



TO: COMMITTEE ON HEALTH, Chair Ryan Yamane, Vice Chair Scott Nishimoto

FROM: Hawaii Food Industry Association; Dick Botti and Lauren Zirbel

RE: HB 438 RELATING TO TAXATION

Thank you Chair Yamane, Vice Chair Nishimoto and committee members for the opportunity to testify.

HFIA strongly opposes this bill. This bill does not just tax companies which produce soda and sugared juices. It taxes all retail stores that sell these products with the extra paperwork and burden of implementing the tax. The cost of reorganizing in order to adjust to new taxes is significant and is in the end passed on to the consumer in the cost of all foods. Many states allow for a vendors allowance to cover the cost of implementing taxes, which in turn brings down the price of foods and stuffs to consumers. Hawaii is not one of these states.

This bill will increase the cost of all food and drink at a time when people are struggling to afford to feed their families. Last year the legislature passed an additional tax on all imported products. As the majority food is imported to Hawaii, this freight tax is passed on to the consumers in the price of their groceries. When does it end? The legislature must stop taxing groceries, it is the most unfair and regressive way to fill the budget deficit. The beverage industry is already doing more than its fair share to raise money for the State of Hawaii. The bottle bill has cost the industry billions of dollars in taxes and reduced sales. Please don't pass on the tab for the budget deficit to the food and beverage industry.

Thank you for your time.



January 29, 2009

Committee on Health

Hearing, January 30, 2009, 8:30 AM, Rm. 329

Representative Ryan Yamane, Chair

Representative Scott Nishimoto, Vice Chair

RE: HB438, Relating to Taxation

Testimony in Support

Chair Yamane, Vice Chair Nishimoto, and members of the House Committee on Health.

My name is George Massengale and I am the Director of Government Relations for the American Cancer Society Hawaii Pacific Inc., (ACS). Thank you for the opportunity to offer testimony in support of HB438, which increases the tax on sugary soft drinks.

The American Cancer Society Hawaii Pacific Inc., was founded in 1948, and is a community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service.

ACS supports HB438, noting that obesity is a contributing factor to various cancers that occur in Hawaii. ACS is in support of any tax increase that will lower the incidents of cancer and death among our residents. This measure if passed would encourage our youth and adults to switch to healthier beverages. We also support the creation of Soft Drink Surcharge Special Fund within the Hawaii Department of Health to educate the public on the harm of sugary drinks and a sugary diet, as well as the benefits of living a healthy lifestyle.

Mahalo for the opportunity to offer testimony in support of this measure.

Sincerely,

/s/

George Massengale, JD

(808) 432-9142



**Written Testimony of
David Thorp
Director, Government Affairs
American Beverage Association
1101 16th Street, N.W.
Washington, D.C. 20036**

**House Committee on Health
Re: H.B. 438 – Relating to Taxation**

**January 30, 2009
8:30 a.m.**

Good morning, Chair Yamane, Vice Chair Nishimoto and Members of the Committee,

Thank you very much for the opportunity to present comments on H.B. 438 which assess a surcharge on all soft drinks sold in the State.

I am David Thorp, director of government affairs for the American Beverage Association (ABA) in Washington, D.C. The American Beverage Association is the trade association representing the non-alcoholic beverage industry. Founded in 1919, ABA represents hundreds of beverage producers, distributors, franchise companies and supporting businesses that employ more than 217,000 people across the country. The beverage companies throughout Hawaii directly employ over 500 workers and indirectly impact the jobs of thousands of other across the state.

ABA members offer consumers myriad brands, flavors and packaging choices and a full range of drink options including soft drinks, diet soft drinks, ready-to-drink teas, bottled waters, water beverages, 100 percent juice, juice drinks, sports drinks and energy drinks.

H.B. 438 is a Discriminatory Tax

H.B. 438 seeks to impose yet another state tax on soft drinks, juices and certain other beverages. This tax is aimed directly at consumers and jobs. H.B. 438 unfairly lays the blame for obesity on the consumption of one particular product. The proposal also unfairly singles out and financially penalizes consumers of refreshment beverages to help pay for health programs.

