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Improving Life

One Breath at a Time

Founded in 1904, the
American Lung Association
includes affiliated associations
throughout the U.S.



TO: Health Committee on Health

**FOR: Hearing Scheduled for 8:30 am
Friday February 13, 2009**

**RE: TESTIMONY IN SUPPORT HB 895 RELATING TO TAX
ON TOBACCO PRODUCTS OTHER THAN CIGARETTES**

Chair Yamane, Vice Chair Nishimoto and Committee Members:

The American Lung Association of Hawaii supports HB 895, which increases the tobacco tax on tobacco products other than cigarettes. Our mission is to save lives by improving lung health and preventing lung disease through research, education and advocacy.

The tax has not been raised on non-cigarette products since 1965. With the taxes on cigarettes on the increase, these products are becoming an attractive alternative to both current cigarette smokers and those experimenting with tobacco products. It is well documented that all of these products pose significant health hazards.

The American Lung Association in Hawaii urges the Committee to consider raising the tax even higher than the proposed 60% of the wholesale price to 100% of the wholesale price. This would help to deter use of these dangerous products, especially for young people to whom they are being heavily marketed. In addition it will bring in needed revenue to the state.

On behalf of the 154,000 people who struggle to breathe I thank you your consideration on this important measure.

Respectively submitted,

Jean Evans, MPH
Executive Director
American Lung Association of Hawaii



Hawai'i Primary Care Association

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To: **The House Committee on Health**
The Hon. Ryan I. Yamane, Chair
The Hon. Scott Y. Nishimoto, Vice Chair

Testimony in Support of House Bill 895
Relating to Tax on Tobacco Products Other Than Cigarettes
Submitted by Beth Giesting, CEO
February 13, 2009, 8:30 a.m. agenda, Room 329

The Hawaii Primary Care Association urges your support for this measure that would increase taxes on tobacco products and direct part of the funding to the Community Health Center special fund. We believe that both of these purposes are good and timely public health policy.

Such an investment in Community Health Centers (CHCs) will help pay for otherwise uncompensated tobacco cessation programs at the centers. CHCs are serving the people who are most likely to use tobacco products and thus in greatest need of tobacco intervention. Unfortunately, their programs are generally underfunded – if funded at all – by other tobacco settlement dollars, which are targeted for reduction in the coming fiscal biennium.

We would ask that the committee consider **at least doubling the percentage of the tax** in order to provide a stronger deterrent, especially for young people who are more sensitive to costs.

Thank you for the opportunity to support this bill.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: TOBACCO, Increase tax; disposition of revenues

BILL NUMBER: SB 38; HB 895 (Identical)

INTRODUCED BY: SB by Baker, English, Green, Hemmings, and 1 Democrat; HB by Yamane

BRIEF SUMMARY: Amends HRS section 245-1 to amend the definition of "tobacco products" to include smokeless tobacco and pipe tobacco.

Amends HRS section 245-3 to increase the tax on the wholesale price of tobacco products from 40% to 60%.

Amends HRS section 245-15 to provide that after September 30, 2009, 33 1/3% of the amount of tax collected on tobacco products other than cigarettes shall be deposited into the community health centers special fund.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The proposed measure increases the tax on tobacco products other than cigarettes and diverts 33 1/3% of the amount collected on tobacco products other than cigarettes into the community health centers special fund. The measure also provides that smokeless tobacco and pipe tobacco shall be subject to the tobacco tax.

While lawmakers and taxpayers may believe this earmarking of the tobacco tax will insure that the designated programs will be funded into the future, it should be remembered that the rising cost of the product may, in fact, jeopardize funding of these programs. The state cigarette tax is scheduled to rise to \$2.60 per pack by the year 2011. In addition, the federal government is also considering an increase on the order of 61 cents per pack. Should this latter increase be adopted, the tax per pack of cigarettes in Hawaii will rise to \$3.21. As the product becomes more expensive, there will, no doubt, be a reduction in consumption or more untaxed product purchased. This, in turn, will jeopardize the funding of the specified programs making this resource less and less dependable as a funding mechanism for the earmarked programs.

