



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, January 28, 2025
9:30 a.m.
Conference Room 229**

**On the following measure:
S.B. 525, RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND
CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES**

Chair Keohokalole and Members of the Committee:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Department of Commerce and Consumer Affairs (DCCA) Regulated Industries Complaints Office (RICO). RICO offers **comments** on the measure and two suggestions for better clarity with respect to the term “precious metals.”

By way of background, within the DCCA, RICO partners with the professional and vocational licensing boards, commissions, and programs (Boards) in regulating certain industries for the health, safety, and welfare of the public, with due consideration to the State's legitimate, law-abiding professional and vocational licensees. RICO's domain, however, is limited to two independent enforcement responsibilities: performing the various Boards' investigative and prosecutorial functions. The Boards impose final actions on licensees.

RICO appreciates the bill's intent to provide a higher level of disclosure and transparency to consumers regarding post-cremated remains. From an enforcement perspective, we appreciate the clear language of the proposed amendments, save for the term "precious metals" which is found at page 6, lines 2, 6, and 10 of the bill.

Specifically, page 6, lines 10-11 reference the term "precious metals" within what appears to be an illustration of where precious metals may come from. The language, however, fails to define the term. For better clarity, therefore, we suggest defining "precious metals" beginning at page 6, line 10 of the bill.¹ Or, if the source of the metal is a concern of the Committee, and the consumer and licensee have an accounting mechanism for possible metal sources found on or within a corpse, then the second instance of the word "precious" at page 6, line 10, could be deleted as follows:

"Precious metals" includes any [~~precious~~] metals from jewelry, medical devices, or dental implants."

Thank you for the opportunity to testify on this bill.

¹ RICO notes that section 486M-1, Hawaii Revised Statutes, in the context of pawnbrokers and secondhand dealers, broadly defines precious or semiprecious metals as "any of the less common and more valuable metals, including but not limited to gold, silver, platinum, and alloys thereof, without regard to their fineness, but excludes bullion and bullion type coins and bars."



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Testimony of the Department of Commerce and Consumer Affairs

Office of Consumer Protection

Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, January 28, 2025
9:30 AM
Conference Room 229 & Videoconference
State Capitol
415 South Beretania Street

On the following measure:
**S.B. 525, RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND CONSENT
IN CONTRACTS TO PROVIDE CREMATION SERVICES**

Chair Keohokalole and Members of the Committee:

My name is Emma Olsen, and I am an Enforcement Attorney for the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department offers comments on this bill.

The purpose of this bill is to require mortuaries, cemeteries, and pre-need funeral authorities that contract to provide cremation services to provide written notice to consumers if precious metals are recovered after cremation. Precious metals include items such as jewelry, medical devices, or dental implants. The bill further requires that these authorities obtain written consent from the consumer purchasing the cremation service before the sale or recycling of any recovered precious metals.

OCP offers comments regarding its own authority to enforce the bill's mandatory disclosures. OCP defers to other government authorities regarding their jurisdiction to enforce the mandatory disclosures. OCP has authority to undertake enforcement action in the interests of protecting Hawaii consumers if mortuary and crematory operators fail to make the contractual disclosures to purchasers required by the bill. In contrast, this bill does not confer express authority upon OCP to pursue enforcement action if a mortuary, cemetery, or pre-need funeral authority sells or recycles recovered precious metals without the express written consent of the purchaser. Express authority could be conferred by an amendment confirming that this conduct would be considered a violation of this section. In addition, a purchaser in such a situation would presumably have recourse to the courts to pursue an action for damages for the sale or recycling of the recovered precious metals without the express consent of the purchaser.

OCP's enforcement tools include investigating potential violations and entering into agreements with businesses to require compliance with the law, sometimes referred to as an Assurance of Voluntary Compliance. Additionally, OCP has the authority to file civil actions which may result in court-issued judgments. However, it is important to clarify that OCP does not represent individual consumers in such legal actions, and obtaining any compensation or other remedies, especially remedies obtained on behalf of individuals, is never guaranteed and depends on the facts and circumstances of each situation.

Thank you for the opportunity to testify on this bill.



