



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

**Testimony in SUPPORT of HB0748
RELATING TO ENVIRONMENTAL PROTECTION**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Hearing Date: 2/2/2023 Room Number: 325

- 1 **Fiscal Implications:** HIGHLIGHT AND REPLACE TEXT (e.g., This measure will impact the
- 2 priorities identified in the Governor's Executive Budget Request for the Department of Health's
- 3 (Department) appropriations and personnel priorities.)
- 4 **Department Testimony:** The Department supports this measure which seeks to expand on
- 5 2022's Act 152 extending prohibitions on the manufacturing, distribution, and use of products
- 6 containing per- and poly-fluoroalkyl substances (PFAS). This measure expands the prohibition
- 7 to additional types of food containers, food service ware, cosmetics and personal care products
- 8 and its implementation would likely decrease the overall burden of PFAS contamination in
- 9 Hawaii's environment.
- 10 The Department supports this measure which seeks to expand on 2022's Act 152 extending
- 11 prohibitions on the manufacturing, distribution, and use of products containing per- and poly-
- 12 fluoroalkyl substances (PFAS). This measure expands the prohibition to additional types of food
- 13 containers, food service ware, cosmetics and personal care products and its implementation
- 14 would likely decrease the overall burden of PFAS contamination in Hawaii's environment.
- 15 While the Department supports this measure, implementation and enforcement may be difficult.
- 16
- 17 Thank you for the opportunity to testify on this measure.



Environmental Caucus of The Democratic Party of Hawai'i

To: The Honorable Nicole E. Lowen, Chair
The Honorable Elle Cochran, Vice Chair
Committee on Energy and Environmental Protection

Re: **HB 748 – RELATING TO ENVIRONMENTAL PROTECTION**
Hearing: Thursday, February 2, 2023, 9:15 a.m., Conference Room 325 & Videoconference

Position: **Strong support**

Aloha, Chair Lowen, Vice Chair Cochran and Members of the Committee on Energy and Environmental Protection:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of HB 748. This measure prohibits the manufacture, sale, offer for sale, distribution for sale, and distribution for use of any food packaging, food service ware, cosmetic, or personal care product that contains perfluoroalkyl and polyfluoroalkyl substances, beginning 12/31/2026.

We humbly request that this measure be amended to include a ban on firefighting foams that contain perfluoroalkyl and polyfluoroalkyl substances.

The Democratic Party of Hawai'i Environmental Platform Planks set policies to protect and preserve Hawai'i's environment and achieve energy sustainability, advance measures to re-establish a healthy climate and environment for humans and fellow species, including actions to urgently address climate change, and work towards 100% renewable energy goals.

We believe that all people have the right to live in a clean, healthy and safe environment. We believe that the preservation of our natural environment and its ecological well-being is essential to ensuring a safe, healthy, bountiful life for future generations in Hawai'i. We support policies that create a more sustainable society. We support the restoration, preservation, and protection of native ecosystems.

We believe in the resource management principles outlined in the Public Trust doctrine of [Article XI, Section 1 of] the Hawai'i State Constitution." [OUR PLATFORM | DPH \(hawaiidemocrats.org\)](#)

The Environmental Caucus supports this bill as studies have shown that PFOA and PFOS can cause reproductive and developmental, liver and kidney, and immunological effects in laboratory animals, and both PFOA and PFOS have caused tumors in animals. In addition, there have been findings of an increased cholesterol levels among exposed populations with other findings related to low infant birth rates, effects on the immune system, cancer for PFOA, and thyroid disruption for PFOS.

Individuals can be exposed to PFAS by eating food that was packaged in material that contains PFAS or using consumer products that contain PFAS. Another pathway to PFAS is through drinking water contaminated by firefighting foam containing PFAS. Once PFAS enters the environment, they persist for 700-1000 years, hence the name, "Forever Chemicals," as there are no natural processes that can break down these substances. As such, these forever chemicals can continue to cause exposures long after they



February 2, 2023
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are phased out of consumer and other products and they bioaccumulate in the environment and in our bodies from one generation to the next.

Given the known health risks and persistency of these forever chemicals, the ban called for in this measure, with the amendment to include a ban on firefighting foams that contain perfluoroalkyl and polyfluoroalkyl substances, is reasonable, justifiable, and long overdue.

Please support and pass this bill.