However, this proposal highlights one of the distortions that occurs when product price increases and consumption either decreases or in the case where the tax is based on the cost or value of the product, tax collections will be adversely affected. Until 1993, all tobacco products were taxed at a rate of 40% of the wholesale value of the product plus the 0.5% general excise tax rate and, of course, the 4% general excise tax at retail. When the tax on cigarettes was converted to a per unit basis in 1993, it put all cigarettes, regardless of value, on parity. So inexpensive product was taxed at the same rate as more expensive product even though the difference in cost may have been attributed only to the cost of marketing and advertising the more costly product. As lawmakers increased the tax per pack over the years and the cost of making the product also increased the retail price, smokers had three choices, either

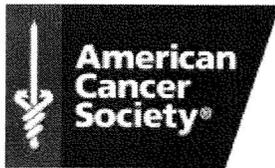
pay more for their preferred brand, quit smoking, or trade down to a less costly product. While quitting smoking will definitely spell a loss in tax revenues for the state, trading down to a less costly brand will not.

This is an important point to note with respect to all other tobacco products. While this measure increases the tax on all other tobacco products from 40% to 60%, lawmakers should consider restructuring the way other tobacco products are taxed to insure stability in the collection from the sales of these products. Instead of continuing to set the tax as a percent of the wholesale value, consideration should be given to moving to a per unit approach like the taxing of cigarettes. While there are no multiples of other tobacco products like cigarettes per pack, these products are usually sold by the weight. So the larger the package of tobacco products, be it chewing tobacco or pipe tobacco, the more the tax would be. Thus, three ounces of pipe tobacco, no matter what the value of the product, would be taxed like another container of three ounces of pipe tobacco. Similarly, cigars that are fatter and, therefore, weigh more than say cigarillos which are thinner, would be taxed according to the overall weight of the product. As a result, when the cost of the product rises, and the behavioral reaction is to trade down to a less costly product, the amount of tax the state receives will be the same, thus stabilizing the collections from this source.

In making the conversion to so many cents per ounce, lawmakers may want to utilize the current tax collected on the most expensive product and divide that amount by the number of ounces. While this will result in an initial bump in collections as the tax on less costly product will see an increase, it will bring parity to these types of products and stabilize collections as users migrate to less costly brands or products as the cost rises.

While not contained in this bill, the notion that the state general fund can be balanced with an increase in "sin" taxes on tobacco and alcohol products is ludicrous. First, as noted above, the higher one pushes the cost of these products, the greater the possibility of actually seeing a decline in consumption as consumers moderate or eliminate consumption. Second, much of the consumption of these products, in particular alcoholic beverages, is made by visitors which, as hotels have reported, are dwindling in numbers. Thus, the base for both of these tax resources will begin to shrink until the visitors return. Thus, these tax resources cannot be counted upon to raise the revenues to balance the state budget. Thus, legislators will suffer great angst in raising these taxes and will have very little to show for their political risk. In fact, as was evidenced in the states of New Jersey and Maryland, lawmakers there counted on an increase in the cigarette taxes to help balance their budgets only to learn that collections actually went down below their prior levels. Thus, care should be exercised in targeting these resources for a quick fix to the state's financial woes.

Finally, lawmakers need to remember that the amount payable to the state under the Master Settlement Agreement (MSA) with the tobacco companies is dependent on the amount of product purchased and consumed in the state. With the rise in the federal tax and potential state tax increases, there is no doubt that it will affect consumption of this product and, therefore, the amount of money the state receives under the MSA.



February 11, 2009

Committee on Health
Representative Ryan I. Yamane, Chair
Representative Scott Y. Nishimoto, Vice Chair

Hearing:

8:30 A.M., Friday, February 13, 2009
Hawaii State Capitol, Room 329

RE: HB895, Relating to Tax on Tobacco Products Other than Cigarettes

Testimony in Support

Chair Yamane, Vice Chair Nishimoto, and members of the Committee on Health. My name is George Massengale and I am the Director of Government Relations with the American Cancer Society Hawaii Pacific Inc. Thank you for the opportunity to testify in strong support of HB895, which increases the excise tax on tobacco products other than cigarettes; and designates 33.3% of the proceeds to the community health centers special fund.

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. This mission is consistent with the Society's ambitious 2015 goals of slashing the cancer mortality rate by 50%, reducing the incidence of cancer by 25%, and improving the quality of life of cancer patients and survivors by reducing the pain and suffering that cancer causes.