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**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, January 28, 2025
9:30 a.m.
Conference Room 229 and Videoconference**

**On the following measure:
S.B. 525, RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND CONSENT
IN CONTRACTS TO PROVIDE CREMATION SERVICES**

Chair Keohokalole and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Department of Commerce and Consumer Affairs' (Department), Professional and Vocational Licensing Division's, Cemetery and Funeral Trusts Program. The Department provides the following comments on this measure.

The purposes of this bill are to: (1) beginning October 1, 2025, require mortuaries, cemeteries, and pre-need funeral authorities that contract to provide cremation services to provide written notice if precious metals are recovered after cremation; (2) obtain written consent before the sale or recycling of any recovered precious metals; and (3) require mortuaries, cemeteries, and pre-need funeral authorities that have contracted to provide cremation services to give certain notice of updated terms by January 1, 2026.

For the Committee's information, the Department of Health, Environmental Health Services Division is the entity that licenses mortuaries. The Cemetery and

Funeral Trusts Program only regulates and licenses cemetery authorities and pre-need funeral authorities.

Because cemetery authorities are not permitted to enter into funeral service contracts, the proposed bill would not impact them; therefore only pre-need funeral authorities would be affected by the proposed bill. We respectfully recommend that “cemetery” be struck from page 5, line 18 of the bill for the purposes of clarity and consistency.

Lastly, the Cemetery and Funeral Trusts Program does not regulate at-need cremation transactions, nor the disposition of human remains under HRS Chapter 531B. Because the bill mandates conditions that are not solely within the pre-need funeral authority’s control such as: cremation services, evaluation or remains, and other unforeseen contingencies, licensees may not have a realistic pathway for compliance with this bill. We therefore recommend consulting with industry companies directly to ensure that they will be able to meet the written notice and consent obligations of the proposed bill from a business, practical and legal standpoint.

Thank you for the opportunity to testify on this bill.



Hawaii Funeral & Cemetery Association, Inc.
1330 Maunakea Street, Honolulu, Hawaii 96817

Written Testimony in **Opposition of SB525**
RELATING TO MANDATORY PRIOR WRITTEN NOTICE
AND CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES.

January 24th 2025

Committee on Commerce and Consumer Protection

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Committee Members

HEARING DATE/TIME: January 28, 2025; 9:30am

STATEMENT FROM THE HFCA BOARD OF DIRECTORS

The Hawaii Funeral & Cemetery Association, Inc. is a Domestic Nonprofit Corporation, comprised of 12 independent Board of Directors representing 13 mortuaries and 10 cemeteries that serve the largest majority of Hawaii's families. The HFCA is an independent association that acts in the best interest of its members and the community. The HFCA Board of Directors reviewed the bills and voted to oppose them in their current form based on the concerns provided in our previous testimony.

Senator Jarrett Keohokalole, Chair, Senator Carol Fukunaga, Vice Chair and Committee Members,

My name is Jay Morford, President for the Hawaii Funeral and Cemetery Association, Inc. ("HFCA").
The HFCA is in **Opposition of SB525**

We believe the proposed legislation is unnecessary based on current mortuary practices.

Currently mortuaries have language within their documents that establish if a decedent does or does not have any medical device or radioactive device implants. The family will direct us at that time if they want the devices returned or disposed of. The mortuaries also have a personal effect form that inventories any valuables that may come in with a decedent. If a decedent has a medical device or radioactive device implants they must be removed prior to the cremation. The devices are then stored in a bio-hazard container for recycling. Any personal valuables that may have come in with the decedent that the family does not want cremated are returned to the family.

We do not feel there is a need to have a provision in our contracts informing clients of practices that involve recycling. We inform our clients that devices need to be removed from their loved one prior to being cremated, the family makes the decision at that time if they want the device returned to them or disposed of. If no instruction for disposition is given the funeral home will dispose of the device through our recycling company.

Please provide clarification on what the definition is for precious metals.

For these reasons we oppose SB525.