The proposed tax perpetuates the myth that taxing one product will make a difference in obesity, or even contribute to fighting the problem. It won't – this is about money, not fighting obesity. Taxing soft drinks or any other single food or food ingredient to pay for health programs is simplistic and unjustified.

Obesity is a Complex Problem with No Simple Solution

Many factors contribute to obesity and related health problems. Singling out one particular product for taxation isn't going to make a dent in a problem as complex as obesity. If Hawaii wants to get serious about obesity, we need to encourage a balanced diet with sensible consumption of all foods and beverages and promote more physical activity and exercise for all citizens. Taxing soft drinks or any other single food or food ingredient to pay for health programs is simplistic and unjustified.

Local Consumers Can't Afford Another Beverage Tax

Hawaii consumers are already overburdened with taxes and they already pay several taxes on beverages, including:

- five-cent deposit
- one-cent handling fee
- one-half percent gross receipts tax from the wholesaler
- four percent gross receipts tax from the retailer

Another Beverage Tax Hurts Local Workers

Lost sales damage local businesses which directly support over 500 workers across the state, pay tens of millions of dollars in wages and benefits, and generates over \$100 million annually in state and federal taxes.

States and Voters are Rejecting Beverage Taxes

Since 1992, no state has implemented a new beverage excise tax. Recognizing that these unfair taxes cause economic damage, eight states have repealed their beverage taxes. In fact, voters of Maine in November 2008 overwhelmingly rejected (64%) a beverage tax to fund healthcare programs.

Beverage Taxes Hit Those Least Able to Pay

This tax would hit those who can least afford to pay the higher costs, especially middle- and lower-income consumers. It is not fair to put the extra burden on them. Hawaii families already pay some of the highest taxes in the nation and are struggling in this difficult economy. There could not be a worse time to ask them to pay more for the products they consume.

We encourage this Committee to reject an inequitable and regressive tax on our products and consumers and instead look to broad-based, comprehensive mechanisms to address the complex problem of obesity.

Sincerely,

David Thorp

David Thorp
Director, Government Affairs
American Beverage Association



RUDD CENTER

**FOR FOOD POLICY
& OBESITY**

 Yale University

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January 30, 2009

Hawai'i State Legislature
Committee on Health
The Honorable Ryan I. Yamane, Chair
The Honorable Scott Y. Nishimoto, Vice Chair

Dear Chairman Yamane and Vice-Chairman Nishimoto,

Thank you for the opportunity to present testimony regarding **House Bill 438**, relating to taxation of soft drinks.

The Rudd Center for Food Policy and Obesity seeks to improve the world's diet, prevent obesity, and reduce weight stigma. The Center establishes creative connections between science and public policy and develops targeted research to inform and empower the public and policy makers, and to maximize the impact on public health. We have written about and done research on soft drink taxes as a strategy to prevent obesity.

Hawai'i is facing an obesity and diabetes epidemic, as is the rest of the nation. According to the Centers for Disease Control, 56.0% of adults in 2007 were either overweight or obese, and a 2007 Hawai'i Youth Risk Behavior Survey reports that 16% of youth in the state were obese. Nearly 8 percent of the adult Hawai'ian population has been diagnosed with diabetes, up from 6 percent five years ago.ⁱ Type 2 diabetes, once seen only in adults, is being reported with increasing frequency among children.

Sugar-sweetened beverages have become a staple of today's American diet. These drinks are inexpensive, in abundant supply, and appeal to our taste for sugar. They are heavily marketed, especially to children, often using celebrities and sports stars. More than for any category of foods, rigorous scientific studies have shown that consumption of soft drinks is associated with poor diet, increasing rates of obesity, and risk for diabetes. These links are strong for children.

We would like to present some evidence-based information which will address issues and questions that may arise when considering a tax on soft drinks.

