HD1** Relating to Environmental Protection (**Oppose or Amend**)

Dear Chair Nakashima, Vice Chair Sayama & Committee Members,

The Chamber of Sustainable Commerce testifies in opposition to HB748 HD1 as it is currently drafted. As business owners who believe we can strengthen our economy without hurting workers, consumers or the environment, we urge this committee to vote against passing HB748 HD1 in its current form because it reverses environmental and consumer protections which are currently guaranteed in our state statutes.

Act 152 (2022) signified a win for consumers and the environment - and a win for businesses that rely on healthy workers, customers and communities. HB748 HD1 seeks to allow food suppliers to continue poisoning their customers and the environment beyond 2024. Given the state of our climate crises and degradation of our natural resources, it is absurd to apply scarcity economics to the promulgation of environmental protections. We must build on the gains we have achieved - not sell ourselves short or the wellbeing of Hawaii's people and environment.

The Chamber of Sustainable Commerce hopes to support a version of this bill that protects consumers – and does not trade or dilute existing protections. Please make the **following amendments**: 1) delete the section that seeks to delay the implementation of Act 152 as it applies to food packaging in 2024; 2) keep the section that broadens the application of PFAS prohibitions in food service ware, cosmetics, and personal care products; 3) delete the “propellent” loophole exemption which most cosmetic and personal care companies can fit through as they can all declare that the PFAS they added to their products are all “propellants”; and 4) delete the FDA exemption as it grandfathered an outdated FDA process that did not take into account current understanding of the toxicity of PFAS to consumers.

If we are incapable of operating our businesses without hurting our customers, then we should examine our motivations for staying in business.



February 16, 2023

TO: Chair Mark M. Nakashima
Members of the House Committee on Consumer Protection & Commerce

FR: Tim Shestek
Senior Director, State Affairs

RE: **HB748 HD1 Relating to Environmental Protection. – Oppose; Amendment Request**

The American Chemistry Council (ACC) appreciates the opportunity to submit the following comments relative to HB748 HD1, legislation pertaining to perfluoroalkyl and polyfluoroalkyl (PFAS) substances in food packaging, food service ware, cosmetics, and personal care products. ACC appreciates language changes incorporated into HD 1, including important exemptions and specific product category definition references. However, we continue to have some remaining concerns as outlined below.

ACC supports a comprehensive approach to managing PFAS substances that helps to ensure protection of human health and the environment, and we look forward to working with you and the Legislature to create policies that are science-based and implementable.

Background

PFAS are a diverse group of chemistries characterized by the strong bond between fluorine and carbon. Because of this strong bond, PFAS provides products with strength, durability, stability, and resilience. These properties are critical to the reliable and safe function of a broad range of products that are important for industry and consumers, such as the cellphones, tablets and telecommunications systems we use every day to connect with our friends and family; the aircraft that power the U.S. military; solar panels and turbines critical to alternative energy development; and medical devices.

PFAS includes a variety of different chemicals with different properties and characteristics. Therefore, the hazard and risk profiles of various PFAS are different. According to the US EPA, “approximately 600 PFAS are manufactured (including imported) and/or used in the United States.” Among these 600 are substances in the solid (e.g., fluoropolymers), liquid (e.g., fluorotelomer alcohols) and gaseous (e.g., hydrofluorocarbon refrigerants) forms. The fundamental physical, chemical, and biological properties of solids, liquids and gases are clearly different from one another. The very distinct physical and chemical properties of the three types of commercial PFAS described demonstrate how varied they are and how a broad definition of PFAS could have significant impacts to manufacturers of a variety of different products.

Definition of PFAS

HB 748 HD 1 references a very broad definition of PFAS from HRS Section 321-601. This broad definition of PFAS would capture legacy substances such as PFOA and PFOS (substances that have been phased out of production in the US), newer “short-chain” chemistries (currently subject to review by US EPA), fluoropolymers (which have well-established safety profiles and meet internationally recognized criteria developed to identify polymers of low concern for potential risk to human health or the environment), as well as gasses and liquids that are used as refrigerants and aerosol propellants in products like medical inhalers.



To avoid potential unintended impacts for critical uses and to enable the focus of any restriction to be on the substances of the greatest concern, ACC suggests the bill include the following definition of PFAS:

“For purposes of this section, PFAS means non-polymeric perfluoroalkyl and polyfluoroalkyl substances that contain at least two fully fluorinated sequential carbon atoms, excluding gasses and volatile liquids.”

Compliance Threshold Needed

The current bill language places a prohibition on any “food packaging, food service ware, cosmetic, or personal care products that ***contains*** PFAS.” (Emphasis added). Additional clarity is needed as advancements in analytical chemistry could detect molecules at the parts per million or parts per trillion levels. Without additional specificity, inadvertent contaminants in the manufacturing process could be detected and therefore impose a compliance requirement that may be impossible for manufacturers to meet.

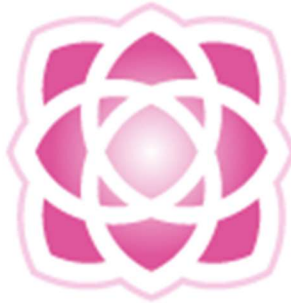
ACC suggests the bill include a definition of “intentionally added” substances to provide needed certainty for product manufacturers.

“Intentionally Added” means PFAS deliberately added to a product or a product component where the continued presence of the substance or the intentional breakdown products of the added substance is intended to have a functional or technical effect in the final product. If a product contains a technically unavoidable quantity of PFAS, that trace quantity shall not be considered intentionally added PFAS.”

Food Service Ware Undefined

The bill includes a reference to “food service ware” but does not include a specific definition for this specific category.

Thank you in advance for considering our views. If you have any questions, please do not hesitate to contact me at 916-448-2581 or via email at tim_shestek@americanchemistry.com. You may also contact ACC’s Hawaii based representative Ross Yamasaki at 808-531-4551 or via email at ryamasaki@808cch.com



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 329
THURSDAY, FEBRUARY 16, 2023 AT 2:00 P.M.

To The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair
Members of the committee on Consumer Protection & Commerce

COMMENTS ON HB748 HD1 RELATING TO ENVIRONMENTAL PROTECTION

The Maui Chamber of Commerce has **COMMENTS HB748 HD1** which prohibits the manufacture, sale, offer for sale, distribution for sale, and distribution for use of any food packaging, food service ware, cosmetic, or personal care product that contains perfluoroalkyl and polyfluoroalkyl substances (PFA, with certain exceptions.

The Chamber understands the intent of this bill and the growing concern with PFAS. We would support a working group of experts to further explore which products with PFAS should be prohibited. The group would help identify the proper prohibitions without having unintended consequences. We also recommend that the group report to next year's legislative session.

We further note that anything the FDA allows with PFAS packaging should continue to be allowed.

At this time, the Chamber feels the bill is too broad and the prohibitions are not viable for this year.

Thank you for the opportunity to **COMMENT on HB748 HD1**.

Sincerely,

Pamela Tumpap
President