Sincerely,

Jay Morford

SB-525

Submitted on: 1/25/2025 8:28:31 AM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mitchell Dodo	Testifying for Dodo Mortuary, Inc.	Oppose	Written Testimony Only

Comments:

I'm submitting testimony in opposition of SB525. Current practices within the industry already address the issues SB525 is proposing and makes makes the measure redundant. Passage of this bill would only create additional paperwork for mortuaries, as current cremation authorization forms used make reference to the facts SB525 is wanting to impose.



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The State Legislature
Senate Committee on Commerce and Consumer Protection
Tuesday, January 28, 2025
Conference Room 229, 9:30 a.m.

TO: The Honorable Jarrett Keohokalole, Chair
FROM: Keali'i S. López, State Director
RE: Support for S.B. 525 Relating to Mandatory Prior Written Notice and Consent in Contracts to Provide Cremation Services

Aloha Chair Keohokalole and Members of the Committee:

My name is Keali'i Lopez and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social impact organization that advocates for individuals aged 50 and older. We have a membership of nearly 38 million nationwide and nearly 135,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families.

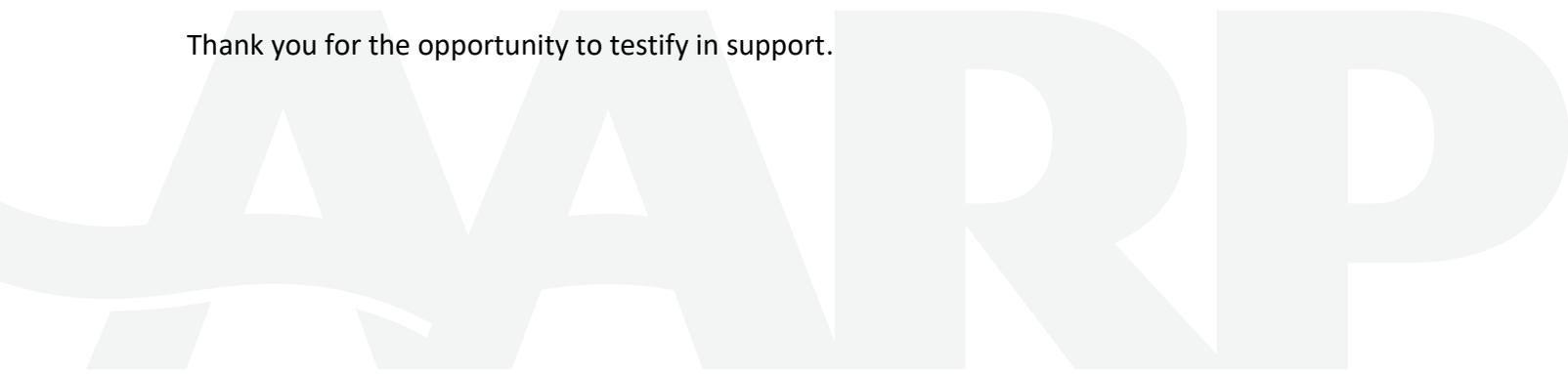
AARP is in support of SB 525 which amends Section 441-22.5 by including provision regarding the handling of precious metals recovered during the cremation process. This measure helps ensure transparency and respect for the wishes of individuals and their families.

The inclusion of this provision is important for several reasons:

- Requiring written notice to the purchaser ensures that families are fully informed about the recovery of precious metals. This transparency builds trust between the cremation service providers and the families they serve.
- Obtaining written consent before the sale or recycling of recovered precious metals ensures that the wishes of the deceased and their families are respected. This provision safeguards the dignity and intentions of individuals regarding their personal belongings.
- The measure promotes ethical practices within the cremation industry by mandating clear communication and consent. It prevents any potential misuse or unauthorized sale of precious metals, thereby upholding high standards of integrity.

This measure is a step towards ensuring transparency, respect, and ethical practices in the handling of precious metals recovered during the cremation process.

Thank you for the opportunity to testify in support.



SB-525

Submitted on: 1/27/2025 10:09:48 PM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
GARY SIMON	Testifying for Kokua Council	Support	Written Testimony Only

Comments:

Kokua Council, one of Hawaii's oldest advocacy groups, seeks to empower kupuna to shape the future and well-being of our community.