There has been a substantial increase in consumption of soft drinks:

- Per capita consumption of carbonated soft drinks more than doubled from 1970 to 1999, while milk consumption declined by 24% during the same period.ⁱⁱ

- Soft drink consumption is associated with obesity among school childrenⁱⁱⁱ and increased body weight and energy intake in the population.^{iv}

There is evidence that prices affect purchases and consumption:

- Soft drink consumption can be curtailed by increasing the price of soft drinks.^v
- A study of salty snack food taxes showed that small taxes are likely to produce less of an effect, whereas larger taxes (between 10-30%) can have a significant effect on consumption.^{vi}
- Experiments have shown that manipulating food prices, such as decreasing the cost of healthful foods relative to the cost of less-healthful foods is effective in promoting the purchase of more healthful items.^{vii}

Soft drink tax opponents have argued that such taxes are regressive. Soda taxes have the potential to be most beneficial to low-income people, who may consume more soft drinks and snacks, be more sensitive to higher prices and therefore stand to benefit most from reducing consumption. This is especially true if the revenues are used for programs that will benefit the poor.

Subsidies on more healthful foods can offset the regressive nature of soft drink and snack taxes.

Taxing alcohol and cigarettes has proved to be highly successful in reducing consumption.

- Every 10 percent increase in the real price of cigarettes results in a 3-5 percent reduction in overall consumption, a 3-5 percent reduction among young adult smokers, and a 6-7 percent reduction among children.^{viii}
- A 2009 systematic review of 112 studies of alcohol taxes on price effects establishes that increasing prices of alcohol is an effective means to reduce drinking.^{ix}

Opponents will assert that such taxes can't be compared to those on cigarettes and alcohol because the latter two clearly have adverse consequences for non-users (for example, second hand smoke, and drunk driving accidents, called "externalities"). The obesity epidemic also has externalities. It has resulted in overall significant health care costs, including higher medical, disability, and insurance premium costs, which affect all Americans. For example, obesity-related medical expenditures were estimated in 2002 to be \$92 billion, half of which were paid for with taxpayer dollars through Medicaid and Medicare.^x

There is public support for taxes that are earmarked for obesity prevention:

- A December 2008 poll found that 52% of New York voters supported a proposed tax on soft drinks. Approval rose to 72% when they were informed that the tax would raise funds to be earmarked for obesity prevention among children and adults.^{xi}
- Another poll taken at the same time that asked whether New Yorkers would support an "obesity tax" or "fat tax," and did not note what the funds would be earmarked for. It found that 64% opposed the tax while 31% supported it.^{xii} Hence, using the revenue for things the public can support is important.

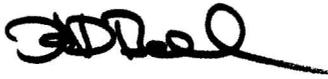
Even small taxes can bring in much-needed revenue for obesity-prevention:

- It is estimated that a national tax of 1 cent per 12-ounce soft drink can generate about \$1.5 billion annually.^{xiii}
- New York State's proposed tax of 18% is projected to bring in \$400 million the first year and close to \$540 million thereafter.^{xiv}

Obesity and related chronic diseases, which cost the country millions of health care dollars each year, are complex problems which must be addressed with multi-faceted strategies. Taxing soft drinks to raise revenue earmarked for obesity-preventions projects and initiatives may be an important complement to Hawai'i's ongoing work on this issue.

Thank you for allowing us to submit this testimony.

