

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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GOVERNOR | KE KIA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

DEAN I. HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Tuesday, February 4, 2025
2:00 p.m.
Conference Room 329**

**On the following measure:
H.B. 565, RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND
CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES**

Chair Matayoshi 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, RICO partners with the professional and vocational licensing boards, commissions, and programs (Boards) to regulate specific industries for the health, safety, and welfare of the public, and with due consideration also to the State's legitimate, law-abiding professional and vocational licensees. RICO's domain is limited to two independent enforcement responsibilities: performing investigative and prosecutorial functions for the Boards. The Boards set standards for, and have final decision-making authority over, licensees in their respective industries.

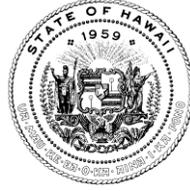
RICO appreciates the measure's intent to provide a higher level of disclosure and transparency to consumers regarding post-cremated remains. From an enforcement perspective, we appreciate the clear language of the proposed amendments, save for the term "precious metals" which is found at page 6, lines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

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 measure.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 measure.

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
House Committee on Consumer Protection & Commerce
Tuesday, February 4, 2025
2:00 PM
Conference Room 329 & Videoconference
State Capitol
415 South Beretania Street

On the following measure:

H.B. 565, RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES

Chair Matayoshi 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 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, 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.

HB-565

Submitted on: 2/1/2025 4:58:38 PM

Testimony for CPC on 2/4/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
GARY SIMON	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 HB 565.



1001 Bishop Street #625 | Honolulu, HI 96813
866-295-7282 | aarp.org/hi | hiaarp@aarp.org |
[Twitter.com/aarphawaii](https://twitter.com/aarphawaii) | facebook.com/aarphawaii

**The State Legislature
House Committee on Consumer Protection and Commerce
Tuesday, February 4, 2025
2:00 p.m.**

TO: The Honorable Scot Matayoshi, Chair
FROM: Keali'i S. López, State Director
RE: Support for H.B. 565 Relating to Mandatory Prior Written Notice and Consent in Contracts to Provide Cremation Services

Aloha Chair Matayoshi 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.

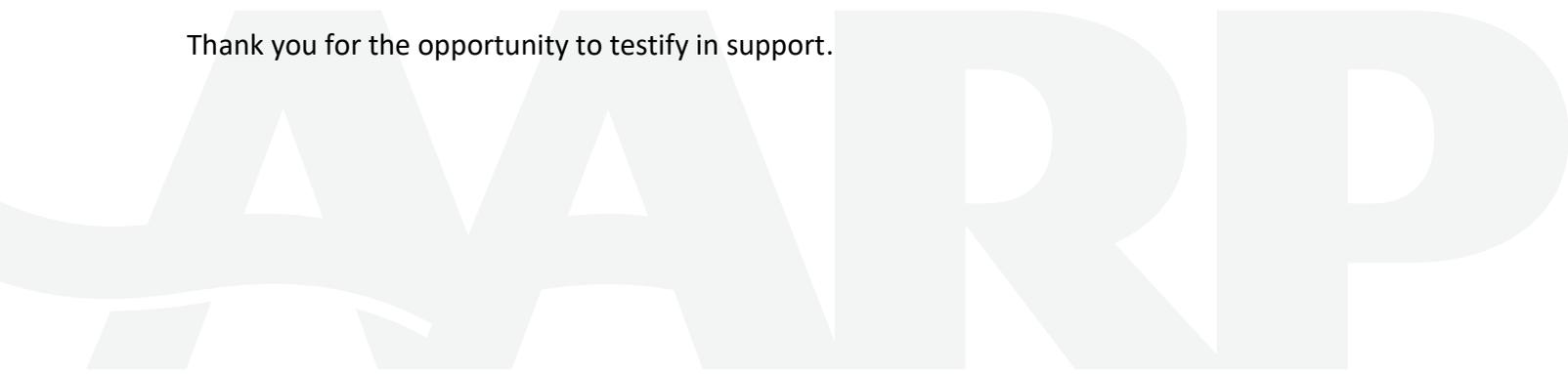
AARP is in support of H.B. 565 which amends Section 441-22.5 by including provision regarding the handling of precious metals recovered during the cremation process. This measure helps ensure transparency and respect for the wishes of individuals and their families.