/s/ Melodie Aduja and Alan Burdick
Co-Chairs, Environmental Caucus of the Democratic Party of Hawai'i

January 31, 2023

Rep. Nicole E. Lowen, Chair
Rep. Elle Cochran, Vice Chair
House Committee on Energy & Environmental Protection
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

RE: HB 748 (Lowen): Request for Amendment

Chair Lowen, Vice Chair Cochran, and Members of the House Committee on Energy & Environmental Protection:

The Household and Commercial Products Association (HCPA) appreciates the opportunity to provide testimony on HB 748 and request amendments to address a concern related to aerosol propellants.

HCPA is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution, and sale of more than \$180 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. Products HCPA represents include disinfectants that kill germs in homes, hospitals, and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for home, lawn and garden, and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

Broad Application Has Unintended Consequences for Aerosol Products

The safety of consumers is the highest priority for HCPA members and we applaud your work on behalf of Hawaiian consumers of cosmetic and personal care products. However, the broad application of the bill captures important tools for cosmetic products that do not represent the attributes of Per- and Polyfluoroalkyl Substances (PFAS) as generally understood.

Hydrofluoroolefins (HFOs) have emerged as a next-generation aerosol propellant that is safe for humans and the environment. HFOs bring a very low Global Warming Potential (GWP)¹ and reduce ground level ozone formation, giving them an important role in Hawaii's climate and environmental goals. As it relates to PFAS, HFOs are not persistent², bioaccumulative, or toxic. Indeed, after rigorous review, the US Environmental Protection Agency has deemed HFOs acceptable as it relates to human health and the environment. The HFO-1234ze aerosol propellant is vital for aerosol manufacturers and

¹ Global warming potentials (GWP) is less than 1.

² The Intergovernmental Panel on Climate Change: HFO-1234ze(E) has an atmospheric lifetime of 16.4 days: https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_Chapter08_FINAL.pdf

marketers to have available for compliance with upcoming new limits.

Unfortunately, HB 748 would remove these compounds from the cosmetics and personal care market. HCPA respectfully requests an amendment to allow the use of HFOs given their role in overall climate ambitions and providing safe products to consumers. Thank you for your consideration of this request and for your leadership on this issue. I welcome any opportunity to discuss these concerns and can be reached at cfinarelli@thehcpa.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Finarelli', with a stylized flourish at the end.

Christopher Finarelli
Director, State Government Relations & Public Policy - Western Region

January 31, 2023



Rep. Nicole E. Lowen, Chair
Rep. Elle Cochran, Vice Chair
Committee on Energy & Environmental Protection
Thursday, February 2, 2023
9:15 A.M.
Via Videoconference

RE: HB748 Relating to Environmental Protection (Oppose as Currently Drafted)

Dear Chair Lowen, Vice Chair Cochran & Committee Members,

The Chamber of Sustainable Commerce testifies in opposition to HB748 as it is currently drafted. As business owners who believe we can strengthen our economy without hurting employees, consumers, communities or the environment, we urge this committee to vote against passing HB748 in its current form as it foregoes environmental protections for two years that are currently guaranteed in our state statutes.

Act 152 (2022) signified a win for consumers and the environment - and a win for businesses that rely on healthy workers, customers and communities. Many advocates spent valuable resources and time achieving this gain. HB748 seeks to allow food suppliers to continue poisoning their customers and the environment beyond 2024 - for an additional two years.

Given the state of our climate crises and degradation of our natural resources, it is absurd to apply scarcity economics to the promulgation of environmental protections. We must build on the gains we have achieved - not sell ourselves short or undervalue the wellbeing of Hawaii's people and environment.

Strike the section in HB748 that seeks to delay the implementation of Act 152 as it applies to food packaging in 2024. And keep the section that broadens the application of PFAS prohibitions in food service ware, cosmetics, and personal care products. The Chamber of Sustainable Commerce hopes to support a version of this bill that protects the environment – and does not barter or trade those protections.

If we are incapable of operating our businesses without hurting our customers, then we should examine our motivations for staying in business.

**Hawaii
Legislative
Council**

Maile Meyer
Na Mea Hawaii
Honolulu

Russel Rudderman
Island Naturals
Hilo / Kona

Tina Wildberger
Kihei Ice
Maui

Joell Edwards
Wainiha Country Market
Kauai

Kim Coco Iwamoto
AQuA Rentals, LLC
Honolulu



February 2, 2023

TO: Chair Nicole Lowen
Members of the House Committee on Energy & Environmental Protection

FR: Tim Shestek
Senior Director, State Affairs

RE: **HB748 Relating to Environmental Protection. – OPPOSE**

The American Chemistry Council (ACC) appreciates the opportunity to submit the following comments relative to HB 748, legislation pertaining to perfluoroalkyl and polyfluoroalkyl (PFAS) substances in food packaging, food service ware, cosmetics, and personal care products.