Kokua Council is in support of SB525.

SB-525

Submitted on: 1/24/2025 11:54:11 AM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
James D Cisler	Individual	Support	Written Testimony Only

Comments:

I appreciate all influencers who support this bill's intent. Thanks!!

SB-525

Submitted on: 1/24/2025 8:48:55 PM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Patrice Choy	Individual	Support	Written Testimony Only

Comments:

I am in full support of SB525 and HB565. Many people do not want to talk or think about cremation services. This hesitance allows the mortuary industry to continue to rip off their customers by not being forthcoming when it comes to dealing with precious metals from the deceased. SB 525 is needed to protect unknowing consumers.

SB-525

Submitted on: 1/26/2025 1:45:47 PM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Seely	Individual	Support	Written Testimony Only

Comments:

Senator Keoholalole and members of the Committee on Commerce and Consumer Protection

I stand in favor of this bill because it is a unique part of protection for the families and friends of deceased. At the very least they must be informed of what happens to their family members' bodies including any implants and given a chance to recover said implants if they wish. This applies to burials and cremations. Collection may include metal parts, gold teeth/crowns etc that may have monetary or emotional value to families.

The method of removal varies from mortuary to mortuary but the need is to explain all considerations of collection and offer choices for those who may or may not wish to collect metals whether done by the mortuary or a third party hired for the collection should be a basic part of any contract the mortuary executes. This offers protection for both mortuaries and users of their services.

Thank you for your consideration of this measure.

SB-525

Submitted on: 1/26/2025 8:01:23 PM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cullen Hayashida	Individual	Support	Written Testimony Only

Comments:

Senators of the Consumer Protection Committee

1. I am writing in full support of **SB 525**, related to mandatory prior written notice and consent in contracts to provide cremation services. Appreciate the work that the Department of Consumer Affairs and Senator Carol Fukunaga’s office have done to confirm that this is a consumer protection issue involving the lack of written notice by mortuaries and cremation services to families regarding the disposition of unburnable metal remains during cremation services. This bill will help ensure the protection of the public and ensure ethical business practices.

This bill is a reasonable request to correct and address an oversight of Hawaii’s mortuary industry’s standard contract form with families. Precious metals such as gold, titanium, cobalt, tantalum, nickel, silver, tungsten, iridium, platinum, etc., are commonly used in surgical and dental implants today. With the growing older adult population, the increased use of surgical implants, and the common use of cremation services in Hawaii, the family should be informed and approve of their disposition for disposal, recycling, or resale. While families are provided with the opportunity to purchase an urn for the ashes of their loved ones, unburnable precious metals (to the best of our knowledge) are not included in the urn.

Your attention to modifying existing state statutes to address this oversight is greatly appreciated.

Thank you very much for your consideration, I am,

Sincerely yours,

Cullen T. Hayashida, Ph.D.

SB-525

Submitted on: 1/26/2025 8:09:55 PM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lila Mower	Individual	Support	Written Testimony Only

Comments:

Support

SB-525

Submitted on: 1/27/2025 5:49:46 PM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
H. Doug Matsuoka	Individual	Support	Written Testimony Only

Comments:

Aloha Senators Keohokalole, Fukunaga, and members of the committee,

I am 2nd Vice President of Kokua Council but submit this as my own personal testimony. Kokua Council recently aired a program where various groups could inform the public of their legislative priorities. Gerontologist Cullen Hayashida presented on HB565 and SB525 regarding requiring mortuaries and crematoria to disclose that they are retaining precious metal non-human remains without notification. These remains have value and the families and loved ones are not notified.

It's simply horrifying. This 1 minute, 16 second excerpt shows Dr. Hayashida's response to the question of what sort of material is being collected, and its potential disposition:

<https://youtu.be/Aez6TOFF-Is?si=3TDVjwtVsaXDAbnv>

I strongly support SB525. Respect for the deceased and their families and loved ones require this notification.

H. Doug Matsuoka

SB-525

Submitted on: 1/27/2025 10:37:28 PM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Support	Written Testimony Only

Comments:

I support SB525.