

# SB 3108

Measure Title: RELATING TO UNDERGROUND STORAGE TANKS.

Report Title: Underground Storage Tanks; Shoreline; Prohibition

Description: Bans new underground storage tanks within one hundred yards of the shoreline, as of 7/1/2016. Prohibits operation of and renewal of a permit for an underground storage tank within one hundred yards of the shoreline, as of 1/1/2030.

Companion:

Package: None

Current Referral: EET/WLA, CPH

Introducer(s): WAKAI, CHUN OAKLAND, ESPERO, HARIMOTO,  
INOUE, KEITH-AGARAN, NISHIHARA, RIVIERE,  
SHIMABUKURO, Kidani, Kim, Slom, Taniguchi

JAN 27 2016

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## A BILL FOR AN ACT

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RELATING TO UNDERGROUND STORAGE TANKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1       SECTION 1. The legislature finds that climate change is  
2       real and that sea level rise poses a threat to Hawaii's quality  
3       of life. Immediate preparation for sea level rise will protect  
4       natural resources and save money in the long-term. The  
5       legislature further finds that the inundation of underground  
6       storage tanks poses risks to the aquifer as well as coastal  
7       water quality and marine ecosystems.

8       SECTION 2. Chapter 342L, Hawaii Revised Statutes, is  
9       amended by adding a new section to be appropriately designated  
10      and to read as follows:

11       "§342L-     Underground storage tanks near shoreline;  
12      prohibition; permit renewal. (a) Beginning July 1, 2016, no  
13      new underground storage tank shall be permitted within one  
14      hundred yards of the shoreline.

15       (b) Beginning January 1, 2030, no person shall operate an  
16      underground storage tank within one hundred yards of the



1 shoreline, and no permit for an underground storage tank within  
 2 one hundred yards of the shoreline shall be renewed."

3 SECTION 3. Section 342L-1, Hawaii Revised Statutes, is  
 4 amended by adding a new definition to be appropriately inserted  
 5 and to read as follows:

6 "Shoreline" means the upper reaches of the wash of the  
 7 waves, other than storm and seismic waves, at high tide during  
 8 the season of the year in which the highest wash of the waves  
 9 occurs, as evidenced by the edge of vegetation growth or the  
 10 upper limit of debris left by the wash of the waves."

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2016.

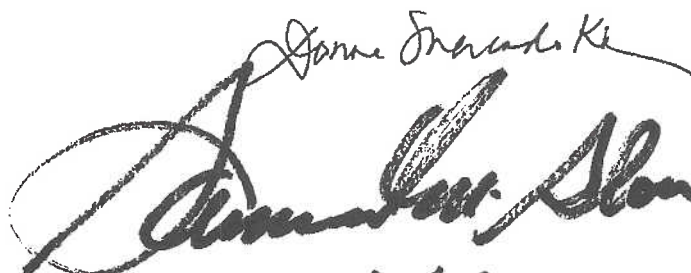
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INTRODUCED BY:

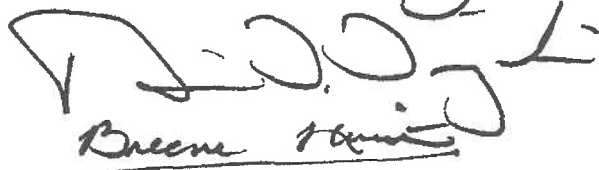


 Michelle Kildani


 Will Ayers



 D.C. Hoch-Ang

 Breene Harris

 Suzanne Chun

 Suzanne L. Inoué

 E. Alvarez



S.B. NO. 3108

Clarence K. Kishikawa



# S.B. NO. 3108

**Report Title:**

Underground Storage Tanks; Shoreline; Prohibition

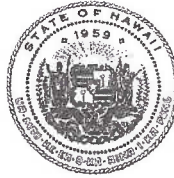
**Description:**

Bans new underground storage tanks within one hundred yards of the shoreline, as of 7/1/2016. Prohibits operation of and renewal of a permit for an underground storage tank within one hundred yards of the shoreline, as of 1/1/2030.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



DAVID Y. IGE  
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB 3108  
RELATING TO UNDERGROUND STORAGE TANKS**

SENATOR GLENN WAKAI, CHAIR  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT AND  
TECHNOLOGY

SENATOR MIKE GABBARD, CHAIR  
SENATE COMMITTEE ON WATER, LAND AND AGRICULTURE

Hearing Date: February 12, 2016  
Time: 1:20 pm

Room Number: 414

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department supports the intent of SB 3108. This measure  
3 prohibits the permitting of new underground storage tanks (USTs) within one hundred yards of  
4 the shoreline. For those USTs that are currently in use, we would need further evaluation for  
5 better understanding of the threat to USTs and the appropriate timeline for closing and/or  
6 upgrading the USTs.

7 Thank you for the opportunity to testify on this measure.

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## BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU  
630 SOUTH BERETANIA STREET  
HONOLULU, HI 96843



February 9, 2016

KIRK CALDWELL, MAYOR

DUANE R. MIYASHIRO, Chair  
ADAM C. WONG, Vice Chair  
DAVID C. HULIHEE  
KAPUA SPROAT  
BRYAN P. ANDAYA

ROSS S. SASAMURA, Ex-Officio  
FORD N. FUCHIGAMI, Ex-Officio

ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.  
Deputy Manager and Chief Engineer

The Honorable Glenn Wakai, Chair  
and Members  
Committee on Economic Development, Environment, and Technology

and

The Honorable Mike Gabbard, Chair  
and Members  
Committee on Water, Land, and Agriculture  
State Senate  
Hawaii State Capitol, Room 414  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Wakai and Gabbard and Members:

Subject: Senate Bill 3108 Relating to Underground Storage Tanks

We support Senate Bill 3108 which bans new underground storage tanks within one hundred yards of the shoreline, as of July 1, 2016, and prohibits the operation of and renewal of a permit for an underground storage tank within one hundred yards of the shoreline, beginning January 1, 2030. This measure will help protect our marine environment and underground aquifers from risks posed by the inundation of underground storage tanks caused by climate change.