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.





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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Tuesday, February 4, 2025
2:00 p.m.
Conference Room 329 and Videoconference**

**On the following measure:
H.B. 565, RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND CONSENT
IN CONTRACTS TO PROVIDE CREMATION SERVICES**

Chair Matayoshi 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 10/1/2025, 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 1/1/2026.

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 too, to assure 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.

HB-565

Submitted on: 2/1/2025 12:22:17 AM

Testimony for CPC on 2/4/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kevin Kawamoto	Individual	Support	Written Testimony Only

Comments:

I support HB 565. This seems like a reasonable provision to add to contracts that would minimize or eliminate any misunderstandings or unethical behavior, whether intentional or unintentional.

HB-565

Submitted on: 2/2/2025 9:25:23 AM

Testimony for CPC on 2/4/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cullen Hayashida	Individual	Support	Remotely Via Zoom

Comments:

[COMMITTEE ON CONSUMER PROTECTION & COMMERCE](#)

Chairman Matayoshi, Vice Chair Chun and members of the House Consumer Protection and Commerce Committee,

I am writing in full support of **SB 525** related to mandatory prior written notice and consent and complete disclosure in contracts with families or a representative of the family to provide cremation services. This legislation was prepared because of the need to protect the consumer public and ensure higher ethical business practice. This bill addresses the lack of full disclosure by mortuaries and cremation services to families regarding the disposition of incombustible metals remains following cremation.

1. bill is a reasonable request to correct and address an oversight by the Hawaii’s mortuary industry that can be addressed with a standardized 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 service in Hawaii, families should be requested to be involved, informed, and decide of their disposition for disposal, recycling, or resale. Urns purchased for the ashes of their loved ones do not include (to the best of my knowledge) the incombustible precious metals. The metals are separated and retained by the mortuaries, their property to be disposed, recycled or resold at their discretion. This bill is not addressing surgical implants that have a power component (e.g. Pacemakers). Crematories request that they remove them prior to cremation to prevent damage to the crematory.

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

Thank you very much for your consideration, I am,

Sincerely yours,

Cullen T. Hayashida, PhD.

LATE

TESTIMONY by Jim Shon, PhD

HOUSE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Friday February 7, 2025

TIME: 2 PM

(Note: Website rejects my log in even when I change the password. This I request this testimony be filed as submitted to the committee.)

Chair Matayoshi repmatayoshi@capitol.hawaii.gov,

Vice Chair Chun repchun@capitol.hawaii.gov

Members

[Linda Ichiyama](#)

[Greggor Ilagan](#)

[Kim Coco Iwamoto](#)

[Sam Satoru Kong](#)

[Nicole E. Lowen](#)

[Lisa Marten](#)

[Adrian K. Tam](#)

[Elijah Pierick](#)

HB 565 RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES.

HB 565 Amends the law to provide for the following:

Beginning 10/1/2025, requires mortuaries, cemeteries, and pre-need funeral authorities that contract to provide cremation services to provide written notice if precious metals are recovered after cremation and to obtain written consent before the sale or recycling of any recovered precious metals. Requires mortuaries, cemeteries, and pre-need funeral authorities that have contracted to provide cremation services to give certain notice of updated terms by 1/1/2026.

Care should be taken to avoid a situation where given an “option” to collect surgical implants it becomes an additional onerous cost to the deceased family.

I support this bill for the following reasons.