ACC supports a comprehensive approach to managing PFAS substances that helps to ensure protection of human health and the environment. ACC was actively involved last session as the Legislature considered HB 1644 (PFAS in firefighting foam and food packaging) and while we have identified several issues with HB 748 as drafted, we have provided suggested amendment language to address these concerns. ACC looks forward to working with you and the Legislature to ensure policies are science-based and implementable.

Background

PFAS are a diverse group of chemistries characterized by the strong bond between fluorine and carbon. Because of this strong bond, PFAS provides products with strength, durability, stability, and resilience. These properties are critical to the reliable and safe function of a broad range of products that are important for industry and consumers, such as the cellphones, tablets and telecommunications systems we use every day to connect with our friends and family; the aircraft that power the U.S. military; solar panels and turbines critical to alternative energy development; and medical devices.

PFAS includes a variety of different chemicals with different properties and characteristics. Therefore, the hazard and risk profiles of various PFAS are different. According to the US EPA, “approximately 600 PFAS are manufactured (including imported) and/or used in the United States.” Among these 600 are substances in the solid (e.g., fluoropolymers), liquid (e.g., fluorotelomer alcohols) and gaseous (e.g., hydrofluorocarbon refrigerants) forms. The fundamental physical, chemical, and biological properties of solids, liquids and gases are clearly different from one another. The very distinct physical and chemical properties of the three types of commercial PFAS described demonstrate how varied they are and how a broad definition of PFAS could have significant impacts to manufacturers of a variety of different products.

Definition of PFAS

HB 748 makes reference to PFAS generally but does not provide a specific definition that would apply to the product categories subject to restrictions. A broad definition of PFAS would capture legacy substances such as PFOA and PFOS (substances that have been phased out of production in the US), newer “short-chain” chemistries (currently subject to review by US EPA), fluoropolymers (which have well-established safety profiles and meet internationally recognized criteria developed to identify polymers of low concern for potential risk to human health or the environment), as well as gasses and liquids that are used as refrigerants and aerosol propellants in products like medical inhalers.



To avoid potential unintended impacts for critical uses and to ensure the focus of any restriction is on the substances of the greatest concern, ACC suggests the bill include the following definition of PFAS:

“For purposes of this section, PFAS means non-polymeric perfluoroalkyl and polyfluoroalkyl substances that contain at least two fully fluorinated sequential carbon atoms, excluding gasses and volatile liquids.”

Compliance Threshold Needed

The current bill language places a prohibition on any “food packaging, food service ware, cosmetic, or personal care products that ***contains*** PFAS.” (Emphasis added). Additional clarity is needed as advancements in analytical chemistry could detect molecules at the parts per million or parts per trillion levels. Without additional specificity, inadvertent contaminants in the manufacturing process could be detected and therefore impose a compliance requirement that may be impossible for manufacturers to meet.

ACC suggests the bill include a definition of “intentionally added” substances to provide needed certainty for product manufacturers.

“Intentionally Added” means PFAS deliberately added to a product or a product component where the continued presence of the substance or the intentional breakdown products of the added substance is intended to have a functional or technical effect in the final product. If a product contains a technically unavoidable quantity of PFAS, that trace quantity shall not be considered intentionally added PFAS.”

Definition of Cosmetics/Personal Care Products

To provide certainty to manufacturers that could be subject to this legislation, ACC suggests the following definition of “cosmetic” be added.

“Cosmetic” means a product that is intended to be rubbed or introduced into; poured, sprinkled, or sprayed on; or otherwise applied to the human body for cleaning, cleansing, beautifying, promoting attractiveness, or alternating the appearance.

1. *“Cosmetic” includes a skin moisturizer, perfume, lipstick, nail polish, eye or facial makeup preparation, shampoo, condition, permanent wave, hair dye, and deodorant.*
2. *“Cosmetic” does not include a product that requires a prescription for distribution or dispensation or hydrofluoroolefins used as propellants in cosmetics.*

Food Packaging Restrictions Already in Place

As mentioned, HRS [§321-601] currently defines “food packaging” to mean “a package or packaging component that is applied to or in direct contact with any food or beverage and is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers.” ACC supports this definition and would urge that it be included specifically in HB 748.