Sincerely,



Kelly D. Brownell, PhD.
Director



Roberta R. Friedman, ScM
Director of Public Policy

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- i Kaiser Family Foundation State Health Facts: www.statehealthfacts.org
- ii Putnam, J.J., & Allshouse, J.E. (1999) Food consumption, prices, and expenditures, 1970-1997 Statistical Bulletin No. 965. Washington, DC: Economic Research Service, US Department of Agriculture
- iii Ludwig, David S, Karen E Peterson, and Steven L Gortmaker. 2001. Relation between consumption of sugar-sweetened drinks and childhood obesity: a prospective, observational analysis. *The Lancet* 357, no. 9255 (February 17): 505-508.
- iv Vartanian, Lenny R., Marlene B. Schwartz, and Kelly D. Brownell. 2007. Effects of Soft Drink Consumption on Nutrition and Health: A Systematic Review and Meta-Analysis. *Am J Public Health* 97, no. 4 (April 1): 667-675.
- v Yen, Steven T., Biing-Hwan Lin, David M. Smallwood, and Margaret Andrews. 2004. Demand for nonalcoholic beverages: The case of low-income households. *Agribusiness* 20, no. 3: 309-321. doi:10.1002/agr.20015.
- vi Kuchler, Fred, Tegene Ababayehu, and J. Harris. 2004. Taxing Snack Foods: What to expect for diet and tax revenues. *Ag Info Bulletin Current Issues in Economics of Food Markets*. August. <http://www.ers.usda.gov/Publications/aib747/aib74708.pdf>.
- vii French, Simone A. 2003. Pricing Effects on Food Choices. *J. Nutr.* 133, no. 3 (March 1): 841S-843.
- viii Chaloupka, Frank J. 1999. Macro-social influences: The effects of prices and tobacco-control policies on the demand for tobacco products. *Nicotine & Tobacco Research* 1, no. 1 supp 1: 105; Tauras, John A. 2004. Public policy and smoking cessation among young adults in the United States. *Health Policy* 68, no. 3 (June): 321-332.
- ix Wagenaar, Alexander C., Matthew J. Salois, and Kelli A. Komro. 2009. Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies. *Addiction* 104, no. 2: 179-190.
- x Finkelstein, Eric A., Ian C. Fiebelkorn, and Guijing Wang. 2003. National Medical Expenditures Attributable To Overweight And Obesity: How Much, And Who's Paying? *Health Affairs* 22, no. 4 (July): 8.
- xi Citizen's Committee for Children of New York, Inc. Voter preferences for closing the New York State budget gap. December 15, 2008. Beck Research, LLC.
- xii Quinnipiac University Polling Institute. <http://www.quinnipiac.edu/x271.xml>
- xiii Jacobson, MF, and KD Brownell. 2000. Small taxes on soft drinks and snack foods to promote health. *Am J Public Health* 90, no. 6 (June 1): 854-857.

The Twenty-Fifth Legislature
Regular Session of 2009

HOUSE OF REPRESENTATIVES
Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

State Capitol, Conference Room 329
Friday, January 30, 2009; 8:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 438
RELATING TO TAXATION**

The ILWU Local 142 opposes H.B. 438, which assesses a surcharge on all soft drinks sold in the State.

While we acknowledge that sugary drinks may contribute to obesity and other health problems, the proposed surcharge on all soft drinks amounts to imposing a tax to influence behavior change. Some may argue that this occurs already with cigarette taxes, but it is unclear whether or not the tax itself has proved a deterrent to cigarette use--or the State just wants to collect more taxes.

Soft drink consumers already pay more for their drinks because of the HI-5 recycling fee. The purpose of the fee was to encourage more people to recycle their cans and bottles, but again, it's unclear whether recycling has increased because of the fee. The State actually benefits when cans and bottles are NOT recycled.

We believe this proposal is allowing the State to intervene in the wrong arena. If the State is indeed concerned about the health of its residents, public awareness and education may be the more appropriate response. Imposing a surcharge on soft drinks is actually an ill-disguised ploy to reap more money from consumers--and that's wrong, no matter how large the State's deficit is.