1. Advances in medical technology are contributing to the quality of life and extension of longevity for Hawaii’s citizens; and

2. At the end of life, mortuaries are increasingly faced with corpses that have within them various surgical implants, some of which would be considered “precious” medals that may be of value and could be recycled; and
3. With the common use of cremation as a final disposal of the deceased, the fate of surgical implants that are not incinerated is an increasing challenge for mortuaries and even the surviving families; and
4. Not only could metal surgical implants remain after cremation, but certain implants that could contain batteries may pose a hazard and explode; and
5. The business of collecting, recycling, and profiting from these technologies are growing throughout the United States; and
6. Surviving families may not always be informed as to the disposal of such implants or their options; and
7. If recycling precious metals collected from the deceased has the potential to generate some revenues the question would be who would have the legal claim to such revenues; and
8. It is not clear as to the status of ownership, right to dispose of, or even the requirement to inform surviving families when valuable surgical implants are involved; and 9. In the absence of clarity over these sensitive issues, it would be in the interest of the people of Hawaii to have more information, data, and options and whether or not additional laws or administrative regulations would be justified.

PROPOSED AMENDMENTS: It would be helpful if the bill were also amended to require The Department of Commerce and Consumer Affairs, in dialogue and collaboration with senior advocacy groups, the University of Hawaii’s Center on Aging, and the various funeral and mortuary businesses and recycling operations, shall conduct a study and provide recommendations on the following issues that need examination and clarification:

- (1) Drafting of consensus definitions for the various surgical implants, their materials used, their value, and the potential for creating standard reporting mechanisms.
- (2) The status and experience of the various counties, and other mainland jurisdictions involved in collection, recycling, and potential revenues.
- (3) The extent to which individual are incorporating the disposal of such implants after death in their Health Directives and Wills, and whether attorneys are interested in these potential requirements;
- (4) The business by hospitals and health professions in procurement of surgical implants, especially if they involve valuable metals.
- (5) Whether or not the surviving families would have legitimate legal claims of ownership of valuable surgical implants.
- (6) Whether the state or county recycling centers could accept recycled surgical implants, and whether mortuaries would pay to have them collected.

(7) The extent to which senior advocacy organizations have an interest in clarifying these issues and identifying the legal rights of surviving family members.

(8) To what extent the University of Hawaii's Center on Aging, the School of Nursing, the School of Social Work, the Medical School and other researchers would be willing to participate in these studies and suggest other relevant issues.

LATE

HB-565

Submitted on: 2/3/2025 5:24:53 PM

Testimony for CPC on 2/4/2025 2:00:00 PM

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

Comments:

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

I am a 72 year old life-long resident of Hawaii and 2nd Vice President of Kokua Council but submit this as my own personal testimony. All deceased friends and family (including my extended family) have been cremated. This is the custom among people with Asian ancestry as well as a growing trend in the US (see footnote). The fact is, every single deceased member of my family, and every single one of my deceased friends (regardless of ancestry) have been cremated. Not a single one has been interred.

Kokua Council recently aired a program where various groups could inform the public of their legislative priorities. Gerontologist Cullen Hayashida presented on HB565 regarding requiring mortuaries and crematoria to disclose that they are retaining precious metal non-human remains without notification.

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=JZIIhRTmrEFR6Cd8>

Please help eliminate this ghoulis practice. Respect for the deceased, their families, and loved ones requires this notification.

H. Doug Matsuoka

National Funeral Directors Association website: "U.S. Cremation Rate Expected to Top 80% by 2045":

<https://nfda.org/news/media-center/nfda-news-releases/id/7717/us-cremation-rate-expected-to-top-80-by-2045>

LATE

HB-565

Submitted on: 2/4/2025 9:19:13 AM

Testimony for CPC on 2/4/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sara Tompkison	Individual	Support	Written Testimony Only

Comments:

As a family caregiver for 95 year old parents, I am in full support of HB565 related to mandatory prior written notification, consent and full disclosure in all contracts to families and/or their legal representatives pertaining to cremation services.

It is important to ensure that consumers and their family caregivers are informed about the options available regarding the disposition of precious metals following the cremation of their loved one.

I have a preneed cremation plan for both of my parents. Unfortunately, the current contract makes no mention that the crematory would return the incombustible metals to me upon request after my parents are cremated.

Passage of HB565 would require that Hawaii's mortuary community establish a standardized contract for family caregivers that includes full disclosure and options related to the disposition of incombustible precious metals.

Thank you for your time and support of HB565.

Sara Tompkison, family caregiver and licensed clinical social worker.