Thank you in advance for considering our views. If you have any questions, please do not hesitate to contact me at 916-448-2581 or via email at tim_shestek@americanchemistry.com. You may also contact ACC’s Hawaii based representative Ross Yamasaki at 808-531-4551 or via email at ryamasaki@808cch.com

HB-748

Submitted on: 2/1/2023 8:28:08 AM

Testimony for EEP on 2/2/2023 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Dave Mulinix	Our Revolution Hawaii	Support	Remotely Via Zoom

Comments:

Aloha Committee,

On behalf of Our Revolution Hawaii's 5,000 members and supporters statewide, we strongly support passage of HB748.

Mahalo,

Dave Mulinix, Cofounder & Statewide Organizer

Our Revolution Hawaii



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 2, 2023**

Re: HB 748 RELATING TO ENVIRONMENTAL PROTECTION

Good morning, Chair Lowen members of House Committee on Energy & Environmental Protection. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

We oppose to HB 748 Relating to Environmental Protection. This measure prohibits the manufacture, sale, offer for sale, distribution for sale, and distribution for use of any food packaging, food service ware, cosmetic, or personal care product that contains perfluoroalkyl and polyfluoroalkyl substances - beginning 12/31/2026.

It is our understanding that firefighting foam and the materials used in food packing, cosmetics and personal care products are very much different. Firefighting foam is also not consumable. The FDA authorizes the use of perfluoroalkyl and polyfluoroalkyl in not only food contact applications but cosmetics as well.

“The FDA has authorized specific PFAS for use in specific food contact applications. Some PFAS are used in cookware, food packaging, and in food processing for their non-stick and grease, oil, and water-resistant properties. To ensure food contact substances are safe for their intended use, the FDA conducts a rigorous review of scientific data prior to their authorization for market entry. The FDA’s authorization of a food contact substance requires that available data and information demonstrate that there is a reasonable certainty of no harm under the intended conditions of use.” FDA website

There have been few studies on the presence of PFAS in cosmetics. Those studies that have been published found the concentration of certain PFAS in cosmetics—as impurities or as ingredients—ranged from the parts per billion level to the 100s of parts per million range. There is also limited research on whether PFAS in cosmetics are absorbed through the skin at levels that could be harmful to human health. A 2018 study by Denmark’s Environmental Protection Agency, the only risk assessment that has evaluated PFAS in cosmetics, was conducted on certain PFAS unintentionally present in cosmetics. The study focused on five different types of PFAS impurities that were detected in the largest number of different cosmetic products. The researchers determined that the levels of PFAS in the individual products tested are unlikely to pose a health risk for consumers. <https://www2.mst.dk/Udgiv/publications/2018/10/978-87-93710-94-8.pdf>

We would like to point out that there are thousands of food packaging & service wear as well as cosmetics and personal care products that would be impacted. This includes but is not limited to can foods and beverages, aluminum foil, cardboard boxes, microwave popcorn, nonstick pans, food wrappers, pet food bags, parchment paper, dental floss, mascara, foundation, menstrual underwear, shampoo & conditioner, toothpaste, nail polish, eye makeup, lotions, cleansers, shaving cream, lipstick, eyeliner, sunscreens, hand soap, deodorant, shower gel, perfume, hairstyling gel, mouthwash, anti-wrinkle cream, lip balm, and more.

By banning these products that the FDA deems safe, the choices that consumers in Hawaii have will shrink considerably. Many products will no longer be available to purchase. Small local retailers who do not have mainland locations will be forced to take a loss on the products if they must sell them at a deep discount or discard them to make the deadline. Business with contracts may have to pay an early cancellation fine to the distributors. Local consumers would then turn to the internet to order their favorite banned products online. Or purchase it through the black market where personal care products and cosmetics are one of the sought-after items to steal by retail organized crime.

We ask you to hold this bill.

Mahalo again for this opportunity to testify.



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

February 1, 2023

To: Hawaii House Committee on Energy & Environmental Protection
The Honorable Nicole E. Lowen, Chair
The Honorable Elle Cochran, Vice Chair

Fr: Carlos I. Gutiérrez, Vice President, State & Local Government Affairs
Consumer Healthcare Products Association

RE: HB 748 – Oppose as Currently Drafted

Dear Chair Lowen and Vice Chair Cochran:

On behalf of the Consumer Healthcare Products Association (CHPA), the Washington, D.C. based national trade association representing the leading manufacturers of over-the-counter (OTC) medicines, dietary supplements, and consumer medical devices, I'm writing to express opposition to HB 748. This legislation seeks to ban the manufacture, sale, and distribution of products – including Food and Drug Administration (FDA) approved over-the-counter consumer healthcare products - containing perfluoroalkyl and polyfluoroalkyl substances (PFAS). While CHPA shares in the desire to limit use of PFAS chemicals, we cannot support the bill as it is currently drafted.