The ILWU urges that this bill be shelved. Thank you for considering our views and concerns.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Soft drink surcharge tax

BILL NUMBER: SB 185; HB 438 (Identical)

INTRODUCED BY: SB by Chun Oakland; HB by M. Lee, Bertram, Mizuno and 1 Democrat

BRIEF SUMMARY: Adds a new chapter to HRS to establish a soft drink surcharge tax of \$___ per can or container of soft drink sold in the state. Defines "soft drink" as any soda, juice, no non-alcoholic beverage that is sold in containers and contains more than ___ per cent sugar; provided that a soft drink is not coffee, tea, cocoa, a diet soda, a water product or a fruit drink that contains 70% or more natural juice. The surcharge tax shall be levied on the seller of the soft drink.

Establishes a soft drink special fund to be administered by the department of health. Moneys in the special fund shall be used to: (1) educate the public with respect to the dangers of sugary soft drinks and a sugary diet and suggestions to lead a healthier lifestyle; (2) fund projects that support a healthier lifestyle without sugary drinks and sugary diet; (3) support community health centers with respect to this chapter; and (4) support any other project or program that furthers the purposes of this chapter.

Requires sellers of soft drinks to register with the director of taxation and pay a one-time fee of \$20 as a precedent to selling soft drinks in the state. Delineates provisions for the filing of returns, penalty provisions, recordkeeping, appeals, administration and enforcement of the surcharge tax.

Requires the director of health to publish a listing of all soft drinks that are subject to the surcharge tax on the department of health's website.

EFFECTIVE DATE: January 1, 2010; applicable to tax years beginning after December 31, 2009

STAFF COMMENTS: This measure proposes to establish a soft drink surcharge tax of \$___ on soft drinks containing ___ per cent sugar to encourage taxpayers to adopt a healthier lifestyle. It should be noted that the use of the tax system as a social tool in its attempt to deter the sale of soft drinks is an inefficient use of the tax system. While diet soft drinks are not subject to the proposed soft drink surcharge, other studies have indicated that diet soft drinks may also contribute to weight gain, diabetes, and other health problems. It should be noted that while this measure is aimed at sugar based soft drinks, what about "super-sized" meals, high calorie snack foods and desserts? Will another tax be imposed on these items in the future since the enactment of this measure may open the door for other similar measures targeted at "unhealthy foods?"

While no amount of the tax is specified in the proposed measure, it is questionable whether the amount of revenues derived will be sufficient to adequately fund the proposed program, especially if the measure succeeds in reducing consumption of "sugary drinks" and resulting in less tax revenue. If it is the intent of the legislature to fund such healthy living programs, it would be preferable to provide a direct appropriation for such programs to ensure adequate funding to achieve its goals.

Raising more money to fund a new state programs without any idea of what services or modalities will be effective and just how much those specific services will cost is an irresponsible and reckless use of public resources. Having no idea of the services to be provided and how much they will cost is a demonstration that policy makers believe that money will solve all problems.

This measure should be recognized for what it is, the expansion of government. It should be noted that the tax proposed in this measure amounts to nothing more than a replacement for general fund financing. In the long run, the consuming public will pay this tax as the cost will be passed on in the cost of the soft drinks similar to the bottle fee. Because these costs will be imbedded in the product, the public will not hold government accountable, rather they will vent their anger at the businesses for increasing the costs. The tax proposed in this measure should be viewed as a discriminatory tax increase on sugary soft drinks. What advantage it has is that the department of health would be able to get away with funding another program without incurring the political wrath of the voting public who will blame the retailer.

It is the proliferation of programs and regulations, such as this measure would impose, that have increased the cost of doing business and living in Hawaii. Any of the other numerous "worthy" programs which are important to the health and safety of the community, should be funded out of legislative appropriation. The proposed tax merely expands the size of government programs, is irresponsible and is an affront to the already beleaguered taxpayer. That added cost will have to be built into the cost of the products consumers purchase in the grocery and department stores around the state. Thus, the added imposition becomes nothing more than an increase in the price of the product which is not recovered by the consumer. Yet these costs have to be administered and, no doubt, the imposition and collection of the proposed tax does nothing more than insure there is another person on the public payroll.

