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KURT KAWAFUCHI  
DIRECTOR OF TAXATION

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DEPUTY DIRECTOR

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**HOUSE COMMITTEE ON FINANCE  
TESTIMONY REGARDING HB 896  
RELATING TO TOBACCO**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**  
**DATE: FEBRUARY 27, 2009**  
**TIME: 12PM**  
**ROOM: 308**

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This bill proposes to amend Act 131, Session Laws of Hawaii 2005, by amending section 9 by deleting the repeal date.

The House Committee on Health passed this measure unamended.

The Department of Taxation (Department) **strongly supports** this legislation.

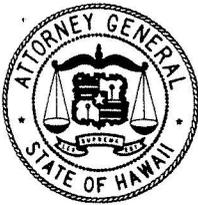
**SIGNIFICANT TIME, EFFORT, AND MONEY HAS GONE INTO MAKING SURE  
THE ENFORCEMENT OF THIS LAW IS A TOP PRIORITY.**

The Department strongly supports this legislation. The Department, in connection with the Tobacco Enforcement Unit of the Department of the Attorney General, has expended significant time and effort in what has been a successful effort to enforce the tobacco tax laws of Hawaii.

The Department has promulgated administrative rules related to enforcement. The Department has also coordinated extensively with the Attorney General's Tobacco Enforcement Unit. Enforcement of Act 131 is up and running. Allowing the Act to repeal would be a severe hit to the enforcement efforts and subsequent revenue realized from the permitting of tobacco retailers.

The Department strongly supports making Act 131 permanent and encourages the Committee to pass this measure unamended.

The Department projects that any loss in enforcement efforts in the monitoring of tobacco retailers could result in a revenue loss of approximately \$5.3 million per year.



**TESTIMONY OF THE STATE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2009**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 896, RELATING TO TOBACCO.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Friday, February 27, 2009 **TIME:** 12:00 PM

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Mark J. Bennett, Attorney General,  
or Janine R. Udui, Deputy Attorney General

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Chair Oshiro and Members of the Committee:

The Attorney General supports this bill.

The purpose of this bill is to continue the requirement that businesses engaged in the sale of cigarettes and other tobacco products at the retail level acquire a retail tobacco permit from the Department of Taxation to engage in such activity. Act 131, Session Laws of Hawaii 2005, which enacted the requirement of a retail tobacco permit, contains a sunset clause that will repeal Act 131 on July 1, 2009.

This bill removes that sunset clause and keeps in place the requirement that an entity engaged in the retail sale of cigarettes or other tobacco products obtain a retail tobacco permit. The retail tobacco permit facilitates the enforcement of chapter 245, Hawaii Revised Statutes, by providing a known and measurable list of entities engaged in the retail sale of cigarettes and other tobacco products. More than 1,500 entities in Hawaii engaged in the retail sale of cigarettes and other tobacco products have applied for and received a retail tobacco permit.

The current statute allows for the inspection of records and invoices that are to be kept by the retail tobacco permit holder to facilitate a determination of the proper source of cigarettes and

tobacco products as well as payment of taxes. The statute requires that a permit be acquired for each location where cigarettes are sold at retail.

Every holder of a retail tobacco permit is required to keep a complete and accurate record of the permit holder's cigarette or tobacco product inventory. This requirement is intended to ensure that all tobacco products sold at retail are compliant and that all tobacco taxes are paid. In testimony submitted to the Legislature in 2009, the Department of Taxation projected that any loss in enforcement efforts in the monitoring of tobacco retailers could result in a revenue loss of approximately \$5,300,000 per year.

The retail tobacco permit program facilitates the collection of cigarette taxes by making it clear that no retailer or cigarette vending machine operator shall purchase any pack of cigarettes without the appropriate tax stamp being affixed to the bottom of each pack of cigarettes as required by chapter 245. For fiscal year 2007-2008, the Department of Taxation reports cigarette tax revenues of \$101,560,051, which represents an increase of \$12,788,385 or 12.6 percent over the \$88,771,666 in cigarette tax revenues collected in fiscal year 2006-2007.