Definition of PFAS is Too Broad

In June of 2022, Hawaii Governor David Ige signed into law HB 1644. This new act, Act 152, regulates PFAS in firefighting foams and certain food packaging. Within that law PFAS is defined to mean “all members of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.”

This very broad definition of PFAS is far more expansive than what the federal Environmental Protection Agency (EPA) considers a PFAS chemical. As a result, HB 748 runs the risk of falsely branding chemicals that the Food and Drug Administration (FDA) deem safe and effective, as a “dangerous” PFAS containing product. The allergy medication Flonase®, for instance, would fall under the “fully fluorinated carbon atom” definition of PFAS in this proposed legislation. The FDA approved product is a safe and effective OTC used for the treatment of symptoms associated with rhinitis, but its active ingredient – fluticasone – has a “fully fluorinated carbon atom.”

Banning FDA approved medications will have the unintended effect of penalizing Hawaiians suffering from common ailments by restricting them from affordably treating illnesses early before they become serious and require intervention of a physician. OTC medicines are the trusted first line of defense against sickness for

millions of Hawaiians. In fact, research indicates OTC medications save Americans approximately \$167.1 billion by reducing the need for doctor's visits and prescription medications.¹

Amendment Request

In order to avoid the unintentional inclusion of FDA approved product ingredients in the definition of PFAS, CHPA recommends expressly exempting FDA approved consumer healthcare products from the requirements of HB 748. This can be accomplished with the following language:

"a product that is regulated as a drug, medical device or dietary supplement by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., sec. 3.2(e) of 21 U.S. Code of Federal Regulations or the Dietary Supplement Health and Education Act is exempt."

Conclusion

CHPA and its members are committed to the health and welfare of consumers and the global environment. We applaud you for taking on this important issue, but unfortunately, we cannot support the legislation in its current form. We hope you will give careful consideration to our amendment request so that Hawaiians can continue to treat their ailments unfettered.

Respectfully submitted,



Carlos I. Gutiérrez
Vice President, State & Local Government Affairs
Consumer Healthcare Products Association
Washington, D.C.
cgutierrez@chpa.org | 202-429-3521

¹ <https://www.chpa.org/about-consumer-healthcare/research-data/research-reports/power-otcs-provide-consumer-value>

HB-748

Submitted on: 1/31/2023 8:52:01 PM

Testimony for EEP on 2/2/2023 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Perfluoroalkyl and polyfluoroalkyl substances (PFAS) are persistent, toxic substances that can contaminate drinking water, bioaccumulate in fish and wildlife, and have multiple adverse health effects on humans.

PFAS are utilized in a broad range of products, including clothing, textiles, food packaging, and cosmetic products such as lotions, nail polish, shaving cream, and mascara. PFAS can enter the human body when consumed, applied directly on skin, and after eating food packaged in materials that contain PFAS.

PFAS are often called "forever chemicals" due to the fact that they do not naturally break down in the environment and can continue to pollute ecosystems for thousands of years. We are an island state. When these forever chemicals are brought here, they never leave. Instead, they make their way into our bodies, our wastewater, our landfills, and eventually into the groundwater and the drinking water supply.

Hawai'i can no longer afford to import toxic substances that contaminate the State's finite resources and risk residents' health. Banning these dangerous chemicals is completely warranted, and I urge you to support HB748.

HB-748

Submitted on: 2/1/2023 12:02:19 AM

Testimony for EEP on 2/2/2023 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

Please pass this important measure to prohibit the manufacture, sale, offer for sale, distribution for sale, and distribution for use of any food packaging, food service ware, cosmetic, or personal care product that contains PFAS.

Oahu is already suffering from the contamination of these forever-chemicals due to the Navy's criminal negligence at Red Hill. Hawaii cannot afford to further risk contamination of our finite resources and risk the health of our communities.

HB-748

Submitted on: 2/2/2023 9:58:21 AM

Testimony for EEP on 2/2/2023 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Danielle Espiritu	Individual	Support	Written Testimony Only

Comments:

I strongly support HB 748 and believe it is our kuleana to regulate and prohibit things that could bring sickness, destruction, and death for our people, ‘āina, and for future generations. The hazardous nature of PFAS, PFOS, and PFOAs have already been reported. These chemicals are known to cause cancer and a slew of other serious health problems. They do not break down. They bioaccumualte in our systems, and they spread more rapidly than many other known toxins. A failure to act now has the potential to cause irreparable damage to future generations, including those born centuries from now. Please act quickly.