Thank you for your consideration of our testimony on Senate Bill 3108.

Very truly yours,

ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer





TO: SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT,  
AND TECHNOLOGY  
Senator Glenn Wakai, Chair  
Senator Sam Slom, Vice Chair

SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE  
Senator Mike Gabbard, Chair  
Senator Clarence K. Nishihara, Vice Chair

FROM: Richard Parry  
President and CEO of Aloha Petroleum, Ltd.

HEARING  
DATE: Friday, February 12, 2016  
TIME: 1:20 p.m.  
PLACE: State Capitol, Conference Room 414

RE: Testimony on S.B. No. 3108 Relating to Underground Storage Tanks

Chair Wakai, Vice Chair Slom, and Members of the Senate Committee on Economic Development, Environment, and Technology and Chair Gabbard, Vice Chair Nishihara, and Members of the Senate Committee on Water, Land, and Agriculture, I am Richard Parry, President and CEO of Aloha Petroleum, Ltd. ("Aloha Petroleum").

S.B. No. 3108 bans new underground storage tanks within one hundred yards of the shoreline beginning on 7/1/2016, and prohibits continued operation of an existing underground storage tank within one hundred yards of the shoreline beginning on 1/1/2030.

Aloha opposes S.B. No. 3108 since it is an unconstitutional regulatory taking which impairs the value of property without payment of just compensation to the property's owner. S.B. No. 3108 will effectively wipe out almost all existing gasoline stations along the coastline of all the major islands; the Waianae coast would be particularly hard hit. If passed, this bill also has the adverse unintended consequence of dissuading the replacement of aging underground storage tanks along the coastline.

Underground storage tanks have been regulated effectively and safely for decades by the U.S. Environmental Protection Agency ("EPA") and the State Department of Health. Since 1984, the EPA has developed and established operating requirements and technical standards for double-wall tank design and installation, leak



Testimony of  
Aloha Petroleum, Ltd.

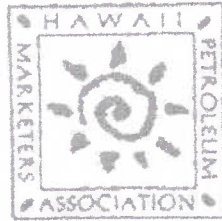


S.B. No. 3108 Relating to Underground Storage Tanks  
Hearing Date: Friday, February 12, 2016 at 1:20 p.m.

detection monitoring, spill and overfill control, corrective action, and tank closure, including annual inspections. The EPA and DOH recently further strengthened regulations of these fuel systems. The modern technology for underground storage tanks is very safe, and the EPA has also established rigorous operator training, inspections, delivery prohibition, secondary containment and financial responsibility requirements for all owners and operators of underground storage tanks.

Instead of an outright ban, any concerns for public health and safety should be considered and implemented by the local zoning authorities in conjunction with the EPA, and existing gas stations near the shoreline should be grandfathered. If not, the state risks the threat of class action litigation based on the unconstitutional regulatory taking of property without just compensation.

Thank you for the opportunity to testify in opposition to S.B. No. 3108.



TO: SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT,  
AND TECHNOLOGY  
Senator Glenn Wakai, Chair  
Senator Sam Slom, Vice Chair

SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE  
Senator Mike Gabbard, Chair  
Senator Clarence K. Nishihara, Vice Chair

FROM: Richard Parry  
President of Hawaii Petroleum Marketers Association

HEARING

DATE: Friday, February 12, 2016  
TIME: 1:20 p.m.  
PLACE: State Capitol, Conference Room 414

RE: Testimony on S.B. No. 3108 Relating to Underground Storage Tanks

Chair Wakai, Vice Chair Slom, and Members of the Senate Committee on Economic Development, Environment, and Technology and Chair Gabbard, Vice Chair Nishihara, and Members of the Senate Committee on Water, Land, and Agriculture, I am Richard Parry, President of Hawaii Petroleum Marketers Association ("HPMA"). HPMA is a non-profit trade association comprised of members directly marketing petroleum products across the Hawaiian Islands. Our membership includes individuals or companies who operate as either independent marketers, jobbers or distributors of petroleum products and who buy petroleum products at the wholesale level and sells or distributes such products to all classes of trades. HPMA's primary purpose is to protect and advance its members' legislative and regulatory interests in the Hawaiian Islands and Washington, D.C.

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stations along the coastline of all the major islands; the Waianae coast would be particularly hard hit. If passed, this bill also has the adverse unintended consequence of dissuading the replacement of aging underground storage tanks along the coastline.

Underground storage tanks have been regulated effectively and safely for decades by the U.S. Environmental Protection Agency ("EPA") and the State Department of Health. Since 1984, the EPA has developed and established operating requirements and technical standards for double-wall tank design and installation, leak detection monitoring, spill and overfill control, corrective action, and tank closure, including annual inspections. The EPA and DOH recently further strengthened regulations of these fuel systems. The modern technology for underground storage tanks is very safe, and the EPA has also established rigorous operator training, inspections, delivery prohibition, secondary containment and financial responsibility requirements for all owners and operators of underground storage tanks.

Instead of an outright ban, any concerns for public health and safety should be considered and implemented by the local zoning authorities in conjunction with the EPA, and existing gas stations near the shoreline should be grandfathered. If not, the state risks the threat of class action litigation based on the unconstitutional regulatory taking of property without just compensation.

Thank you for the opportunity to testify in opposition to S.B. No. 3108.