We respectfully request passage of this bill.



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

HEARING      Friday, February 13, 2009  
                    8:30 am  
                    Conference Room 329

**RE:    HB896, Relating to Tobacco**

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 opposes HB896**, which makes permanent the retail tobacco permit law.

Retail sales have declined steadily since the second quarter of 2008. Holiday sales, which account for 25% to 40% of a retailer's annual business, were down double digits last year. Hawaii's retailers are struggling to maintain operations, and, more specifically, to retain their employees and avoid layoffs.

Maintaining the repeal provision of Act 313, Session Laws of Hawaii 2005, would keep valuable cash resources in retailers hands and, hopefully, **keep their doors open for business.**

We respectfully request that you hold HB896. Thank you for your consideration and for the opportunity to comment on this measure.

President

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**TO: House Committee on Finance**

**FOR: Hearing Scheduled for 12:00 pm  
Friday February 27, 2009**

**RE: TESTIMONY IN STRONG SUPPORT HB 896 RELATING  
TO TOBACCO**

Chair Oshiro, Vice Chair Lee and Committee Members:

The American Lung Association in Hawaii strongly supports HB 896, which extends without time limit the requirement for retailers who sell tobacco to obtain a retail tobacco permit from the Department of Taxation.

Removal of the provision in the existing law that sunsets the permit requirement in July 2009 would ensure continuation of an important element in the ongoing effort to regulate and control tobacco use among Hawaii's minors. Although the percentage of frequent smokers among high school students is declining (and stands presently at approximately 9.7 percent), surveys indicate nearly 7 out of 10 high school students in Hawaii have tried smoking.

The most recent statistic available from the Hawaii Department of Health reveal that "1 in 6 Hawaii high school underage smokers who bought their last pack of cigarettes in a store were neither asked to show ID nor refused sale, according to a student survey."

Clearly, improved regulation and monitoring of tobacco retail sales is required to help stem the illegal sale of tobacco products to minors. ALA in Hawaii believes adoption of HB 896 will be an important step in achieving that goal.

Respectively submitted,

Jean Evans, MPH  
Executive Director  
American Lung Association in Hawaii

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



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## Testimony for HB 896, Relating To Tobacco

The American Heart Association of Hawaii supports HB 896 to repeal the sunset clause in Act 131, Session Laws of Hawaii 2005, and require tobacco retailers to acquire a permit. The permitting, and threat of loss of a permit to sell tobacco, can be an effective deterrent to those who would illegally sell tobacco products to a minor. It is one part of a scientifically-based, comprehensive effort that has been proven to help reach the goal of reducing youth access to tobacco. It also provides the Attorney General's office with an important tool to identify locations selling tobacco to insure that those retailers pay the appropriate taxes on their sales.

In Hawaii each year, there are close to 1,100 deaths related to tobacco use. That amounts to almost 12 percent of all resident deaths. Tobacco use is *the* most preventable cause of premature death. Each year, smoking kills more people than AIDS, alcohol, drug abuse, car crashes, murders, suicides, and fires *combined*. Tobacco use costs Hawaii over a half-billion dollars annually in medical costs and lost productivity. Tobacco remains the only legal, consumable product that when used as directed will kill approximately one-third of its users.

Most smokers begin their nicotine addiction as a teen or youth. The success that Hawaii has had in reducing teen smoking levels could quickly reverse as tobacco education, prevention and cessation funding falls victim to inflation and threats of cuts due to economic pressures to the state. Add to that increasingly clever tobacco industry efforts to target young potential smokers through marketing and advertising campaigns, and the need for vigilant surveillance of, and enforcement against, those who would sell tobacco to minors is magnified.

The American Heart Association feels that making the requirement to obtain a permit to sell tobacco, as proposed by HB 896, would provide a strong deterrent to those who might purposely, or accidentally, sell tobacco to minors. It would encourage retailers to be more vigilant in insuring that their sales staff is trained in checking for appropriate age identification when selling tobacco products.