Finally, as we have learned from the beverage container deposit fee, unless people's habits are changed, no financial disincentive, save one that is confiscatory, will discourage or encourage certain types of human behavior. Further, economics more than not dictates what families consume. For example, fresh vegetables and fresh fruit which contribute to a healthier diet are sometimes beyond the means of the poor so they tend to consume large quantities of carbohydrates because they are cheap and filling but not particularly healthy. If the intent is to promote healthier eating patterns, then that goal can be achieved only with education and understanding on the part of families to replace unhealthy choices with healthy choices.

Digested 1/29/09



Representative Ryan Yamane, Chair
Representative Scott Nishimoto, Vice Chair
Committee on Health
State Capitol, Honolulu, Hawaii 96813

HEARING Friday, January 30, 2009
 8:30 am
 Conference Room 329

RE: **HB 438, Relating to Taxation**

Chair Yamane, Vice Chair Nishimoto, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH strongly opposes HB 438, which assesses a surcharge on all soft drinks sold in the state.

As responsible citizens, we share your concern with the growing health problems caused by individuals' over-consumption of food and beverages and their reluctance to participate in physical activity required to maintain good health. However, these are social concerns that already are and should be addressed by government as a function of general public welfare revenues.

Our primary opposition is with increased costs, both to retailers AND to consumers.

Retailers (sellers) will bear additional administrative costs: identifying applicable beverages, updating systems when new products are introduced in the marketplace, maintaining accurate records, and preparing and submitting reports and payments to the Department of Taxation.

Consumers will bear additional grocery costs as the surcharge must and will be passed on to customers.

At a time when businesses are struggling to keep doors open and retain staffing levels, AND consumers are struggling to keep their heads above water, we respectfully ask your consideration to NOT add greater burden to our cost of doing business or our cost of living.

We urge you to hold HB438. Thank you for your consideration and for the opportunity to comment on this measure.

President

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RCB

Richard C. Botti
P.O. Box 385757, Waikoloa, HI 96738

January 30, 2009

Testimony to:

House Health Committee
Rep. Ryan I. Yamane, Chair
Rep. Scott y. Nishimoto, Vice Chair

By: Richard C. Botti

Re: HB 438 RELATING TO A SURCHARGE ON ALL SOFT DRINKS SOLD IN HAWAII

Chairs & Committee Members:

I oppose this measure. While I am indirectly employed by the soft drink industry as they are members of a trade association I am in charge of, I chose to speak as an individual, because my testimony relates to myself as a type II diabetic, that in all probability will establish the number of days that I have remaining in life, which will depend on how I manage my diabetes.

While the Legislature has measures that would ban aspartame which allows me a sugar substitute, the Legislature has this measure to tax soft drinks. Sounds to me like this is more of a hidden tax than a measure to address the real issue.

I have a constant battle controlling my blood sugar numbers. It's done with education, medication, diet, exercise, and will power. Whenever I do cheat, I have to balance everything with an adequate My diabetes can't be blamed on soft drinks, as diabetes runs in my family. My Mother died of diabetes at the age of 59. Placing the blame on soft drinks is easy when it can generate millions of dollars in revenues for the state. Addressing the real cause of diabetes required much more creativity.

Using New York's proposed tax on soft drinks as a means of discouraging the consumption of sugary drinks is really the New York Legislature's way of justifying another tax.

As a diabetic, I can't drink fruit juice drinks or eat most fruits. I can't eat white bread, white rice, white pasta, white potatoes, etc., since they are carbohydrates and turn into sugar. You are not proposing to tax them. Even corn is on the bad list.

Lets get back to reality. I have not consumed regular soft drinks for over twenty years. Because of my lack of education, I was unaware that the bread I love so much was creating a major health problem for me. I wonder how many of you understand what your human energy management system does with the food you consumer, and what you actually eat may be turned to sugar by your energy management system, creating a situation making you vulnerable to being a diabetic.

Taxing soft drinks isn't the answer to the health issues. It is the answer to balancing your budget with something you feel you can justify.