

HB 896



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

ON THE FOLLOWING MEASURE:

H.B. NO. 896, H.D. 1, RELATING TO TOBACCO.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Monday, April 6, 2009 TIME: 9:30 AM

LOCATION: State Capitol, Room 211

TESTIFIER(S): WRITTEN TESTIMONY ONLY

(For more information, call Alex Barrett, Deputy Attorney General, at 586-1203.)

Chair Kim and Members of the Committee:

The Department of the Attorney General strongly 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.



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Testimony for HB 896, HD 1, Relating To Tobacco

The American Heart Association of Hawaii supports HB 896, HD 1 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, HD 1, 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, HD 1.

Respectfully submitted,

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

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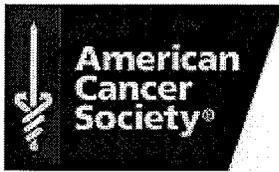
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free of cardiovascular
diseases and stroke."*



April 4, 2009

Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Hearing:

9:30 A.M., Monday, April 6, 2009
Hawaii State Capitol, Room 211

RE: HB896, HD1, SD1, Relating to Tobacco

TESTIMONY IN STRONG SUPPORT

Chair Kim, Vice Chair Tsutsui, and members of the Committee on Ways and Means. My name is George Massengale and I am offering this testimony in support on behalf of the American Cancer Society. HB896, HD1, SD1, if passed, 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 to 9.7%**. 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, HD1, SD1, be passed as is for final reading before the full Senate.

Mahalo, for giving me the opportunity to provide testimony in support this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Massengale". The signature is fluid and cursive, with a prominent initial "G" and a long, sweeping underline.

George Massengale, JD
Director of Government Relations



COALITION FOR A
TOBACCO-FREE HAWAII

To: Senator Donna Mercado Kim, Chair, Committee on Ways and Means
Senator Shan S. Tsutsui, Vice Chair, Committee on Ways and Means
Members, Senate Committee on Ways and Means
From: Trisha Y. Nakamura, Policy and Advocacy Director
Date: March 1, 2009
DM: Senate Committee on Ways and Means April 6, 2009 at 9:30 a.m.
Re: **Comments on HB 896 HD 1**

Thank you for this opportunity to provide comments on HB 896, HD 1, which would eliminate the sunset of the retail tobacco permit law. The Coalition appreciates that the Committee on Ways and Means has scheduled this measure for decision making as the retail tobacco permit law is an important part of Hawaii's comprehensive tobacco control effort.

At this time, we request that you hold this measure in Committee as SB 528 SD 1 has been passed unamended by House Finance on April 1, 2009. SB 528 SD 1 and HB 896 HD 1 contain the same language with the exception that the Senate Bill has a purpose section.

Thank you for the opportunity to provide comments on measure.