Oral and pharyngeal cancer continues to be a significant health problem in the United States and in Hawaii. Approximately 30,000 new cases of oral cancer are diagnosed each year. In Hawaii, the oral/pharyngeal cancer rate is 9.2% per 100,000 of population. Currently, one-third of those patients who receive a diagnosis of oral cancer will eventually die of their disease. The long term survival of oral cancer patients is, as in most cancers, directly proportional to early detection, diagnoses, and treatment.

The use of tobacco products, cigarettes, cigars, pipes, and smokeless tobacco products (spit, snuff, and chewing tobacco) has emerged as a major preventable risk factor for a number of oral diseases and disorders. Unfortunately, shameless marketing of tobacco products to our children and young adults is having a negative impact in Hawaii. The use rates for smokeless tobacco products is moving upwards, as indicated by the increase in tax revenues on these products.

Raising the tax on other tobacco products—making the case. First we note that there is a provision in this bill that would put additional moneys into the community health centers special fund. We believe that there are other equally important reasons to increase this tax:

1. The current tax rate of 40% of the wholesale prices was established in 1965 and has never been increased. Other states have much higher rates; Massachusetts has a 90% rate, Maine 78%, Washington 75%, Minnesota 70%, and Oregon 65%.
2. It is well established by scientific research and the experiences of numerous states that increasing the state tax rates on non-cigarette tobacco products not only raises new revenues but also helps to reduce tobacco use levels, especially among youth.

3. With Hawaii's economy in dire straights, substantiality raising the tax rate and dedicating portions of the increase to tobacco control and other safety net health programs, such as community health centers, will ensure the sustainability of those programs as additional demands are placed on them by laid off workers, the underinsured and uninsured.

The Society believes that a tax increase should be substantial and would recommend at least doubling the rate. In 2008, the Department of Taxation reported \$3.47 million in tax collections on other tobacco products. We would also point out that quadrupling the rate could produce \$13.88 million in revenues.

We are in complete support of depositing the 33.3% of the proceeds collected into the community health centers special fund. As our economy continues to spiral downward, there will be many job layoffs. Thousands will lose their health coverage and will join the roles of the uninsured or underinsured. Our state's community health centers have been the safety net for those individuals who are unable to obtain primary health care. It is critical that we ensure the sustainability of our community health centers. We should not reduce access to care options in the coming hard times. It should be noted that community health centers also provide critical follow-up services for cancer patients with limited resources. In addition, our community health centers are on the front-line in providing screenings for the detection of cancers. If these services were not available many more of our residents would die from cancer.

Last Friday, we testified on a similar tax measure HB1527 before this committee. That bill had a provision to allocate a portion of the tax collected into a cervical and breast cancer screening special fund to ensure that all women will be able to continue to receive pap tests and mammography. We would ask that this committee consider earmarking a percentage of the tax collected be deposited into this fund. We would recommend a percentage that would generate approximately \$200,000 annually.

In closing, we would note that we believe that this is a good bill. It accomplishes several purposes. It is a sin tax that could generate substantial revenues thus helping our state's fiscal crisis. It will provide additional funding for our state's "health safety net" community health centers. It could also fund cervical and breast cancer screenings, and finally it will deter adult and youth tobacco use, which will in turn drive down not only oral cancer rates but the rates of other cancers related to tobacco use.

Finally, we would respectfully request that the committee look favorably on our recommendations to substantially increasing the tax, at the least doubling the tax and allocating a percentage of the revenues into the cervical and breast cancer special fund.

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

Very truly yours,



George S. Massengale, JD
Director of Government Relations

February 11, 2009

TO: Chairman Ryan I. Yamane and Members of the Committee on Health

FROM: Cigar Association of America, Inc.
(William L. Goo)

RE: **HB 895** - Relating to Tax on Tobacco Products Other Than Cigarettes

Hearing Date: Friday, February 13, 2009 at 8:30 a.m.

My name is William L. Goo. I represent the Cigar Association of America, Inc. (CAA).

CAA respectfully opposes passage of **HB 895**. Increasing the amount of the tax would not necessarily be a deterrent to the use of other tobacco products ("OTP") including cigars. OTP users may resort to less expensive means to purchase their products which may also result in a decrease in revenue notwithstanding the rate increase. OTP users are already taxed at a high rate (40%) and will be subject to substantial additional taxes as a result of the recent passage of the SCHIP bill.

Thank you for considering this testimony. It is respectfully requested that the Committee hold this measure.