The AHA urges Hawaii legislators to pass HB 896.

Respectfully submitted,

Donald B. Weisman  
Hawaii Communications and Marketing/Government Affairs Director

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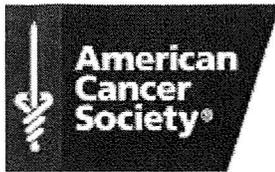
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*"Building healthier lives,  
free of cardiovascular  
diseases and stroke."*



February 25, 2009

Committee on Finance  
Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair

**Hearing:**

12:00 P.M., Friday, February 27, 2009  
Hawaii State Capitol, Room 308

**RE: HB896, Relating to Tobacco**

**TESTIMONY IN STRONG SUPPORT**

Good afternoon Chair Oshiro, Vice Chair Lee, and members of the Committee on Finance. My name is George Massengale and on behalf of the American Cancer Society, I thank you for the opportunity to testify in strong support of HB896, which would remove the sunset clause in Act 131, thus retaining retail tobacco sales permits.

The American Cancer Society Hawaii Pacific Inc., was formed in 1959, 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 includes advocating for effective tobacco control measures to reduce and prevent smoking by children and young adults.

In 2005, the legislature passed Act 131, which mandated that businesses engaged in the sale of cigarettes and other tobacco products at the retail level acquire a retail tobacco permit from the Department of Taxation. Removing the sunset clause will keep in place the provisions of Act 131. In addition to the tax revenues being collected, **the permitting law has had an impact on our youth smoking rates, which is slightly under 10%**. The issuing of retail tobacco sales permits enabled the State to compile an accurate list of retail tobacco vendors. The list was then utilized for SYNAR compliance inspections.

In 1992, Congress enacted legislation aimed at decreasing youth access to tobacco products. The legislation, known as the SYNAR Regulation (named for Congressman Mike Synar of Oklahoma), requires states to enact and enforce laws prohibiting any manufacturer, retailer, or distributor from selling or distributing tobacco products to individuals under 18 years of age. In addition to enacting and enforcing a law, states must implement annual random, unannounced compliance inspections (RUIs) to determine their buy rates of tobacco products sold to youth under the age of 18.

Tobacco sales to minors in Hawaii are declining because of youth public education, counter marketing, prevention efforts and SYNAR compliance, of which retail tobacco sales permits are an integral component.

We would request that HB896, be passed on for additional hearings by the House Finance Committee.

Mahalo for giving me the opportunity to provide testimony in strong support of this measure. Please do not hesitate to contact me directly if you require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "George Massengale".

George Massengale, JD  
Director of Government Relations



To: Representative Marcus R. Oshiro, Chair, Committee on Finance  
Representative Marilyn B. Lee, Vice Chair, Committee on Finance  
Members, House Committee on Finance  
From: Trisha Y. Nakamura, Policy and Advocacy Director   
Date: February 25, 2009  
Hrg: House Committee on Finance; February 27, 2009 at 12:00 p.m. (Agenda #3)  
Re: **Strong Support for HB 896, Relating to Tobacco**

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Thank you for the opportunity to testify in strong support of HB 896 which would repeal the sunset date of July 1, 2009 of the retail tobacco permit law: Act 131, Session Laws of Hawaii 2005.

The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy. The Coalition provides leadership for the tobacco control community, develops networks, helps coordinate tobacco control programs, and builds community awareness.

The retail tobacco permit requires tobacco retailers to acquire a permit from the Department of Taxation to sell tobacco. The permit helps our State maintain a complete list of tobacco retailers that is used to help enforce tobacco laws, including verifying that retailers are selling cigarettes that are tax-stamped as well as not selling tobacco to minors.

Comprehensive efforts in tobacco control have led to a significant drop in high school smoking rates which are below 10%. Requiring that tobacco retailers obtain permits is part of this comprehensive approach to reduce youth smoking.

Please ensure the tobacco permit law is not repealed. Please pass HB 896 out of Committee. Thank you for the opportunity to testify on this matter.